

**BUREAU OF JUVENILE JUSTICE SERVICES**  
**POLICY AND PROCEDURE**

**Title:** Resident Sexuality and Gender Identity

**Manual Section:** Program Management

**Manual Number:** 1.15

**Issue Date:** January 24, 2019

**Approved by:** 

**Supersedes Policy Number:** New

**Page:** 1 of 9

**Attachments:** Appendix A: Gender Review Committee Checklist  
Appendix B: Gender Review Committee Reassessment Checklist

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**Authority:**

The authority of the Bureau of Juvenile Justice Services (BJJS) to issue this policy and procedure is given by Article VII of the Public Welfare Code, Act of 1967, P.L. 31, No. 21 and the Prison Rape Elimination Act of 2003 (PREA) Juvenile Facility Standards.

**Applicability:**

Youth Development Centers/Youth Forestry Camps (YDCs/YFCs) under the jurisdiction of BJJS.

**Rationale:**

To provide guidelines and operational practices for employees, contractors and volunteers working with Lesbian, Gay, Bisexual, Transgender, Questioning, Intersex and Gender Nonconforming (LGBTQI and GNC) residents in the Youth Development Center/Youth Forestry Camp (YDC/YFC) system to ensure appropriate and equal treatment regardless of sexual orientation, gender identity or gender expression (SOGIE).

**Definitions:**

Agency – A Bureau of Juvenile Justice Services (BJJS) facility, camp or contracted entity.

Asexual – Describes a person who does not feel sexual attraction or a desire to engage in sexual behavior with either males or females. Some asexual people define their orientation based on a scale of asexuality.

Bisexual – Describes a person who is sexually, romantically and/or emotionally attracted to both males and females.

Chosen Name – Refers to the name that typically a transgender person has chosen that differs from their legal name and comports with their gender identity. A chosen name is not an alias.

Cisgender – Describes people whose gender identity is aligned with their sex assigned at birth.

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 a facility.

Gay – Describes a person who is attracted to individuals of the same gender. While historically used to refer specifically to males, it is often used to refer to females attracted to other females as well.

Gender Expression – Describes how individuals communicate their gender to others. People express and interpret gender through hairstyles, clothing, physical expression and mannerisms, physical alteration of their body or by choosing a name that reflects their gender identity.

Gender Identity – A person’s internal identification or self-image as male female, something in between, or outside of the binary of male or female. Everyone has a gender identity. One’s gender identity may or may not be consistent with one’s sex assigned at birth.

Gender Non-Conforming (GNC) – A person whose appearance or manner (gender expression) does not conform to, or is not perceived as conforming to traditional societal gender expectations.

Heterosexual – Describes a sexual orientation in which a person feels sexually, romantically, and/or emotionally attracted to individuals of the opposite sex or gender.

Homosexual – Describes a sexual orientation in which a person feels sexually, romantically, and/or emotionally attracted to people of the same sex or gender. This term is disfavored in LGBT communities because of its historical association

Intersex – Describes people born with sex chromosomes, external genitalia or internal reproductive systems that are not considered “typical” for either males or females. Intersex medical conditions or traits are sometimes referred to as disorders of sex development. Many advocates prefer the term differences of sex development instead of disorders of sex development. Some people who are born with intersex traits will identify in that manner. (e.g., “I am intersex.”)

Lesbian – Describes a female who is sexually, romantically and/or emotionally attracted to other females.

LGBTQI – Acronym referring to the Lesbian, Gay, Bisexual, Transgender, Questioning/Queer and Intersex community. Often used to encompass other non-heterosexual and cisgender identities as an umbrella term.

Queer – An umbrella term used to refer to all LGBT people; the term can be a political statement as well as an identity, seeking to expand upon limited sexual and gender-based categories. For some, “queer” has a negative connotation, given its historical use as a pejorative term. Many LGBT people, however, have reclaimed the word and now use it in a positive light. Many people use the term “queer” because other terms do not accurately describe them.

Questioning – An individual or time when someone is unsure about or exploring their own sexual orientation or gender identity.

Sexual Orientation – Describes a person’s enduring sexual, romantic and/or emotional attraction to other people.

SOGIE – Acronym used to incorporate the following terms: Sexual Orientation, Gender Identity or Gender Expression.

Transgender – A person whose gender identity does not align with their sex assigned at birth.

**Policy:**

BJJS prohibits discrimination on the basis of race, ancestry, color, age, sex, national origin, religious creed, disability, gender identity, gender expression or sexual orientation. Additionally, BJJS protects the right to safety, services, health care and the mental, physical and emotional well-being of all residents placed in the YDC/YFC system. Federal and state law also requires that residents in BJJS care are safe and receive equal treatment and services.

**Procedure:**

I. Placement

- A. Upon notification of an identified transgender and/or intersex resident at referral and/or intake, each facility will convene their established Gender Review Committee (GRC) to include: facility management, Prison Rape Elimination Act (PREA) Coordinator, PREA Compliance Manager, Nursing, Juvenile Court Services Unit and additional representatives deemed appropriate by the facility team. Prior to meeting as a group, a representative of the GRC or designee will meet with the resident and complete the GRC Checklist (Appendix A). This checklist will be saved in the resident's facility Record in JJACS. The GRC shall review all relevant documentation and determine recommendations for housing, programming, room assignments, education and work assignments with a goal of keeping all residents safe and free from all forms of abuse, harm and harassment.
- B. Transgender and intersex residents shall not automatically be housed according to their sex assigned at birth. With respect to his or her own safety, a transgender or intersex resident's own views and special requests will be given serious consideration.
- C. Based upon the results of the GRC meeting and the resident's own views and requests, BJJS Leadership may make recommendations to the committing court regarding housing and/or programming.

- D. At intake, trained staff (e.g. Juvenile Court Services Unit, Medical, or, Psychological Services Associates) will ask all residents about their SOGIE in addition to other demographic data to ensure their safety, provide individualized treatment planning and to help eliminate bias and disparities.
- E. LGBTQI and GNC residents shall not be placed in sex offender treatment programs solely because of their SOGIE.
- F. Residents must not be prohibited from having a roommate based solely on a resident's actual or perceived SOGIE. If a resident is fearful of rooming with another person, they may be provided a single room, if available. This assignment will be made in accordance with facility safety and security needs.
- G. All youth, including transgender and intersex residents must be given the opportunity to shower separately from other residents and they must be provided safety and privacy when dressing and undressing and using the bathroom.
- H. Placement and programming assignments for transgender or intersex residents will be reassessed at least every six months to review any threats to safety experienced by the resident and evaluate the appropriateness of services. These reviews will be documented using the Gender Review Reassessment Checklist (Appendix B). This checklist will be saved in the resident's facility Record in JJACS.
- I. All youth, including LGBTQI residents must not be placed in isolation or segregation as a means of keeping them safe from discrimination, harassment or abuse. If a resident is placed in isolation, requirements of PREA Standard §115.342(b) and Procedure: D(2)(b) of policy 1.14 Zero Tolerance of Sexual Abuse or Sexual Harassment, must be met. To meet the requirements of "last resort" as stated in PREA Standard §115.342(b), the staff member should document, in writing, all of the options that were explored prior to placement in isolation and why those options were unfeasible.

II. Names, Language, Presentation:

- A. Employees, volunteers and contractors must use respectful language and terminology that does not stereotype or offend LGBTQI and GNC people.
- B. BJJS staff are prohibited from disclosing a resident's SOGIE to other individuals or agencies without the resident's permission unless such disclosure is consistent with State or Federal laws or regulations. This also applies to family members (and visitors) of the residents given that some residents have not disclosed their SOGIE to some or any family members.

- C. Transgender residents must be referred to by their chosen names. as long as the name is not profane or vulgar. The resident does not have to legally change their name. The resident should be referred to by the pronoun that reflects the resident's gender identity. All written documentation should utilize the resident's chosen names as well as their legal name recognized by the court unless to do so would breach confidentiality.
- D. Where applicable, residents must be allowed clothing, under garments and grooming consistent with their gender identity and/or gender expression.

### III. Medical and Mental Health Care

- A. All LGBTQI and GNC residents must be provided access to medical and mental health providers who are knowledgeable about the health needs of this population. These providers should facilitate exploration of any SOGIE issues by being open, non-judgmental and empathetic, and will not participate in any corrective conversion or reparative therapy.
- B. Family engagement is critical to the overall health of LGBTQI and GNC residents. The treatment team should assess the level of acceptance and family support. The treatment team should discuss the possibility of engaging with the family member(s) and providing them with resources and referrals that are designed for families of LGBTQI and GNC residents. The treatment team should always discuss any contact with the family for these purposes with the resident, prior to such contact, to obtain the resident's input and permission.
- C. If a transgender resident is receiving transition-related medical care, either under the care of a medical professional and/or otherwise, such as hormone therapy or supportive counseling, medical staff must consult with the resident's medical providers and must continue to provide treatment.
- D. If a resident expresses a desire to begin transition-related care, the resident shall be evaluated by the appropriate medical and mental health care providers after parental consent is obtained., The resident will then be provided with the appropriate resources and referrals to obtain such care.
- E. Medical and mental health staff should familiarize themselves with the standards of care as promulgated by the World Professional Association for Transgender Health (WPATH).

#### IV. Searches

- A. In accordance with BJJS Search Policy 7.10 A: The facility shall not search or physically examine any resident for the sole purpose of determining the resident's genital status.
- B. When a resident identifies as transgender or intersex during intake, designated staff shall ask the resident's preference regarding the gender of the staff person who will conduct their required physical and visual searches.
  - 1. Staff must accommodate resident's stated preferences except in cases of exigent circumstances as determined by the facility director or designee and/or a search performed by a licensed medical professional.
  - 2. If a resident who was not identified at intake as transgender or intersex but later identifies as transgender or intersex staff shall follow the process described above regarding search preference.

#### V. Activities

- A. Whenever possible and appropriate LGBTQI and GNC residents will be given the opportunity to participate in activities and/or programming with their identified peer group within the facility rules and guidelines.
- B. Reporting abuse, sexual abuse, harassment, discrimination
  - 1. As stated in BJJS Sexual Harassment Policy 1.14, BJJS has zero tolerance for sexual abuse and/or sexual harassment against any resident in BJJS custody by another resident; its staff; contractors or volunteers. All allegations of sexual abuse and/or sexual harassment will be investigated. All such incidents shall be reported to law enforcement and the Office of Children, Residents and Families in accordance with applicable law, regulations and this policy.
  - 2. As stated in BJJS Resident Grievance Policy 3.03A, BJJS facilities will protect the rights of residents through the implementation and monitoring of all grievance and appeal process. Grievances are to be filed only when rights as defined above are allegedly violated. Specifically Section D: Procedures for Grievances Involving Sexual Abuse
    - a.) There shall be no time limit on when a grievance regarding an allegation of sexual abuse is submitted.
    - b.) The facility shall not require a resident to use a grievance process in an alleged incident of sexual abuse.
    - c.) Any grievance regarding an allegation of sexual abuse where a resident alleges they are at a substantial risk of imminent sexual abuse shall be identified as an emergency grievance and require immediate notification to the Facility Program Director or designee.

- 1.) Immediate action shall be taken including, but not limited to, putting in place a safety plan.
  - 2.) The allegation shall be immediately reported to ChildLine and/or Pennsylvania State Police for investigation.
  - 3.) The allegation shall also be reported to Human Resources for administrative investigation.
  - 4.) Upon notification, the Facility Program Director or designee shall determine if the resident is in substantial risk of imminent sexual abuse and any action taken to respond to the allegation. Initial response shall occur and be documented within 48 hours with final determination within 5 calendar days.
  - 5.) Appeal procedure – If a grievance is not satisfied at the level of the Facility Program Director, it will be forwarded to the Regional Director for that region and finally to the BJJS Director. The External Residents Advocate shall be provided the reasons each time a grievance is forwarded to the next level.
- d.) Staff shall not discipline or punish LGBTQI and GNC residents solely because of their SOGIE.

#### C. Confidentiality

1. Staff must consider the purpose, nature and consequences of any contemplated disclosure. When disclosure is required or appropriate, the information disclosed and the means of disclosure will be limited to that which is necessary to achieve the desired outcome.
2. For safety concerns and programmatic needs, information can be shared within internal facility staffing teams based on need.
3. As stated in Procedure B.2 of this policy, staff shall not discuss a resident's SOGIE with family members or visitors without discussing disclosure with the residents first.

#### D. Policy Dissemination and Staff Training

1. All staff will receive a copy of this policy pursuant to established protocols for BJJS policy dissemination.
2. In order for employees, to have the awareness and capacity to effectively work with LGBTQI and GNC residents committed to BJJS, they are all required to attend training on professionally and effectively communicating with LGBTQI and GNC residents.
3. Volunteers and Contractors shall be presented with information on how to professionally and effectively communicate with LGBTQI and GNC residents. Documentation they received this information will be maintained by the facility PREA Compliance Manager.



E. Reentry and Reintegration Planning

1. When developing aftercare plans, staff should consider the specific needs of LGBTQI and GNC residents.
2. BJJS staff shall ensure LGBTQI and GNC residents have information regarding community resources to specifically meet their needs. When appropriate information will also be made available to their families and/or care givers.

F. Books, Literature, and other materials

1. Facilities shall ensure that resources and materials (e.g., pamphlets, books, brochures, information from local LGBTQI and GNC programs/organizations) that are supportive of LGBTQI and GNC residents and their families are accessible. These materials will be provided by BJJS and other external advocacy groups.
2. Where feasible, the agency shall display posters in prominent areas that support LGBTQI and GNC residents.

**Related Policies:**

BJJS Policy: 1.14 Zero Tolerance of Sexual Abuse and/or Sexual Harassment  
BJJS Policy: 1.26A Transitional Services  
BJJS Policy: 3.03A Resident Grievances  
BJJS Policy: 7.10A Resident Searches  
Commonwealth Non-Discrimination Policy Statement

## GENDER REVIEW COMMITTEE (GRC) CHECKLIST

Resident Name: \_\_\_\_\_

Resident Present: Yes/No

Date of Review: \_\_\_\_\_

Facility: \_\_\_\_\_

### PART 1 - Instructions:

*\*\*Staff member: This committee shall consider numerous items regarding the safety and care of the transgender and intersex individuals. The GRC should meet within five working days of intake regardless of whether the resident agrees to participate or not. A determination shall be made regarding the appropriate placement of a transgender and intersex resident based on their responses to the following questions. This information is confidential. You will need to send this completed document to the committee upon your return to the facility.*

*\*\*Opening Disclosure to the individual: Please state the following: "Please understand that this is not an informational session about the way our residential units function on a daily basis. This is a meeting to discuss your gender identity or intersex so that we may provide you the best services possible upon your intake if you are ordered to our placement facility."*

*Please provide notification to the resident if they have been ordered to a program or if they are being considered for placement but not yet ordered.*

*"Ask the resident if they are comfortable answering questions related to their gender identity for the above stated purposes."*

### PART 2 - Questions to be answered through general conversation:

#### **Gender Identity:**

1. I understand you identify, as (fill in the blank)
2. Your sex assigned at birth was (fill in the blank with Male, Female, Intersex)
3. Do you know what it means to be intersex?  
Yes/No/Declined to Answer
4. Have you been told by a medical provider that you have an intersex medical condition?  
Yes/No/Declined to Answer
5. Have you chosen a name that is different than your legal name?
  - a. If yes, what is it and would you like us to refer to you with this name?
  - b. No

6. How long have you been aware of your gender identity?
7. Have you been living openly as (list their gender identity)?
  - a. How long have you been living openly as (list gender identity)?
8. Is your parent/guardian/family aware of your gender identity?
9. Is your Juvenile Probation Officer and/or Children and Residents Caseworker aware of your gender identity?
10. Have you ever been placed in detention or other Juvenile Justice/Children and Residents placement? If yes, were you housed with males or females?
11. Are there any people whom you do not want to know about your gender identity?

**Medical/Mental Health Considerations:**

12. Have you ever been referred for medical or mental health treatment related to gender identity? If yes, please list services and providers:
13. Have you ever received mental health therapy related to gender identity? If yes, please list provider:
14. Have you ever been prescribed or taken hormones or other medications or substances to help you with transitioning?  
Yes/No/Declined to Answer
  - a. If yes, what medications or substances are you taking or have taken in the past?
  - b. If yes, how long have you been taking these medications or substances?
  - c. If yes, how are you receiving these medications or substances?

Were they prescribed by a doctor?

Were they prescribed to someone else?

Did you obtain them from other people and they were not prescribed to anyone?

15. Have you had any form of gender-affirming surgery?

Yes/No/Declined to Answer

a. If yes, please list the type(s) of surgery:

16. Do you wish to begin any transition-related care?

17. Is there any other information we should know that is important for your care and treatment?

18. Do you know what Gender Dysphoria means?

Yes/No/Declined to Answer

19. Have you been told by a medical provider that you have Gender Dysphoria?

Yes/No/Declined to Answer

20. Is there any other information that you feel would be necessary for us to pass along to our medical department?

Yes/No/Declined to Answer

**Legal Considerations:**

21. Have you had a legal name change:

Yes/No/Declined to Answer

- a. If yes, what was your legal name prior to the change?
- b. What is your new legal name?

22. Have you taken any steps to legally change your gender marker on legal ID cards/documents (i.e., Driver's License, Social Security Card, birth certificate, or other)?

Yes/No/Declined to Answer

- a. If yes, which one?

Safety/Security Considerations: *Does the current placement present any safety or security concern? If yes, please explain.*

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23. We also want to consider your confidentiality in the program. Do you wish to disclose to the other residents in the program? If yes, how would you like the disclosure be handled?

24. Are you aware of or suspect there are residents in the program that know you?

25. During your stay at this facility, we will need to perform both clothed and unclothed searches.

- a. What gender identity of staff members would, you prefer to conduct your searches? Men or Women

(\*\* Please note: There may be times when your preference cannot be granted or when a nursing department staff may be of the opposite gender of preference.)

Requests for the present housing facility:

- Please request for a staff member who works with the resident to be present for the interview.
- Ask staff to provide any incident reports that will aid us in providing a safe environment for all of our facility staff and residents.
- Please provide any medical reports for services conducted while at the facility, only if the resident was already court ordered to this facility and a release is obtained from the resident.

Other Considerations:

- Pre-Sentence Investigations, if available
- Personal Data Questionnaire
- Sentencing Order
- Other:

Recommendations:

- GRC Recommendation for housing placement:
  - Male Facility OR Female Facility
- Additional GRC Recommendations:
- Does the resident concur with the GRC housing placement recommendation?  
Yes/No/Declined to Answer

PREA Compliance Manager Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

Resident Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

Additional follow-up information post-interview:

*Information contained on this form shall not be disclosed to anyone other than to the extent necessary to make housing/placement, programming, treatment, investigation and other security and management decisions.*

**GENDER REVIEW REASSESSMENT CHECKLIST**

Resident Name: \_\_\_\_\_

Date of Review: \_\_\_\_\_

Resident Present: Yes/No

Facility: \_\_\_\_\_

This facility shall consider numerous items regarding the safety and care of the transgender and intersex individuals. Facility staff shall meet with a transgender or intersex resident every six months regardless of whether they agree to participate in the meeting. For each individual, the following questions shall be asked, and an assessment made regarding the current placement of the resident.

**Medical/Mental Health Considerations:**

1. Are you on any medication related to your gender identity or intersex traits? Yes/No
  - a. If yes, have the medications been changed/adjusted since your last review?
  - b. Are you 100% compliant with the medications and recommended dosages? Yes/No (verify with medical)
2. Do you have any medical concerns related to your gender identity? Yes/No
  - a. If yes, please explain any concerns since your last review.
3. Are you receiving any therapeutic services related to your gender identity? (e.g. support groups) Yes/No
4. Did the Gender Review Committee (GRC) make any programming recommendations at your last review? Yes/No
5. Have you taken advantage of the recommended opportunities? Yes/No  
Please explain:  
\_\_\_\_\_  
\_\_\_\_\_
6. Have the recommendations assisted in your adjustment to the facility? Yes/No
7. Do you feel these recommended services would continue to benefit your well-being? Yes/No

**Safety/Security Considerations:**

8. In terms of sexual safety, do you feel safe? Yes/No

If no, please explain:

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9. Have you disclosed any concerns about sexual safety to staff? Yes/No

If no, please explain:

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10. Is your current housing arrangement working for you? Yes/No

If no, please explain:

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11. Have you experienced any sexual abuse or sexual harassment related to your gender identity since your last review? Yes/No

If yes, please explain:

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Other Comments:

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