

## Minnesota Department of Corrections

<b>Policy:</b>	<b>202.045</b>	<b>Title: Evaluation, Placement and Treatment of</b>
<b>Issue Date:</b>	<b>11/1/16</b>	<b>Transgender/Intersex Offenders</b>
<b>Effective Date:</b>	<b>11/15/16</b>	

**AUTHORITY:** [Minn. Stat. §241.01](#)

Prison Rape Elimination Act (PREA), 28 C.F.R. §115.15, 115.41, and 115.42 (2012)

**PURPOSE:** To provide guidelines for evaluation, placement, and treatment of offenders who claim to be undergoing transgender treatment, or are identified as transgender or gender-variant, and to assure offender safety and access to appropriate medical/mental health care.

**APPLICABILITY:** Minnesota Department of Corrections (DOC); department-wide

**POLICY:** In deciding whether to assign a transgender or intersex offender to a facility for male or female offenders, and in making other housing and programming assignments, the agency considers on a case-by-case basis whether a placement would ensure the offender's health and safety, and whether the placement would present management or security problems. The DOC does not place lesbian, bisexual, transgender, gender-variant, or intersex offenders in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such offenders. The DOC evaluates and places offenders who claim to be undergoing transgender or transsexual-related treatment, offenders who appear to be gender-variant, or offenders having other clinical conditions in which the gender assignment is unclear. When indicated by appropriate health services staff, the department provides gender-related mental health services and other medical or mental health therapy, as necessary, throughout the offender's incarceration.

### DEFINITIONS:

**Gender-variant** – a person who is uncertain of gender identification, or who do not identify as either male or female.

**Intersex** – a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

**Transgender** – an umbrella term describing individuals, including such examples as transsexuals, who live and/or identify themselves as a gender other than that assigned at birth.

**Transgender committee (TC)** – comprised of the health services director, department medical director, intake/security representative, director of behavioral health, health services administrator from intake facility, department director of nursing, warden of the facility where the offender is currently housed, and any other department employee deemed necessary to make a decision.

**Transsexual** – a person who strongly identifies with the opposite sex and may seek to live as a member of this sex especially by undergoing surgery and hormone therapy to obtain the necessary physical appearance (as by changing the external sex organs).

### PROCEDURE:

- A. After one of the criteria in Procedure B is met, facility staff determines placement of the offender until the assistant commissioner-facility services determines placement.
- B. The facility health services unit completes a history and physical examination and, if applicable, a comprehensive psychological examination, including the offender's view with respect to his/her own safety. The health services staff does not search or physically examine a transgender, gender variant, or

intersex offender for the sole purpose of determining the offender's genital status. If the offender's genital status is unknown, it may be determined during conversations with the offender, 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.

If applicable, facility health services staff has the offender sign a release of information to obtain medical/mental health records when an offender:

1. Indicates a history of transgender or transsexual-related treatment; or
  2. Identifies as, or is reported by staff to be gender-variant; or
  3. Has other clinical conditions in which gender assignment is unclear, such as cross dressing or physical features characteristic of a gender different from that assigned at birth.
- C. An offender refusing to receive a complete history, physical examination, a psychological examination (if applicable), and/or refuses to sign a release of information for medical/psychological (if applicable) records is placed in administrative segregation. The health services staff must seek a court order to obtain these records in the event the offender refuses to sign a release of information.
- D. The TC meets and recommends placement and a treatment plan to the assistant commissioner – facility services within 15 days of identifying criteria stated in Procedure B. The recommendations must include: single cell restrictions (if appropriate), shower restrictions (if appropriate), hormone therapy (if appropriate), and any other recommendations as the TC deems necessary to maintain the offender's safety. The TC may, at its discretion, consult with the offender and outside health care providers to assist in making its recommendations.
- E. The assistant commissioner – facility services determines the placement of the offender within five days of receiving the recommendation from the TC and informs the warden to arrange for such placement. The determination of the assistant commissioner – facility services must be placed in the offender's base file, mental health, and medical record.
- F. A facility may seek reconsideration of the placement for any reason. The warden must contact the assistant commissioner – facility services. If the assistant commissioner – facility services determines further evaluation is needed, he/she must contact the TC chair to convene the committee for evaluation and recommendation.
- G. The chair of the TC identifies all transgender offenders in June and December, and reviews each for appropriate placement and treatment.

#### **INTERNAL CONTROLS:**

- A. The determination of the assistance commissioner – facility services is retained in the offender's base file, mental health, and medical record.

**REVIEW:** Annually

**REFERENCES:** None

**SUPERSESSON:** Policy 202.045, "Evaluation and Placement of Transgender Offenders," 11/17/15. All facility policies, memos, or other communications whether verbal, written or transmitted by electronic means regarding this topic.

**ATTACHMENTS:** None

/s/

Deputy Commissioner, Facility Services

Deputy Commissioner, Community Services