



# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

VOLUME NO. 18	DSOP NO. 18-017
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	<b>SUBJECT:</b> TRANSGENDER INMATES	
	<b>EFFECTIVE DATE:</b> December 28, 2009	
	<b>SUPERSEDES:</b> None	

## TABLE OF CONTENTS

- I. POLICY
- II. DEFINITIONS
- III. TRANSGENDER COMMITTEE
- IV. TRAINING
- V. PROCEDURES
  - A. Communication
  - B. Intake
  - C. Classification and Housing Assignment
  - D. Personal Clothing and Hygiene
  - E. Programs and Services
- VI. FRISK AND STRIP SEARCHES
- VII. TRANSPORTATION
- VIII. HEALTH CARE
  - A. Access to Health Services
  - B. Hormone Treatment and Surgical Reassignment Surgery
- IX. CROSS REFERENCES
- X. RELATED REFERENCES
- XI. ACCREDITATION STANDARDS
- XII. REVOCATIONS
- XIII. AMENDMENTS

### **I. POLICY**

It is the policy of Miami-Dade Corrections and Rehabilitation Department (MDCR) to establish procedures for the intake, housing and medical treatment of transgender inmates. MDCR does not discriminate on the basis of sex, sexual orientation or gender identity expression. For the purpose of this policy, the term transgender shall be inclusive of inmates identified as androgynous, cross-dresser, gender variant, intersex, transgender and transsexual.

In accordance with the Prison Rape Elimination Act (PREA) and Department Standard Operating Procedure (DSOP) 15-008 "Inmate Sexual Assault/Battery Prevention," MDCR

# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

VOLUME NO. 18

DSOP NO. 18-017

has a zero tolerance for incidents of inmate-on-inmate sexual assault/battery and staff sexual misconduct/harassment towards inmates. Staff shall ensure that a transgender inmate classification and housing assignment provides a safe, humane and secure environment, free from the threat of sexual assault/battery and staff sexual misconduct/harassment.

## II. DEFINITIONS

### **Androgynous**

Being male and female; hermaphrodite, having both masculine and feminine characteristics.

### **Biological Sex or Sex**

Genetic/biological/hormonal/physical characteristics (including genitalia), which are used to classify an individual as female, male or inter-sex.

### **Bisexuality**

An individual is attracted to members of either sex.

### **Cross-dresser**

A person who, on occasion, wears clothing considered typical for another gender, but who does not necessarily desire to change his/her gender.

### **Gender**

A social construct based on a group of emotional and psychological characteristics that classify an individual as feminine, masculine, androgynous or other. Gender can be understood to have several components, including gender identity, gender expression and gender role.

### **Gender Identity Expression**

An individual's sense of his/her own gender, as communicated to others through expression, appearance, identity or behavior, regardless of the person's sex at birth.

### **Gender Variant**

A person who has chosen not to conform to the societal gender norms associated with his/her external genitalia.

# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

VOLUME NO. 18

DSOP NO. 18-017

## **Heterosexuality**

An individual is attracted to individuals of the opposite sex.

## **Homosexuality**

An individual is attracted to individuals of one's own sex.

## **Intersex**

A person who is born with genitalia and/or secondary sex characteristics determined as neither exclusively male, female, or combined male and female features. A person with an intersex condition is born with sex chromosomes, external genitalia, or an internal reproductive system that is not considered 'standard' for either male or female.

## **Hermaphrodite**

A plant or animal that has both male and female reproductive organs.

## **Sexual Orientation**

Male or female homosexuality, heterosexuality or bisexuality, by preference or practice.

## **Transgender**

A person whose identity or behavior differs from traditional gender expression. An umbrella term describing individuals whose appearance or characteristics are perceived to be gender atypical.

## **Transsexual**

A person who establishes a permanent identity with the opposite gender of his/her assigned sex. A transsexual may undergo medical treatment(s) to change his/her external genitalia so that it is in accord with his/her gender expression.

## **Transvestite**

A term for a cross-dresser that is considered derogatory.

# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

VOLUME NO. 18

DSOP NO. 18-017

## III. TRANSGENDER COMMITTEE

The Transgender Committee (TC) is responsible for determining a permanent housing assignment for each transgender inmate through a review of the respective classification, medical and mental health records. In addition, prior to permanent housing, the TC shall meet with each inmate to determine his/her vulnerability within the general jail population and length of time living within a community as the acquired gender. The TC shall be comprised of medical and mental health personnel from Corrections Health Services (CHS), and an Intake and Release Bureau (IRB) Supervisor or designee, who shall serve as Chairperson. A written decision by the TC shall be maintained in the inmate's confinement and medical records.

## IV. TRAINING

MDCR staff shall be provided information on transgender awareness through classroom training or an educational workbook. Training shall also be provided to volunteer and contractual staff through an educational workbook. It shall be the responsibility of the respective Facility Supervisor/Bureau Commander to designate MDCR supervisors to provide the workbook and obtain sign-off sheet(s) indicating that volunteer and contractual staff have completed the training. Copies of the sign-off sheet(s) shall be forwarded to the Training Bureau. In addition, MDCR sworn personnel shall complete transgender awareness refresher training every 4 years as a requirement for Mandatory In-Service Training (MIST). The training shall include but is not limited to the following:

1. Cultural awareness;
2. Employee ethics;
3. Prison Rape Elimination Act (PREA);
4. Procedures for reporting inmates identified as transgender;
5. Signs and symptoms of gender identity disorder.

## V. PROCEDURES

All staff shall adhere to established guidelines to provide for the appropriate treatment, safety and security needs of transgender inmates.

# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

VOLUME NO. 18

DSOP NO. 18-017

## A. COMMUNICATION

Staff shall adhere to the following protocol when communicating with a transgender inmate:

1. Address the transgender inmate by last name or use the gender specific identifier appropriate to the inmate's gender identity expression such as Mr., Mrs., Miss, Ma'am, Sir, he, she, etc.;
2. Avoid using language that a reasonable person would consider demeaning, specifically, language aimed at a person's actual or perceived gender identity expression and/or sexual orientation;
3. Questions relating to an inmate's gender identity or gender expression shall only be asked when necessary for ensuring proper classification, housing, and medical treatment;
4. Questions relating to an inmate's gender identity or gender expression shall only be asked to protect the inmate's confidentiality and human dignity, and avoid subjecting the inmate to abuse, humiliation, ridicule or assaults.

## B. INTAKE

Identify and document any information or circumstance that may indicate an inmate is transgender, male, female or intersex, as follows:

1. Review arrest affidavit for gender assignment and any notification that identifies the inmate as transgender;
2. Ask the Arresting/Transporting Officer the sex of the inmate;
3. Ask the inmate, if he/she is transgender, his/her sex and/or gender identity expression;
4. Complete a [MDCR Incident Report](#);

# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

VOLUME NO. 18

DSOP NO. 18-017

5. Document a transgender inmate's birth and/or legal name, gender identity expression, and biological sex on the respective inmate's Jail Booking Record, classification/rolodex cards, medical records, property room records, etc.
6. Upon the determination that an inmate is transgender or intersex:
  - a. Temporarily place the transgender inmate in a single cell;
  - b. Conduct and document visual checks on the [15/30-Minute Confinement Physical Sight Checks](#) at intervals not to exceed 30 minutes.
7. If for any reason a determination cannot be rendered regarding whether the inmate is transgender, staff shall adhere to the following protocol:
  - a. Notify the IRB Supervisor immediately;
  - b. A male and female officer shall escort the inmate to the clinic for a physical examination by CHS medical staff;
  - c. If the inmate refuses a physical examination, the IRB Supervisor shall ensure that a MDCR Incident Report is completed;
  - d. The inmate shall be placed in administrative confinement pending an administrative review by the Facility Supervisor or designee. The administrative review shall be completed within 72 hours to determine if continuation of such confinement is warranted.

## C. CLASSIFICATION AND HOUSING ASSIGNMENT

The IRB staff shall ensure that each transgender inmate is classified and housed in accordance with DSOP 19-005 "Objective Jail Classification." A transgender inmate shall be classified and housed based on housing availability, safety/security needs, his/her gender identity and genitalia. Inmates with male genitals shall be assigned to male housing. Inmates with female genitals shall be assigned to female housing. A transgender inmate may be housed in general population or administrative confinement.

# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

VOLUME NO. 18

DSOP NO. 18-017

During the classification interview process, IRB staff shall conduct an assessment to determine if a transgender inmate has a history of sexual assault and/or being sexually victimized. The findings shall be a factor in assignment of housing for a transgender inmate.

## 1. General Population Housing

A transgender inmate assigned to the Training and Treatment Center (TTC) shall be assigned to a direct supervision housing unit. The transgender inmate may be housed at the following detention facilities in general population, unless such classification results in disruptive behavior or presents safety concerns:

- a. Women's Detention Center (WDC);
- b. Turner Guildford Knight Correctional Center (TGKCC);
- c. Metro West Detention Center (MWDC).

## 2. Transgender Juvenile

Transgender juvenile inmates shall be kept separate from adult inmates and afforded the same privileges as other juvenile inmates consistent with their classification. A transgender juvenile inmate shall be assigned housing in accordance to the provisions outlined in DSOP 12-001 "Juvenile Intake, Classification, Housing and Programs." Transgender juvenile inmates shall be housed at the following detention facilities:

- a. TGKCC - Male Juveniles
- b. WDC - Female Juveniles

## 3. Administrative Confinement

A transgender inmate shall be placed in administrative confinement in accordance with DSOP 12-002 "Inmate Administrative and Disciplinary Confinement." A transgender inmate may be housed in administrative confinement, when his/her presence in general population poses a threat to

# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

VOLUME NO. 18

DSOP NO. 18-017

self, staff, other inmates, is vulnerable to victimization or the orderly operation of the detention facility. Each transgender inmate housed in administrative confinement shall have access to activities, programs and services consistent with his/her classification status. A transgender inmate shall be housed in administrative confinement based upon any of the following:

- a. A review and determination by the TC;
- b. A determination by CHS medical staff that the inmate has an intersex condition;
- c. A history of increased risk or vulnerability;
- d. A history of vulnerability to victimization including sexual assault/battery and/or sexual harassment;
- e. A history of sexual battery/assault behavior consistent with the potential of being a sexual perpetrator;
- f. The inmate expresses or implies safety concerns;
- g. Pending permanent housing assignment.

Note: A transgender inmate may only be housed in administrative confinement at the Pre-Trial Detention Center on a temporary basis.

In accordance with DSOP 19-005 "Objective Jail Classification," a transgender inmate has the right to request a review and appeal his/her classification. Additionally, a transgender inmate may submit or file a complaint/grievance regarding his/her classification in accordance with DSOP 15-001 "Inmate Complaint/Grievance Process."

## **D. PERSONAL CLOTHING AND HYGIENE**

In accordance with provisions outlined in DSOP 13-002 "Inmate Hygiene," DSOP 13-004 "Inmate Clothing, Bedding and Linen Supplies" and DSOP 18-014 "Inmate Uniforms and Personal Clothing," a transgender inmate shall be authorized to



# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

VOLUME NO. 18

DSOP NO. 18-017

maintain possession of personal clothing and hygiene items consistent with his/her classification.

In addition, the aforementioned DSOP shall be adhered to for the issuance and exchange of clothing, linen, bedding, etc. for transgender inmates. MDCR staff assigned to housing areas shall ensure that each transgender inmate is provided the opportunity to shave, shower and participate in hair care services.

A transgender inmate shall be provided gender appropriate clothing based upon a medical determination by CHS medical staff and/or the inmate's anatomy e.g. brassieres for inmates with breast development/augmentation.

## **E. PROGRAMS AND SERVICES**

MDCR shall provide each transgender inmate the opportunity for non-discriminatory participation in the below listed programs and services. An inmate's participation in programs and services shall be consistent with his/her classification and shall not conflict with safe, secure and orderly operation of a detention facility. The MDCR Inmate Handbook contains information and procedures for accessing programs and services available to inmates in MDCR custody. The IRB staff shall ensure each transgender is provided a copy of the MDCR Inmate Handbook during the inmate orientation process.

1. Commissary;
2. Counseling;
3. Mail;
4. Telephone;
5. Television;
6. Visitation;
7. Exercise/recreation;

# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

VOLUME NO. 18

DSOP NO. 18-017

8. Library services;
9. Educational services;
10. Medical services;
11. Pretrial services;
12. Religious services/observances;
13. Grievance procedures;
14. Social services;
15. Inmate worker assignments.

## VI. FRISK AND STRIP SEARCHES

A transgender inmate shall not be strip searched randomly or as a form of harassment. All frisk and strip searches shall be conducted in accordance with DSOP 11-022 "Frisk and Strip Search Procedures." At no time will a sworn officer frisk or strip search an inmate to determine the inmate's sex.

Additionally, if a sworn officer conducting a frisk or strip search discovers that an inmate is a transgender with the opposite external genitalia, he/she shall immediately stop performing the search and notify his/her respective supervisor. The respective supervisor shall ensure that the search is completed by an officer of the same external genitalia as the transgender inmate. Additionally, the respective supervisor shall ensure the incident is documented on a MDCR Incident Report and that the inmate is placed in administrative confinement pending administrative review by the Facility Supervisor or designee.

## VII. TRANSPORTATION

Transgender inmates shall be transported in accordance with provisions outlined in DSOP 11-027 "Vehicle Transportation of Inmates." Additionally, transporting officers shall record the starting and ending mileage, the location from which they are leaving and the destination for all transports involving transgender inmates. If possible, transgender inmates shall be transported in a vehicle equipped with a separate compartment (split-

# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

VOLUME NO. 18

DSOP NO. 18-017

cage) that prohibits physical contact with other inmates. Transgender juveniles shall be transported in a separate compartment from adult inmates.

## VIII. HEALTH CARE

Health care assessments, evaluations, examinations, etc. shall be conducted in a private setting.

### A. ACCESS TO HEALTH SERVICES

All personnel shall adhere to the Health Insurance Portability and Accountability Act (HIPAA) and applicable legal requirements in order to maintain the inmate's privacy. Each transgender inmate shall be afforded the opportunity to address health care issues and receive treatment in accordance with DSOP 14-001 "Inmate Injury/Illness - Inmate Request for Health Services," DSOP 14-002 "Inmate Medical Records," DSOP 14-003 "Informed Consent for Medical Treatment," DSOP 14-004 "Medical Services," DSOP 14-005 "Dental Services" and DSOP 14-006 "Mental Health Services." A transgender inmate shall have access to the same necessary medical, dental and mental health care services as other inmates. Each transgender inmate booked into a detention facility shall receive an initial medical/mental health screening by sworn personnel and subsequent comprehensive medical/mental health screening by CHS staff in accordance with DSOP 18-006 "Intake Procedures."

### B. HORMONE TREATMENT AND SURGICAL REASSIGNMENT SURGERY

A transgender inmate may continue hormonal treatment and/or sex reassignment surgery based upon an evaluation by CHS medical/mental health staff and in accordance with the following factors:

1. Prior to incarceration, the inmate was receiving hormonal medication as part of an established sexual reassignment treatment regimen under the supervision of a medical doctor;
2. Prior surgical alteration of genitals and hormonal treatment;
3. Prior to incarceration, sex reassignment surgery was scheduled (documented by receipt of definitive medical records) and received hormonal treatment (laboratory verification) under medical supervision;

# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

VOLUME NO. 18

DSOP NO. 18-017

4. Prior to incarceration, the inmate was receiving hormonal treatment as part of a medically monitored program of gender transition;
5. Prior to incarceration, surgical castration was performed (confirmed anatomically, or in biological females by definitive medical records);
6. Elects to receive hormone treatment and/or sex reassignment surgery, at his/her own cost;
7. Other circumstances as determined by CHS medical staff.

## IX. CROSS REFERENCES

DSOP 11-022 "Frisk and Strip Search Procedures"

DSOP 11-027 "Vehicle Transportation of Inmates"

DSOP 12-001 "Juvenile Intake, Classification, Housing and Programs"

DSOP 12-002 "Administrative/Disciplinary Confinement"

DSOP 12-004 "Movement and Transportation of Safety Cell Inmates by Classification"

DSOP 13-002 "Inmate Hygiene"

DSOP 13-004 "Inmate Clothing, Bedding, and Linen Supplies"

DSOP 14-001 "Inmate Injury/Illness – Inmate Request for Health Services"

DSOP 14-002 "Inmate Medical Records"

DSOP 14-003 "Informed Consent for Medical Treatment"

DSOP 14-004 "Medical Services"

DSOP 14-005 "Dental Services"

DSOP 14-006 "Mental Health Services"

# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

VOLUME NO. 18

DSOP NO. 18-017

DSOP 15-008 "Inmate Sexual Assault/Battery Prevention"

DSOP 18-006 "Intake Procedures"

DSOP 18-014 "Inmate Uniforms and Personal Clothing"

DSOP 19-005 "Objective Jail Classification"

## X. RELATED REFERENCES

Farmer v. Brennan, Warden 511 U.S. 825 (1994)

Prison Rape Elimination Act

Sandin Unit Team Manager, Halawa Correctional Facility v. Conner 515 U.S. 472 (1995)

## XI. ACCREDITATION STANDARDS

American Correctional Association: 4-ALDF-2A-22, 4-ALDF-2A-30, 4-ALDF-2A-32, 4-ALDF-2A-34, 4-ALDF-2A-38, 4-ALDF-2A-44, 4-ALDF-2A-45, 4-ALDF-2A-46, 4-ALDF-2A-48, 4-ALDF-2A-49, 4-ALDF-2A-52, 4-ALDF-2A-55, 4-ALDF-2A-66

Florida Corrections Accreditation Commission: 9.02, 9.07, 9.15, 10.08, 12.21

National Commission on Correctional Health Care: J-A-01, J-A-08, J-B-04, J-D-02, J-E-12

## XII. REVOCATIONS

Any language in a DSOP, Procedural Directive, Standard Operating Procedure, Post Order, and/or written correspondence that conflicts with this policy is hereby revoked.

## XIII. AMENDMENTS

None

# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

VOLUME NO. 18	DSOP NO. 18-017
---------------	-----------------

## **FORMS/SUPPORTING DOCUMENTS**

[15/30-Minute Confinement Physical Sight Checks](#)

[MDCR Incident Report](#)