

**SAN JOAQUIN COUNTY PROBATION DEPARTMENT
JUVENILE DETENTION POLICY AND PROCEDURE MANUAL**

TO: ALL STAFF BULLETIN #: D-664

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SUBJECT: TRANSGENDER AND INTERSEX YOUTH

POLICY

The Probation Department is committed to the respect and dignity of all youth including transgender, intersex, and gender non-conforming youth, and ensures that all youth have equitable access to all available services, care, and treatment.

PROCEDURES

A. Definitions and Abbreviations

1. **LGBTQ** - Common acronym for Lesbian, Gay, Bisexual, Transgender, and Questioning. This term is often used to refer to individuals whose sexual orientation is not heterosexual or whose gender identity is non-conforming.
2. **Lesbian** – A woman whose emotional, romantic, and sexual attractions are primarily for other women.
3. **Gay** – A person whose emotional, romantic, and sexual attractions are primarily for individuals of the same sex, typically in reference to men.
4. **Bisexual** – A person who is emotionally, romantically, and sexually attracted to both men and women.
5. **Transgender** – An umbrella term that can be used to describe people whose gender expression is non-conforming and/or whose gender identity is different from their assigned sex at birth. This term can include transsexuals, gender queers, cross-dressers, and other whose gender expression varies from general norms.
6. **Queer** – Historically used as a derogatory term, queer has been widely reclaimed, especially for younger LGBT people, as a positive social and political identity. It is sometimes used as an umbrella term for LGBT people.
7. **Questioning**- Refers to the active process in which a person explores her/his own sexual orientation, and/or gender identify, and questions the cultural assumptions that they are heterosexual and/or gender conforming.

8. **Intersex** – A person whose sexual or reproductive anatomy, or chromosomal pattern, does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as a disorder of sex development.
9. **Gender Non-Conforming** – A person whose appearance or manner does not conform to traditional societal gender expectations.

B. General Guidelines

1. Staff shall respect every youth's gender identity, and shall refer to the youth by the youth's preferred name and gender pronoun, regardless of the youth's legal name.
2. Facilities may prohibit the use of gang or slang names or names that otherwise compromise facility operations as determined by the facility manager and shall document the decision made on this basis.
3. Staff shall permit youth to dress and present themselves in a manner consistent with their gender identity, and shall provide youth with the institution's clothing and undergarments consistent with their gender identity.

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C. Housing

1. Probation staff shall make an individualized assessment of each transgender youth when considering housing unit placement.
2. The safety and well-being of the transgender youth should be the primary concern when deciding where to place him/her within the facility.
3. Staff should consider a youth's background, age, developmental status, sophistication, social skills, charges, behavioral history, and the factors that might influence his/her adjustment and contribute to an overall safe and successful experience for the youth, as well as other youth in the unit.
4. Staff may not automatically house youth according to their external anatomy, and shall document the reasons for any decision to house youth in a unit that does not match their gender identity.
5. In making a housing decision, staff shall consider the youth's preference, as well as any recommendations from the youth's health or behavioral health provider.
6. Housing decisions for transgender youth shall be based on the youth's individualized needs and should prioritize the youth's emotional and physical safety, while taking into account the youth's perception of where he/she will be most secure.

7. Placement and programming assignment of transgender or intersex residents will have ongoing assessments to review any threats to safety.
8. The youth's sexual orientation and/or gender identity is not an indicator of the likelihood of the youth being sexually abusive towards others. Staff shall not consider a youth's LGBT status as a reason to isolate or withhold programming options.
9. Consistent with the facility's reasonable and necessary security considerations and physical plant, staff shall make every effort to ensure the safety and privacy of transgender and intersex youth when the youth are using the bathroom or shower, or dressing or undressing.
10. Privacy considerations should not prevent transgender youth from full integration into Juvenile Hall's daily programming.
11. Housing determination for transgender or intersex youth shall consider whether the placement would ensure the youth's health and safety.
12. Youth will only be separated from others as a last resort when less restrictive measures are inadequate to keep the youth and other residents safe, and then only until alternative means of keeping all youth safe can be arranged.

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C. Searches

1. Staff shall not conduct physical searches of any youth for the purpose of determining the youth's anatomical sex.
2. All searches will be conducted in a professional and respectful manner by staff.
3. Searches shall, to the extent possible, be performed in a way that preserves the privacy and dignity of the person being searched.
4. Transgender youth shall not be physically searched in a manner that is humiliating or degrading, or for the purpose of determining the youth's physical anatomy.
5. Transgender youth shall be asked what gender staff he/she would like to perform the search.
6. Transgender youth may request that either a male or a female conduct the search.
7. Staff shall accommodate this request when possible and consistent with maintaining safety and security.
8. If the youth has no preference, he/she will be searched by a staff member of the same biological sex.

D. Equal Access to All Available Services, Care, and Treatment

1. Facility administrators shall ensure that transgender and intersex youth have access to medical and behavioral health providers qualified to provide care and treatment to transgender and intersex youth.
2. In accordance with State and Federal Law, every youth has the right to live in an environment free of harassment and discrimination. The 14th amendment to the United States Constitution provides for equal protection of the law; in essence prohibits prejudice. The amendment also introduced the legal instrument of Due Process; the right of all persons to receive the guarantees and safeguards of the law/judicial process.
3. Treating transgender youth in an unequal manner could be a violation of their Constitutional Rights. For instance, just because a youth is transgender, he/she should not be isolated for his/her own protection, nor should verbal, physical, or sexual abuse of a transgender youth be ignored.
4. The Probation Department has a responsibility to ensure that all youth are treated with respect and the rights of transgender youth are upheld particularly with respect to their safety, mental health, and privacy.
5. Staff should be professional in conducting their duties, and strive to ensure that all youth have equal access to all services, care, and treatment.
6. Juvenile Hall has a zero tolerance for sexual abuse and sexual harassment.

E. Reporting to and Responding to Harassment and Discrimination

1. Staff shall immediately report incidents of sexual abuse, sexual harassment, or discrimination.
2. Employees, volunteers, and contractors shall promptly and appropriately intervene when a youth physically, verbally, or sexually abuses or harasses another youth based on the youth's actual or perceived sexual orientation or gender identity.
3. All employees, volunteers, and contractors shall be required to report all untimely, absent, or inappropriate interventions.
4. Youth shall be able to report violations of the policy following established grievance procedures.
5. Grievance procedures shall protect confidentiality of youth and contain other measures to prevent retaliation.
6. The youth may also tell a teacher, counselor, probation manager, supervisor, medical or mental health staff, parent/guardian, or any trusted adult.