



<b>SAN FRANCISCO SHERIFF'S DEPARTMENT</b>  <b>POLICY AND PROCEDURE</b>	Date Issued: <b>02/20/2018</b>	Policy #: <b>SFSD-02-34</b>
	Last Revised:	
	Related Policies: SFSD 02-13 Searches SFSD 02-23 Incident Reports and Memoranda SFSD 03-02 Discrimination and Harrassment SFSD 03-07 Counseling and Discipline	FODM 04-01 Transport CODM 04-19 PREA CODM 05-01 Searched CODM 07-19 Inmate Grievances CODM 08-06 Hospital Transport
Approved By:  <b>Vicki L. Hennessy, Sheriff</b>		
Chapter: <b>02 Legal Enforcement and Operations</b>	Title: <b>Management and Interaction with Transgender, Gender Variant and Non-Binary Persons</b>	

**POLICY:** The San Francisco Sheriff's Department (SFSD) shall receive, evaluate on a case-by-case basis, house and provide secure, safe and humane custody, of all persons who are lawfully committed or held for confinement by the SFSD. All contacts with each arrestee or inmate will be conducted in a respectful, courteous and professional manner while maintaining safety and security. Discrimination or harassment of any kind, including that based on actual or perceived gender, gender identity and gender expression is strictly prohibited. Gender identity of all persons shall be respected.

**PURPOSE:** To provide employees, contract service providers and volunteers clear guidelines for intake, processing and housing of transgender, gender variant and non-binary (TGN) individuals, in the context of an evolving understanding of gender.

In order to meet federal / state/ local statutes and regulations, American Correctional Association Standards (ACA), National Correctional Care Health Commission Standards (NCCHC), Department of Justice Prison Rape Elimination Act (PREA) standards and other federal / state / local statues, standards, regulations, guidelines, directives or requirements that prevent discrimination against, address the appropriate treatment of, provide for the safety, security and medical needs of TGN inmates in a humane and respectful manner while maintaining the safety, security and good order of all SFSD facilities.

Document the self-identified gender of each person for assignment to housing and eligibility for participation in educational, vocational and life skills classes, to engage all offenders in the restorative justice process by helping to facilitate re-entry into the community upon release from custody.

**I. General:**

- A. The SFSD maintains a zero tolerance policy towards incidents of sexual assault / abuse and sexual harassment in SFSD facilities and / or locations, while protecting the rights of arrestees / inmates / clients, regardless of gender, gender identity, gender expression or sexual orientation. Any substantiated claim of sexual conduct, sexual contact or sexual harassment by employees towards any person may result in discipline up to and including termination, and / or referral for criminal charges.

B. Definitions

1. Gender:

- a. Includes a person's gender identity and gender expression. Gender is the social construct used to classify a person as man, woman, both or neither. Gender encompasses all relational aspects of social identity, psychological identity and human behavior.

2. Penal Code §4030 (k):

- a. Specifies that any person (other than medical staff) who conducts or is present at, or is within sight of a strip search, body cavity search, or body scan of specified pre-arraignment detainees must be of the "same sex" as the person search. California Attorney General Xavier Becerra's Opinion July 6, 2017, provides that as used in this section, "sex" refers to the person's gender, including the person's gender identity and gender expression and not limited to anatomy.

3. Field Arrest Card:

- a. A document used as the contemporary record for each booked person. It includes information that must be provided by the arresting agency prior to acceptance. Once the subject is booked, the Field arrest Card then serves as an in-custody housing and movement record.

4. Gender Identity:

- a. An individual's sense of being either male or female or something other or in-between. This may be different from what is traditionally associated with an individual's assigned sex at birth.

5. Gender Expression:

- a. Gender-related traits that may or may not be consistent with those traits typically associated with a person's assigned sex at birth. External manifestations of gender, expressed through one's name, pronouns, clothing, haircut, behavior, voice or body characteristics.

6. Gender-Variant:

- a. A person who displays gender expression or behavior that does not conform to dominant gender norms of male or female. Gender variant individuals may or may not identify as male, female or transgender. Also known as gender non-conforming, gender atypical or androgynous.

7. Intersex:

- a. Intersex individuals may be born with chromosomes, external genitalia, and / or a reproductive system that varies from what is considered "standard" for either males or females. This condition may not become apparent until later on in life, such as during puberty.

8. JMS:
  - a. The Jail Management System is the computerized data system that contains information on all persons booked into the SFSD County Jails.
9. JHS:
  - a. The Jail Health Services are provided by the Department of Public Health and include persons assigned to medical treatment with a subset of those assigned to Behavioral Health for mental and emotional issues.
10. Non-Binary:
  - a. A term for people with gender identities that fall somewhere outside of the traditional conceptions of either male or female. A similar term is gender queer.
11. Transgender:
  - a. A term for people whose gender identity, expression, or behavior is different from those typically associated with their assigned sex at birth.
12. TGN:
  - a. An acronym for transgender, gender variant and non-binary (Previously called gender non-conforming).
13. Sexual Orientation:
  - a. A person's romantic and / or physical attraction to people of a specific gender or genders.
14. LGBTQI:
  - a. Acronym for a group of sexual minorities including lesbian, gay, bisexual, transgender, questioning, queer and intersex individuals.
15. Medical Triage at Reception
  - a. Medical triage, staffed by a Jail Health Services (JHS) staff member is the first station of the custody intake process. Each arrestee is interviewed according to an established set of questions. Information from the arrestee is recorded in the JHS database.
16. Pat Down Search:
  - a. A search consisting of a pat down or body frisk of a clothed person, including an examination of pockets, shoes and socks. A pat search may include the removal and examination of outer clothing including, but not limited to, hats, wigs, coats, jackets, and multiple layers of bulky clothing.
17. PREA:
  - a. Prison Rape Elimination Act (PREA) enacted in 2003 by the Federal Government to prevent and reduce sexual abuse in jails and prisons through training, adoption of standardized policies, reporting requirements and data collection.

18. Strip Search:

- a. A search that requires a person to remove or arrange some or all of their clothing as to permit a visual inspection of the breasts, buttocks or genitalia of such person. A strip search may also include a visual inspection of the person's body cavities.

19. Statement of Preference form:

- a. A form to be completed by TGN individuals wherein an individual can voluntarily state the following preferences:
  - i. Gender identity and / or expression
  - ii. Preferred name
  - iii. Preferred pronouns or none
  - iv. Preferred gender identity of searching deputy
  - v. Preferred housing
  - vi. This form may be provided at any time to an individual who is in the custody of the SFSD. No person shall be penalized for not stating their TGN identification or preferences.

20. Classification Review Board:

- a. A pre-designated multi-disciplinary group, composed of four members convened by the Classification Unit. The Board includes:
  - i. Director of Jail Health Services (JHS) or designee
  - ii. Director of Behavioral Health Services (BHS) or designee
  - iii. Classification Unit Commander or designee - who will act as the secretary to the Board and convene the Board
  - iv. A Custody Operations Division (COD) captain or designee

**II. Procedures:**

A. Intake

1. All arresting officers are expected to complete a Field Arrest Card for each arrested person that are applicable for that person. In the event the arrestee is TGN, the officer must also complete the following sections:
  - a. AKA name if it is different from the booked name and is the preferred name of the individual being booked;
  - b. The preferred pronoun and preferred title of the individual;
  - c. The sex from a choice of: M, F or N and
  - d. Gender identity filled in next to the TGN notation.
2. At the time of intake, the JHS triage member will ask each arrestee the following questions as part of their intake medical triage and will share it with the SFSD booking sworn employee as needed:
  - a. What is your gender identity?

- b. What was your sex / gender at birth?
- c. If the answers to the questions above so indicate, the next question asked will be:
  - i. Will you complete a voluntary Statement of Preference form to assist the SFSD in correctly classifying / housing you for your safety?
  - ii. If the answer is yes, the form will be provided to the arrestee to complete at booking and a sworn employee will assist the arrestee in its completion.
3. The sworn employee at booking will use the completed Statement of Preference form to note if there is a preferred name and enter it in the JMS booking record.
  - a. If the preferred name is the booking name on the Field Arrest Card, provided by the arresting agency, that will become the name of record for the present arrest.
  - b. If the preferred name is not the booked name, the AKA name will be added as an alias, highlighted on the Field Arrest Card and in the JMS booking record to denote it as the preferred name.
4. The completed Statement of Preference form shall be forwarded to the Classification Unit, medical screening and a copy forwarded to Central Records and Warrants Unit.
5. Employees and contract service providers will:
  - a. Address TGN persons by their chosen pronoun / honorific (Mr. / Ms.) / first name as appropriate or simply by their last name. A notation of the chosen name and pronoun shall be made on each TGN classification record and field arrest / housing card supplemental. All persons are encouraged to ask the TGN individual about their preferences, if there is no documentation immediately at hand.

B. Searches at intake

1. TGN inmates who have completed a Statement of Preference form shall be searched according to their designated preferences throughout their stay in the San Francisco County Jail, except for the following:
  - a. Where the sworn employee has an articulable reason to doubt the inmate's self-identification, the sworn employee shall defer to the watch commander for a final determination.
  - b. When the watch commander overrides the Statement of Preference form, the supervisor shall author an incident report articulating the reason(s) for the decision to override the request of the TGN inmate regarding their strip search preference.
  - c. In no circumstances will JHS or SFSD employees examine an inmate for the sole purpose of determining gender according to their genitalia.

- d. All searches will be conducted in a respectful manner, according to the SFSD Policy and Procedure titled Searches and documented per procedure on the Field Arrest Card.

C. Intake housing

1. TGN arrestees awaiting further processing will be placed in holding cells alone, or with other appropriate TGN inmates, whichever is deemed safest by the Watch Commander, until they are housed.
2. All inmates shall be issued clothing consistent with their preferred gender identity and / or expression.
3. The Classification Unit will review the Statement of Preference form and consider the housing preference of the arrestee when making the initial housing assignment.
  - a. A Classification Unit sworn employee will consult with the on-duty County Jail #2 watch commander to determine the best initial housing placement taking the following into consideration:
    - i. Preference of the inmate
    - ii. Availability of appropriate preferred housing where privacy for showering can be ensured.
    - iii. Other classification considerations, including but not limited to: health requirements; psychiatric requirements; behavioral history; criminal sophistication; gang affiliation; assaultive and / or violent history.
  - b. In the event the housing preference is not followed due to one or more of the above reasons, the supervisor will ensure there is a complete notation made on the Field Arrest / Housing card as well as information entered into the Classification section of JMS. This will also include the alternative housing location where the inmate was housed.
  - c. In the event the facility is able to place the individual according to the expressed preference, that information will be noted on the back of the Field Arrest / Housing Card and entered into the Classification section of JMS system.
  - d. When it is determined that a person is not suitable for the individual's preferred housing, that information will be forwarded to the Chief Deputy of the Custody Operations Division for a follow-up review.

D. Post arraignment housing

1. Classification housing interviews will take place after the first court appearance but no later than 72 hours after booking, excluding weekends or holidays or sooner if it is determined that the inmate will remain in custody.
2. Classification interviews will consist of the PREA questions required for safe housing.

- a. If a TGN person expresses a preference for housing designated for men or women that should be considered as one component of the decision making process by the Classification Unit
  - b. If a TGN inmate expresses a preference for housing with other TGN individuals that should be considered as one component of the decision making process by the Classification Unit
  - c. TGN individuals shall be given equal access to programming and educational opportunities as available at the jail where they are housed.
3. The Classification Unit will conduct an interview with the TGN individual to assess that individual's placement preference, security and safety needs. The following questions may be asked:
  - a. Are you, or have you been perceived to be gay, lesbian, bisexual, transgender, non-binary, intersex or gender variant?
  - b. Have you ever been sexually victimized?
  - c. In what type of cell / bed would you prefer to be placed? Why?
  - d. In what type of cell / bed do you think you will be safest? Why?
4. The Classification Review Board shall convene when a discrepancy arises between the inmate's housing preference and the assessment of the Classification Unit related to a TGN placement in either male or female housing units.
5. The representative from JHS on the Classification Review Board will record and provide the answers to these questions as well as other appropriate information to the Classification Review Board to assist them in making a determination.
6. All inmates whose case is under review have the right to meet and speak to the Classification Review Board.
7. The Classification Review Board will make a housing determination that will take the following into consideration:
  - a. Preferences and requests made by the inmate
  - b. Safety or security concerns as documented by Classification and / or the facility commander.
8. The housing determination of the Classification Review Board will be thoroughly considered by the Chief Deputy of the Custody Operations Division who will make the final housing decision.
  - a. An appeal of the Chief Deputy's decision, may be made in writing to the Assistant Sheriff and then to the Undersheriff.
  - b. An appeal of the Undersheriff's decision may be made in writing to the Sheriff.
9. The decision of the Board will be carefully documented per procedure and the Classification Unit Commander or designee will be directed to take the action instructed by the Chief Deputy of the Custody Division or designee.

- a. If not in agreement, the inmate will be informed of the right to appeal a decision of the Board in writing through the identified liaison to the Assistant Sheriff, then the Undersheriff with the final decision standing with the Sheriff.
    - b. An inmate may request a representative from the Human Rights Commission to represent them before the Board.
  10. Within the first 15 days of being given a housing determination, a TGN person in custody will be interviewed by JBHS, in as private a setting as possible, about any safety concerns they may have with their placement, and will be asked again in which housing and classification assignment they feel they would be safest.
  11. A TGN person in custody will be offered an optional follow-up interview every 60 days, in as private a setting as possible, to identify any problems related to their housing or classification assignment and any need to reconsider. An interview and reassessment of housing or classification assignment shall also be conducted immediately if a TGN individual indicates they feel unsafe in their current housing or classification assignment or there is evidence they may be unsafe in their current housing or classification assignment.
- E. Training and evaluation
1. The SFSD shall implement education and training for current sworn and non-sworn employees on this policy and other identified policies that touch on the intake, searching, housing, respectful interaction, transportation, programming and other matters related to the TGN community.
  2. Ongoing training will be included as part of in service training for current employees and new hire orientation and training. Additionally, training will be provided to volunteers and contractor service providers who seek a long-term jail clearance.

**III. Forms:**

Statement of Preference Form

**IV. Reference:**

Classification Unit Interview PREA Questions

California Penal Code § 422.56

California Penal Code § 4030

California Attorney General Xavier Becerra's Opinion July 6, 2017





**San Francisco Sheriff's Department  
Voluntary Gender Identity Statement of Preference Form**

It is the policy of the San Francisco Sheriff's Department to receive, evaluate, house and provide secure, safe and humane custody of all persons who are lawfully committed or held for confinement by the SFSD until their lawful and appropriate release or transfer to another authority. Every inmate, including transgender, gender variant and non-binary (TGN) inmates, will be individually assessed and provided appropriate housing based on classification standards designed to provide safety, security, and ability to access programs.

Please complete the following information so your preference can be documented and considered:

SF Number: \_\_\_\_\_ Gender Identity: \_\_\_\_\_

1. Preferred Name: \_\_\_\_\_  

Last
First
MI
2. Legal Name: \_\_\_\_\_  

Last
First
MI
3. Preferred Pronoun: \_\_\_\_\_ (e.g. he, she, they, none)
4. Preferred Title: \_\_\_\_\_ (e.g. Ms., Mr. none)

**Search Preference:**

While in custody of the San Francisco Sheriff's Department I prefer to be searched by a deputy of the below indicated gender identity whenever possible. I understand that this preference will be respected except as outlined in the policy, or there is no one of that gender identity available, or that the failure to conduct a search may jeopardize the safety of the staff or others.

5. Woman \_\_\_\_\_ Man \_\_\_\_\_ No Preference \_\_\_\_\_

**Housing Preference:**

While in custody I believe I would prefer to be housed with:

6. Women \_\_\_\_\_ Men \_\_\_\_\_ Other TGN people \_\_\_\_\_

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

**Witnessing SFSD Sworn Employee**

Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Location: \_\_\_\_\_

I ensured this information is on the subject's Field Arrest Card