EXHIBIT B

Illinois Department of Corrections

Administrative Directive

Number:	Title:	Effective:
04.03.104	**Evaluation, Treatment and Correctional Management of Transgender Offenders**	**4/1/2021**

Authorized by:	*[Original Authorized Copy on File]* **Rob Jeffreys** Acting Director
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Authority: 730 ILCS 5/3-2-2, 5/3-7-2 and 5/3-8-2 PREA Authority: Title 42 USC Sections 15601-15609	**Related ACA Standards:** 5-ACI-3A-21
Referenced Policies: 04.01.301, 05.01.109, 05.01.113, 05.07.101	**Referenced Forms:** DOC 0282 – Mental Health Progress Note DOC 0400 – Transgender Committee Recommendation DOC 0434 – Incident Report DOC 0494 – Screening for Potential Sexual Victimization or Sexual Abuse DOC 0616 – Medical Provider Initial Gender Determination for Transgender, Intersex, and Gender Incongruent Offenders

I. POLICY

The Department seeks to foster an environment where all offenders, including transgender, intersex and gender incongruent offenders, are living in a dignified manner with full respect of their right to be free from discrimination, harassment, victimization, bullying or violence whether emotional, physical or verbal. The Department seeks to meet the medical, mental health, transition and security needs of all segments of the population.

II. PROCEDURE

A. Purpose

Establish a written procedure for the identification, institutional management, facility assignment/placement and medical and mental health care for transgender, intersex and gender incongruent offenders. Including a written procedure to address the adjustment of offenders self-identified as transgender or suspected of having Gender Dysphoria or other concerns related to gender identity, and to make appropriate accommodations to the prison environment related to gender identity throughout their incarceration.

B. Applicability

This directive is applicable to correctional facilities within the Department.

C. Facility Review

A facility review of this directive shall be conducted at least annually.

D. Designees

Individuals specified in this directive may delegate stated responsibilities to another person or persons unless otherwise directed.

E. Definitions

Gender Dysphoria – a specific mental health disorder meeting diagnostic criteria of the current version of the Diagnostic and Statistical Manual of Mental Health Disorders (DSM) that includes a marked incongruence between an individual's experienced or expressed gender and his or her assigned gender; a strong and persistent desire to be a member of the opposite or alternative gender; persistent discomfort with his or her assigned gender or a sense of inappropriateness with the gender role. Gender Dysphoria is typically associated with clinically significant distress or impairment in occupational, social or other important areas of functioning; and absence of evidence of intersex characteristics (hermaphroditism), or a congenital disorder in which the development of chromosomal or anatomical sex is atypical.

NOTE: The offender may have had cosmetic or other surgery to enhance appearance, undergone hormonal therapy and frequently lived as a person of the opposite gender in the free community in spite of genetically being a male or female. A transvestite (cross-dresser) or non-transgender homosexual shall not be considered a person with Gender Dysphoria for purpose of this directive.

Gender identity – a person's internal sense of being male, female, or an alternative gender regardless of anatomical genitalia at birth or sexual orientation. Gender identity is a result of genetics and environmental influences and may be manifested by appearance, behavior or other aspects of the individual's lifestyle.

Gender incongruent/incongruence – describes a person whose gender identity or gender expression differs from the gender norms associated with the sex they were assigned at birth.

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 disorders of sex development.

Medical Provider – for the purpose of this directive, shall mean a Physician, Physician's Assistant or a Nurse Practitioner.

Mental Health Authority (MHA) – the facility's Psychology Administrator, or in his or her absence, a mental health professional who has been designated by the Chief of Mental Health to make mental health decisions.

Mental Health Professional (MHP) – a physician who is licensed to practice medicine and is board certified in psychiatry by the American Board of Psychiatry and Neurology ("ABPN") or the American Osteopathic Board of Psychiatry and Neurology ("AOBPN"), or has completed four (4) years of an accredited post-graduate training program in psychiatry; a psychologist with a Ph.D./Psy. D and licensed as a clinical psychologist; a licensed psychiatric nurse (i.e., a nurse licensed as an R.N. and certified in psychiatric-mental health); a licensed clinical social worker; an individual licensed to provide mental health services with a Ph.D./Psy. D or master's degree in Psychology, Counseling, Social Work or similar degree program. "Licensed" means currently licensed by the State of Illinois.

Sexual orientation – a pattern of sexual attraction to a specific gender or genders or lack of sexual attraction to a specific gender or genders. Sexual orientation and gender identity are distinct and separate concepts.

Transgender – an individual whose gender identity is different from his or her assigned gender at birth.

Transgender female – a person born biologically male who identifies as, and sees herself as, a female.

Transgender male – a person born biologically female who identifies as, and sees himself as, a male.

Transgender Administrative Committee (TAC) – a Committee responsible for reviewing the safety and security needs of the transgender, intersex and gender incongruent offenders or offenders diagnosed

with Gender Dysphoria. The TAC's reviews shall be made on a case-by-case determination. The TAC shall be co-chaired by the IDOC Chief of Operations and the Chief of Psychiatry.
Transgender Health and Wellness Committee (THAWC) – a Committee responsible for reviewing medical and mental health care for the transgender, intersex and gender incongruent offenders or offenders diagnosed with Gender Dysphoria. The Chair of the Committee is the Agency Medical Director or Deputy Chief of Health Services.

Transvestite – an individual who chooses to dress as the opposite gender without drawing their primary gender into question.

F. General Provisions

1. In accordance with Administrative Directive 05.07.101, all offenders shall undergo a detailed medical history, physical examination and mental health screening during the reception and classification process. This shall be completed at the Reception and Classification Center (R & C) on the offender's first full day of admission whenever possible.

2. Further evaluations shall be completed in accordance herein for any offender self-identified or for whom there are questions regarding gender identity or Gender Dysphoria discovered during the screening. The further evaluation shall:

   a. Occur within seven working days for those offenders identified at the R & C during screening; or

   b. For any offender newly disclosing gender incongruence status at their parent facility, a like evaluation shall be completed within seven working days of the disclosure.

G. Evaluation Requirements of the Gender Incongruent Offender

A detailed medical examination and mental health screening shall be conducted within seven days for any offender who self-identified as transgender within the reception and classification process or for any offender who newly discloses gender incongruence status at a facility. The evaluation shall include the following:

1. Medical History

   a. A medical provider shall elicit information about:

      (1) Sexual activity, specifically homosexual, heterosexual or bisexual activity;

      (2) Previous operative procedures related to gender identity; and

      (3) Hormone therapy.

   b. The medical provider shall also ask the offender questions that would:

      (1) Clarify the offender's sense of gender identity; and

      (2) Reveal any plans the offender may have with regard to future surgery and lifestyle.

   c. The medical provider shall inquire as to past medical providers' management of the offender's gender related treatment prior to incarceration.

NOTE: If possible, the medical provider managing the offender's gender related treatment prior to incarceration shall be contacted for verification of the course of treatment and to obtain relevant medical records.

2. Physical Examination

   a. The physical examination report shall provide a concise description of the presence of genitalia including the presence or absence of natal primary sexual characteristics.

   b. If necessary, additional diagnostic testing may be performed.

3. Upon conclusion of the medical history and physical examination:

   a. Absent medical reasons to adjust or discontinue, as determined and documented by the facility medical provider under the supervision of the Facility Medical Director, an offender shall continue to receive previously prescribed, verifiable, cross-gender hormones at intake or upon transfer.

   b. The facility medical provider shall document the preliminary determination of gender status, in the offender's medical record.

4. Notifications

   a. The Facility Medical Director shall notify the Health Care Unit Administrator of the preliminary gender determination and any recommended accommodations by submitting the Medical Provider Initial Gender Determination for Transgender, Intersex, and Gender Incongruent Offenders, DOC 0616.

   b. The Health Care Unit Administrator shall forward a copy of the DOC 0616 to the Mental Health Administrator, Chief Administrative Officer (CAO), Transgender Health and Wellness Committee (THAWC) Chairperson and Transgender Administrative Committee (TAC) Chairperson.

   c. The CAO shall ensure the offender is housed and provided with the necessary gender specific clothing in accordance with the offender's gender-related needs.

5. Mental Health Evaluation

   a. A Psychiatric Provider shall, as part of the mental health evaluation, evaluate the offender to determine:

      1. If he or she has Gender Dysphoria using the current DSM criteria;

      2. The consistency of the offender's gender identity other than that assigned at birth;

      3. The offender's capacity to give informed consent and make a fully informed decision;

      4. The offender's sexual activity, sexual preference and current gender identification;

      5. The regularity and history of any hormone therapy and if the hormones were prescribed and monitored by a physician;

6. The presence or absence of any gender related counseling activities and goals prior to incarceration; and

7. If applicable, the offender's mental health symptoms and psychiatric stability for consideration of readiness for any requested hormone therapy.

b. Upon the Psychiatric Provider's confirmation of the diagnosis, the transgender status shall be considered confirmed and the provider shall inform the facility Mental Health Authority of this determination.

6. Within 30 days of an identified transgender, intersex or gender incongruent offender arriving at the assigned parent facility from an R & C, transferring to another facility, or making an initial or new disclosure of transgender identity at the current facility, a Mental Health Professional (MHP) shall:

a. Complete a social history interview and review any relevant information regarding gender expression or life experience the offender may have had in the gender role of the opposite gender assigned at birth. The social history shall be documented on the Mental Health Progress Note, DOC 0282, and shall include, but may not be limited to, the offender's:

1. Mental health history including substance abuse history;

2. Current mental health status;

3. General adaptive functioning;

4. Gender identity and the development of gender identity or Gender Dysphoria over the lifespan, as applicable;

4. Positive or stigma experiences in community and correctional social settings, as well as coping strategies;

5. The availability of support in the community and in the correctional setting; and

6 Experiences during any previous incarceration(s), if applicable.

b. With the assistance of a representative from Health Care, complete Sections I through IX of the Transgender Committee Recommendation, DOC 0400, documenting any social or medical transition or considerations to do so. This may include, but not be limited to, history of name changes or gender marker or any gender-related chest binding or body padding.

c. Determine the offender's efforts to obtain hormone therapy or gender confirming surgeries or gender confirming cosmetic surgery or procedures including preparation for surgery and the offender's self-identified personal pronouns.

d. Contact the THAWC Chairperson and present the DOC 0400 at the next Committee meeting.

7. In accordance with Administrative Directive 04.01.301, a Screening for Potential of Sexual Victimization or Sexual Abuse, DOC 0494, shall be completed within 72 hours of intake and again within 30 days.

H. <u>Medical Treatment</u>

1. Cross-gender Hormone Treatment

   a. If an offender arrives to the facility having already started on cross-gender hormones, the medical provider will continue prescription of the hormone treatment unless there are any contraindications as determined by the medical provider,

   b. If an offender who is confirmed as transgender, intersex or gender incongruent is not on cross-gender hormones but requests it, the facility medical provider shall provide transgender, intersex or gender incongruent offenders with appropriate gender-related mental health and cross-gender hormone services, as necessary, throughout their incarceration.

   c. The offender's hormone levels and appropriate metabolic parameters will be managed by the designated primary care provider and shall be monitored and supervised by the Facility Medical Director.

   d. The Facility Medical Director may consult with an endocrinologist with expertise in hormone therapy for transgender patients, as medically indicated.

2. Gender Affirming Surgery

   a. If an offender requests surgery for the specific purpose of gender reassignment, he or she must submit the request in writing to the THAWC. The offender may ask a QMHP or the CAO to submit the request on their behalf.

   b. The Agency Medical Director or Deputy Chief of Health Services, in consultation with an interdisciplinary team of medical and mental health professionals, shall make a decision as to the medical necessity of the surgery.

   c. The determination of the decision whether the surgery is approved shall be communicated to the offender in writing by the Agency Medical Director or Deputy Chief of Health Services.

I. Operations

1. Identification

   a. A list of Transgender offenders in custody shall be established and maintained in order to identify appropriateness of accommodations, planning and monitoring.

   b. When transgender, intersex or gender incongruent status is established as above, the Mental Health Authority shall ensure Bureau of Identification (B of I) is notified.

   c. The B of I shall identify offenders who are transgender, intersex or gender incongruent in Offender 360.

   d. The B of I shall add gender identification to the offender's ID unless the offender opts to decline gender identification on their ID card.

   e. ID Cards for those identified shall note gender difference for purposes of special accommodations such as search, commissary, separate showering, etc.

   f. The name entered on the offender's Judgment and Commitment Order shall remain the official committed name for all IDOC records.

2. Placement and Programming

a. Transgender, intersex and gender incongruent offenders shall not be assigned to gender-specific facilities based solely on their external genital anatomy.

b. A review of each transgender, intersex and gender incongruent offender's placement and programming assignments shall be conducted by the facility twice annually to review any threats to safety experienced or posed by the offender.

c. The Transgender Administrative Committee (TAC) shall make individualized determinations about how to ensure the safety of each offender including considering transfer from one gender-specific facility to an opposite gender facility and specifying the gender of staff which will perform searches of the offender. The determination shall consider, on a case-by-case basis, whether a specific placement would ensure the offender's health and safety, and whether the placement would present management or security concerns.

Note: The TAC shall make these determinations without the necessity of a referral for any offender identified as transgender, intersex, and gender incongruent. However, an offender may be referred for these reviews by written request of the offender, the offender's treating mental or medical providers, or the CAO.

d. A representative of the TAC shall interview the offender, review PREA allegations, offender grievances, criminal history, medical, psychiatric and disciplinary records and present findings to the TAC. Decisions shall be made by the TAC on a case-by-case basis with serious consideration given to circumstances including, but not limited to, the following:

(1) The offender's perception of whether a male or female facility is safest for him or her, as well as the preferred gender of staff to perform searches.

(2) The offender's prior institutional history (to include incidents and grievances).

(3) The offender's prior violent or sexual criminal history.

(4) The offender's gender expression including physical appearance, age and physical build.

(5) The offender's vulnerability to sexual victimization, including prior allegations of sexual abuse or harassment made by the offender.

(6) The offender's likelihood of perpetrating abuse against other offenders including consideration of prior allegations of sexual abuse or harassment made against the offender.

(7) The offender's compliance with medical and mental health treatment plans, including psychopharmacologic and hormone therapy compliance (if applicable).

(8) Any relevant information obtained about the offender from security staff or medical and mental health staff since arrival.

(9) The ability of security staff to house and supervise the offender to ensure his or her safety and the safety of the population in the current and requested environment.

(10) The services available to meet the needs of the offender in each environment.

(11) Any obstacles identified for the appropriate management of the offender in each facility.

(12) Any other relevant information about the offender's ability to positively or negatively manage himself or herself in each type of environment.

e. The decision made by the Committee to transfer the transgender, intersex or gender incongruent offender to an alternative gender facility shall be documented and the offender shall be notified by letter from the Chairperson of the TAC or designee.

f. If after a transfer occurs the transgender, intersex or gender incongruent offender poses a significant threat to residents of the receiving facility or creates a disruption to the safe operation of that facility, the offender may be presented to the combined TAC and THAWC for placement consideration.

g. In the event where a transgender, inter-sex or gender incongruent offender is housed in a facility inconsistent with their gender identification, whether by their choice or decision of the TAC, accommodations shall be afforded to them as outlined below.

3. Search

a. Unclothed Visual Searches

Unclothed visual searches of transgender, intersex or gender incongruent offenders shall occur in a manner designed to ensure as much privacy to the offender as practical. All searches shall be conducted in a respectful and professional manner and in the least intrusive manner possible consistent with security needs.

(1) If an offender who reports they are transgender, intersex or gender incongruent, but has not been identified as such by the above procedure, and expresses concern for the gender of the staff performing the search, the search shall be conducted in accordance with Administrative Directive 05.01.113. Additionally, an Incident Report, DOC 0434, documenting the expressed concern shall be submitted through the chain of command to the TAC.

(a) The TAC shall review the incident report and interview the offender for purposes of determining proper procedures for future searches.

(b) The determination of the TAC shall be documented and provided to the offender and CAO.

(c) If the TAC concurs with an ongoing modification of searches, they will notify the B of I to indicate the accommodation on the offender's ID card.

(2) If the offender has been identified as transgender, intersex or gender incongruent in accordance with the procedures established herein, the offender shall be searched by the gender of the staff designated on their offender identification card.

NOTE: In the event that there is no staff member of the designated gender who is willing and able to perform the search, the facility warden shall be contacted.

b. Pat or Body Searches

1. Pat or body searches in male facilities may be performed by either male or female staff.

2. Pat or body searches in female facilities shall only be performed by female staff.

NOTE: At no time will two different gendered staff split up body search areas and search a transgender, intersex, or gender incongruent offender.

4. Commissary

Offenders identified as transgender, intersex or gender incongruent shall be allowed access to commissary items consistent with the offender's gender identity according to the list of items approved by the TAC. The approved commissary items shall be reviewed at least annually by the THAWC and any modifications recommended shall be forwarded to the TAC for review.

NOTE: A CAO of an individual facility may request restrictions of gender congruent commissary items for the safety, health or security of their facility. Restrictions of TAC-approved commissary items by a facility shall only be made with the written approval of the TAC Chairperson.

a. Transgender, intersex and gender incongruent offenders shall be allowed to have undergarments of their identified gender. The Department shall provide such undergarments throughout the offender's incarceration. At no time shall authorized undergarments be worn in a manner that is disruptive or provocative.

b. If offenders are found to have violated institution rules related to the possession of these commissary items, or commissary item misuse threatens the safety or security of an individual facility, the items may only be restricted with written approval by the TAC.

c. The use of make-up or other items shall not prevent accurate identification of the offender.

d. Items such as binders, breast pads, tucking materials, etc, are considered Medical Appliances and, as such, shall not be available through the commissary. Offenders may request these devices of the Facility Medical Director and, if approved, may be ordered as a medical device by medical prescription only.

5. Showers

Transgender, intersex and gender incongruent offenders shall be allowed the same frequency of showers in accordance with his or her classification. Showers shall be separate and private from other offenders.

6. Double Celling

Any time a cellmate is considered for a transgender, intersex or gender incongruent offender, the Placement Officer shall consider the placement on a case by case basis to ensure the offender's health and safety and whether the placement would present management or security concerns.

7. Transports

Whenever possible at male facilities, both a male and female staff shall be on a transport that includes a transgender, intersex or gender incongruent offender to allow search options.

NOTE: Transgender, intersex or gender incongruent offenders may be encouraged, but not required, to sit at the front of the van or bus, in closest proximity to transportation staff for their own safety.

8. Additional Accommodations

If accommodations not addressed in this Administrative Directive are necessary or requested, a written request may be submitted by the offender or their advocate to the appropriate transgender Committee for review at the next scheduled Committee meeting.

J. Transgender Committees

The needs of a transgender, intersex or gender incongruent offender shall be managed via a two-committee process: The Transgender Administrative Committee (TAC) and the Transgender Health and Wellness Committee (THAWC).

1. Transgender Administrative Committee (TAC)

The Department shall establish the TAC for the purpose of reviewing placements, transfer, safety, commissary and security concerns of transgender, intersex and gender incongruent offenders or offenders diagnosed with Gender Dysphoria. The Chief of Operations and the Chief of Psychiatry (or their designees) shall co-chair the Committee. The Committee shall be comprised of:

a. Chief of Operations (or designee);

b. Chief of Psychiatry;

c. Agency Medical Director or Deputy Chief of Health Services;

d. Transfer Coordinator;

e. Chief of Women's Services; and

f. Others as appointed by the Co-Chairperson.

2. Transgender Health and Wellness Committee (THAWC)

a. The Department shall establish a THAWC for the purpose of medical oversight for medical and mental health care for the transgender, intersex and gender incongruent offenders or offenders diagnosed with Gender Dysphoria.

b. The Committee shall set standards for treatment in the Department and shall review concerns of, and oversee the gender related medical accommodation for, these offenders.

c. The Agency Medical Director or the Deputy Chief of Health Services (no designee) shall be the Chairperson of the THAWC and the Committee shall be comprised of the following:

(1) Agency Medical Director or Deputy Chief of Health Services (no designee);

(2) Regional Nursing Administrator as appointed by the Agency Medical Director;

(3) Chief of Mental Health;

(4) Chief of Psychiatry;

(5) Medical Consultants as appointed by Agency Medical Director; and

(6) Others as appointed by the Agency Medical Director.

3. In accordance with Section II.G.6, within 30 days of a transgender, intersex and gender incongruent offender arriving at an assigned facility, transferring to another facility, or new disclosure of transgender identity or alternate gender identity at the current facility, an MHP shall submit the completed Transgender Committee Recommendation, DOC 0400, to the THAWC Chairperson who shall schedule a meeting of the THAWC during which the case shall be presented. The THAWC shall forward any concerns more pertinent for the TAC to the Chairperson of that Committee.

4. The TAC shall review requests for transfers to opposite gender facilities in accordance with Section II.I.2.c and make the final recommendation for housing and any additional housing matters that may be of issue. The review and recommendations shall be documented on the DOC 0400.

5. At their discretion, both Committees may conduct follow-up reviews on the individual offenders on an as needed basis. Follow-up reviews shall be documented on the DOC 0400.

6. Offenders may make requests of either Committee by submitting it in writing to their MHP who shall forward the request by submitting a DOC 0400.

7. When an item is to be presented to either Committee for a vote, only Department officials may participate in the voting process. IDOC officials not specifically identified as Committee members may be granted voting privileges for the specific issue in question, but non-Committee members who are granted voting privileges are to be identified at the outset of the meeting. The Chairperson of the Committee shall be the last to cast a vote and may cast a tie-breaking vote. The Chairperson shall forward the decision of the Committee in writing to the offender with a copy sent to the CAO.

K. Appeals

1. If a transgender, intersex or gender incongruent offender does not agree with decisions related to his or her gender identity accommodations or treatment, the offender may submit an appeal in writing with additional information for consideration or second opinion by either the TAC or THAWC.

2. The appeal shall be submitted to the Mental Health Authority of the facility who shall submit a completed DOC 0400 to the THAWC.

3. The THAWC shall either present the appeal at a Committee meeting or forward the appeal to the TAC if the subject matter is more appropriate for that Committee to consider.

   a. Upon receipt of the appeal, the Committee shall make a preliminary determination as to whether additional information is necessary to adequately consider the appeal. If needed, the Committee shall gather further information and convene a Committee meeting as soon as practicable.

   b. The Committee Chairperson shall forward the decision of the Committee in writing to the offender with a copy sent to the CAO.

   NOTE: An offender may not re-submit an appeal on the same subject for the subsequent six months.

L. Training

1. All staff shall participate in transgender, intersex and gender incongruence training during Pre-service Orientation Training (PSOT) or Pre-service Corrections Training (PSCT) and annually thereafter as developed by the Training Academy in conjunction with the Office of Mental Health.

2. Training and supervision of Mental Health staff who work with transgender, intersex and gender incongruent offenders shall occur as defined by the Mental Health Standard Operating Procedures.

3. Training and supervision of the Medical staff who work with the transgender, intersex and gender incongruent offenders shall be determined by the Office of Health Services.