I.  PURPOSE

The purpose of this General Order is to provide for the appropriate treatment of transgender, transsexual, intersex, and gender variant persons who are incarcerated and housed within the Loudoun County Adult Detention Center.

II.  POLICY

It shall be the policy of the Corrections/Court Services Division to provide services in a humane and respectful manner to transgender and intersex inmates and to see that they are processed and housed safely and efficiently to the greatest extent possible. For the safety, security and order of the facility, the Classification/Records Section classifies and houses male and female offenders in separate housing units. Classification/Records shall classify an inmate who has male genitals as a male and one who has female genitals as a female, unless otherwise overridden by the Assistant Division Commander of Confinement. In order to address the special needs of transgender individuals, upon initial intake, or at any time that an inmate makes known to staff their transgender or intersex status, staff shall follow the guidelines in this policy in order to determine the inmate’s housing based on his or her safety/security needs, housing availability, gender identity and genitalia, if:

1.  An inmate indicates that he/she is transgendered or intersex at any time during his/her custody.
2.  An inmate’s gender identity, appearance, overt expression, or behavior differs from his/her birth gender and/or genitalia.
3.  A gender designation has been made by any public entity, government agency or law enforcement agency that indicates the inmate is transgendered.

III.  DEFINITIONS:

Gender Expression:  A gender-related expression, appearance, identity, or behavior of an individual, regardless of the individual’s gender at birth.

Intersex:  A set of medical conditions that features a congenital anomaly of the reproductive and sexual system. A person with an intersex condition is born with sex chromosomes,
external genitalia, and/or an internal reproductive system that is not considered “standard” for either male or female.

Sexual Orientation: Includes male or female homosexuality, heterosexuality, and bisexuality, by preference or practice.

Transgender: Refers to any person whose identity or behavior differs from traditional gender expression. This term includes transsexual individuals, cross-dressers, androgynous individuals, and others whose appearance or characteristics are perceived to be gender- atypical. An umbrella term describing individuals who live and/or express themselves as a gender other than that assigned to them at birth.

Transsexual: A person whose personal sense of his or her gender conflicts with their anatomical sex. Some, but not all, transsexuals undergo medical treatments to change their physical characteristics so that it is in harmony with their gender expression.

Gender Variant: Refers to any person whose expression of gender, (masculinity and femininity) does not conform to the dominant gender norms of Western culture.

III. PROCEDURE

A. General Provisions

Under all circumstances, staff shall only ask questions related to sexual identity, gender identity or gender expression for the purpose of making intake and housing assignments, classification, programming, providing health care and health assessments, or where information is necessary to ensure the safety, security and order of inmates, staff, visitors, the facility, and the community. Questions related to sexual identity, gender identity, or gender expression shall be asked in a respectful manner to preserve confidentiality as well as human dignity and avoid subjecting the inmate to abuse, humiliation or ridicule.

B. Initial Intake

Upon initial intake, if an inmate’s gender related expression, identity, appearance, or behavior differs from his/her sex, staff shall, when practical, place such transgendered or intersex inmate in a holding cell by him/herself during intake. In case of doubt, an inmate’s gender shall be determined by original birth certificate.

Staff shall:

1. Review commitment documents for gender assignment or any notification that identifies the inmate as transgender or vulnerable to victimization by other inmates.
2. If after reviewing commitment documents and other notifications the staff still cannot determine the biological gender of the inmate, the staff shall ask the inmate for verification of the sex of his/her genitalia. Staff must conduct this inquiry privately and in a professional manner to preserve confidentiality in order to avoid subjecting the inmate to abuse or ridicule.

3. If the inmate’s gender cannot be determined by physical characteristics, and/or the inmate refuses to cooperate, staff shall notify the intake supervisor immediately. The supervisor shall have the inmate escorted to the medical unit for a physical examination and gender determination. Any inmate refusing to receive a complete physical examination will be placed in protective custody.

4. Upon determination of gender by inmate verification (A and B, above) or medical exam (C, above), the inmate shall be treated as a protective custody inmate for the duration of the intake process in order to ensure that the staff classifies the inmate to the appropriate housing unit.

5. All intake documentation shall include the inmate’s birth and/or legal name or the name the inmate has been booked under by the arresting agency.

6. Inmates shall be called by their last names without reference to gender specific identifiers such as Mr., Mrs. or Miss, Ma’am or Sir or other gender specific terms used in addressing a person. Instead, the gender neutral term “Inmate” is to be used with the last name.

C. Housing

1. After completion of the initial intake process, an inmate identified as transgender or intersex shall be housed as a protective custody inmate in a single cell in intake consistent with the gender identified at intake, for no more than seventy-two (72) hours, excluding weekends, holidays and emergencies, until classification and housing needs can be assessed by the Classification Supervisor.

All transgender and intersex inmates will be classified and assigned housing based on their safety/security needs, housing availability, gender identity and genitalia. Intake staff shall assess the transgender and intersex inmates for potential vulnerability in general population.

2. As part of the housing assessment for vulnerability, the Classification Supervisor will determine the transgender inmate’s housing assignment after review of all of the inmate’s records and assessments and an interview with the inmate. The supervisor will ask the inmate his or her own opinion of his or her vulnerability in general population of the male or female units. This information shall be taken into consideration in determining the proper housing assignment. A written decision by the supervisor will be maintained in the inmate’s medical and classification records.
3. The housing assessment shall determine if the inmate will be housed in the general population or in a protective custody unit of the gender consistent with their gender identity or genitalia. If the housing assignment differs from the written recommendation, the Staff Duty Lieutenant will justify the assignment in writing to the Assistant Division Commander of Confinement. Transgender and intersex inmates have the same right to appeal housing assignments as all inmates.

4. A transgender or intersex inmate will be housed in protective custody when there is reason to believe the inmate presents a heightened risk to him/herself or to others or where the inmate fears he or she will be vulnerable to victimization in any other housing setting. This assignment shall be only for the period during which the heightened risk and/or fear exists. Inmates in administrative segregation and protective custody shall have access to programs and services consistent with that status.

5. When clinically indicated and determined by appropriate medical staff, transgender inmates who were receiving hormone treatment and therapy at the time of their incarceration shall continue to do so if the inmate desires, at their cost. Inmates who were not receiving hormone treatment and therapy prior to incarceration but subsequently wish to do so shall not be permitted this medication without authorization of the Division Commander.

6. Transgender and intersex inmates will be provided standard jail attire consistent with the gender of their housing assignment. Inmates under hormone therapy with secondary sexual characteristics such as breasts shall be provided appropriate undergarments such as a bra when clinically indicated by appropriate medical staff.

7. While incarcerated, transgender, transsexual and intersex inmates shall not be discriminated against in their participation in services, programs, or benefits and shall not be subjected to verbal or physical harassment or a hostile environment by the staff or inmates. Individuals who are found to engage in such abuse shall be subject to appropriate disciplinary action.

8. All searches of transgender or intersex inmates shall be conducted in a manner consistent with General Order #701.05, Searches, outside of the presence of inmates or non-critical staff to the degree practicable.

IV. DOC STANDARD #

6VAC15-40-120. Classification

A. Written policy, procedure and practice shall ensure the following:
   1. Classification of inmates as to level of housing assignment and participation in correctional programs;
   2. Separate living quarters for males, females and juveniles;
3. Inmates are not segregated by race, color, creed or national origin;
4. Security permitting, equal access to all programs and activities, through separate scheduling, or other utilization of combined programs under supervision; and
5. Any exception to the above to be documented in writing.

This General Order becomes effective February 21, 2012, and rescinds all previous rules and regulations pertaining to the subject.