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REFERENCE: PREA – Prison Rape Elimination Act	SUBJECT: PREA – Housing and Classification Reviews	
ISSUED BY: Chief Frank J. Apisa	APPROVED BY: Warden Paul Kaminsky	

Purpose: The purpose of this policy is to establish the Somerset County Jail as a “zero tolerance” facility that prohibits harassment and sexual abuse in an effort to provide staff with key definitions, prohibited acts and general information regarding the prevention, detection and investigation of sexual harassment and sexual abuse in the facility.

Policy: The Somerset County Jail is a correctional facility with a “zero tolerance” for harassment and sexual abuse in accordance with the Prison Rape Elimination Act (PREA) of 2003 and the final PREA Standards adopted by the U.S. Attorney General in 2012. It is the policy of the Somerset County Sheriff's Office – Correction Division to safeguard inmates within the institution.

The Somerset County Jail considers whether the placement would present management or security problems in all housing and programmatic assignments. This consideration will be applied equally to all inmates, regardless of their sex or gender identity, and may justify a deviation from an inmate's presumptive placement in line with gender identity for cisgender, transgender, intersex, and non-binary inmates alike. Under no circumstances will a transgender, intersex, or non- binary inmate's placement in line with their gender identity be considered a management or security problem solely due to their gender identity.

Procedure:

I. Housing and Classification

A. Once the Somerset County Jail learns and confirms the gender identity of an inmate using the procedures laid out in this document, it shall determine the inmate's facility and housing unit assignment, with a presumption that the inmate will be housed in line with their gender identity. The PREA Committee may deviate from the presumptive placement after an individualized determination and upon written certification that the placement would jeopardize the inmate's health and safety. **(115.43)**

1. In some cases, Somerset County Jail may learn and confirm that an inmate's gender identity is neither male nor female. In such cases, inmates shall be housed in the most appropriate placement, taking into consideration whether a

placement would ensure the inmate's health and safety, and whether the placement would present management or security problems. The inmate's own views with respect to their safety shall be given serious consideration. **(115.42)**

- B. In deciding a transgender, intersex, or non-binary inmate's precise housing and programming assignments, pursuant to **PREA Standard 115.42 (b-e)**, the Somerset County Jail makes individualized determinations about how to ensure the safety of each inmate and considers, on a case-by-case basis, whether a particular placement would ensure the inmate's health and safety. When determining such assignments, the transgender inmate's views with respect to their safety shall be given serious consideration.

- C. A transgender, intersex, or non-binary inmate's housing assignment will be reviewed by the PREA and Classification Committees as follows:
 - 1. If the Somerset County Jail has a substantiated, credible, and non-discriminatory basis for believing that an inmate is not sincere in their assertion of their gender identity and is asserting it for an improper purpose, the Somerset County Jail may ask further questions to better understand the inmate's identity and offer the inmate a fair opportunity to present additional information. The Somerset County Jail must make a written record of the basis for its belief, which shall be included in the inmate's classification file and available to the inmate should they challenge the PREA Committee's decision.
 - 2. Because multiple classifications and placements exist for male inmates within male facilities and female inmates within female facilities, in deciding the specific placement for a particular inmate, the Somerset County Jail will consider:
 - a. All aspects of an inmate's social and medical transition when formulating recommendations to address safety and privacy concerns, including factors such as behavioral history, institutional adjustment, overall demeanor, and likely interactions with other inmates; and the inmate's own views with respect to safety. **(115.42)**
 - b. Whether a placement would threaten the orderly operation, management and security of the correctional facility and/or pose a risk to other inmates in the facility (e.g., considering inmates with histories of trauma, privacy concerns, etc.). This consideration will be applied equally to all inmates, regardless of their gender identity. **(115.42)**
 - c. The following factors on a case-by-case basis:
 - 1) The Gender Identity Information Form (Initial Assessment/Follow Up) upon initial intake processing
 - 2) custody level and sentencing information;

- 3) criminal history;
- 4) institutional disciplinary history;
- 5) current gender expression;
- 6) the inmate's own views regarding safety;
- 7) medical and mental health needs/information/status;
- 8) compliance with medically recommended treatments;
- 9) vulnerability to sexual victimization;
- 10) likelihood of perpetrating sexual abuse;
- 11) facility-specific factors including physical layouts; and
- 12) any other relevant information.

These factors are also considered when making individualized programming and housing assignments for all inmates, regardless of gender or sexual orientation. **(115.41/115.42)**

3. Transgender, intersex, or non-binary inmate shall be afforded the opportunity to attend the PREA Committee meeting unless exigent circumstances exist or they choose not to attend. The inmate's presence is not required. If the inmate refuses to meet with the PREA Compliance Manager, or the PREA Committee, the Committee shall convene, as required, and complete the review based upon available information. If exigent circumstances exist and prevent attendance, the PREA Committee must make a written record of the exigent circumstances and the reasons they prevent attendance, which shall be included in the inmate's classification file and available to the inmate should they challenge the PREA Committee's.
4. The PREA Committee will make a decision regarding housing within 14 business days. The inmate will be notified in writing of the PREA Committee's decision, which shall include a written statement of reasons, via the classification meeting process as denoted in NJAC 10A:9. The decision will be recorded in the inmate's classification file.
5. If the inmate disagrees with the decision of the PREA Committee, they may submit an appeal to the Captain, or the Captain's designee, who will render a final decision, which shall include a written statement of reasons, and notify the inmate within 14 business days. Upon request by the inmate, the full record of the decision-making of the PREA Committee and Captain, or Captain's designee, shall be made available to the inmate within 7 business days. If any items cannot be disclosed to the inmate because of confidentiality, the inmate shall be informed why such items are confidential.

6. Inmates may request a review by the PREA Committee. If they believe their current placement does not align with their gender identity and considerations enumerated in this section.
- D. The housing assignment/transfer of inmates approved to be housed in a different facility due to their gender identity will be handled in accordance with all applicable operational policies and procedures and the provisions set forth in N.J.A.C. 10A.
- E. In keeping with **PREA standard 115.42**, the placement of a transgender, intersex, or non-binary inmate shall be reassessed by the PREA Compliance Manager and supplemental staff as deemed appropriate by the facility Warden, or the Warden's designee, at least twice each year.
- F. The Warden, or Warden's designee, who receives an inmate at a facility consistent with the inmate's gender identity may request an immediate review when significant adjustment issues emerge, or upon the request to return to the previous facility. The Warden shall make this request through the PREA Committee. The Warden, or Warden's designee, shall provide a written description of the significant adjustment issues and reasons for the request, which shall be included in the inmate's classification file and available to the inmate should they challenge the PREA Committee's decision. **(115.42)**
- G. In accordance with PREA standards, all transgender, intersex, and non-binary inmates will receive an in-person review every six months to assess the inmate's institutional adjustment and safety. The PREA Compliance Manager will meet with the inmate prior to this review and complete the Gender Identity Information Form – follow up. This form will be maintained by the PREA Committee. A record of these reviews will be recorded and maintained in the inmate's history and classification files. A copy will be emailed to the PREA Coordinator, PREA Co-Coordinator, and the Classifications Supervisor. **(115.42)**
- H. In keeping with **PREA standard 115.42**, Somerset County Jail shall not place LGBTQ+ inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated housing unit established in connection with consent decree, legal settlement or legal judgement for the purpose of protecting such inmates.

II. Vulnerability

- A. Classification will use information from the screening process in accordance with this policy shall be utilized to determine housing and program assignments for all inmates. The information will assist in keeping separate inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.
- B. Individualized determinations shall be made by the Classification Supervisor or facility administration about how to best ensure the safety of each inmate. When a determination has been made to place an inmate at high risk of victimization in less restrictive intervention for their own safety, less restrictive intervention shall be documented and used strictly as a last resort after all alternative means of separation have been made to separate the inmate from potential abusers. **(115.42 & 115.43)**
- C. The Somerset County Jail shall assign such inmates to less restrictive intervention housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days. Documentation of the basis for the facility's concern for the inmate's safety and the reason why no alternative means of separation can be arranged must be documents. **(115.43)**
- D. While in less restrictive intervention, inmates will still be afforded the same rights and privileges as the general population. **(115.43)**
- E. An inmate in less restrictive intervention shall not be restricted access to programs or other activities to the extent possible. Should any programs or activities be restricted, it will be documented. A review of an inmate's less restrictive intervention shall be made every thirty (30) days by the Classification Supervisor or facility administration to determine whether there is a continuing need for separation from general population. Documentation of the basis for the facility's concern for the inmate's safety and the reason why no alternative means of separation can be arranged must be documents.
- F. An inmate shall be referred to a PREA Committee Member at any time during his/her custody at the Somerset County Jail when any of the following occur:
 - 1. Self-Reporting: An inmate indicates that they are LGBTQ+ upon arrest, during intake or anytime during their custody. **(115.51)**
 - 2. Observation: An inmate's gender identity, appearance, overt expression or behavior differs from their apparent birth sex or genitalia. **(115.41)**
 - 3. Complaint: An issue has been raised that focuses on an enhanced risk of an inmate being sexually abused or sexually abusive during their custody in the

Somerset County Jail. **(115.41 & 115.51)**

4. Error: It is discovered that a gender designation made by the Somerset County Jail differs from a gender designation that has previously been made by any public entity, government agency or law enforcement agency.

- G. The PREA and Classification Committees shall make individualized determinations on how to ensure the safety of each inmate with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. **(115.42)**

- H. Classification will expedite intake processing for transgender inmates due to their vulnerability.

- I. In deciding whether to assign a transgender inmate to a facility housing unit for male or female inmates, and in making other housing and programming assignments, Classification shall consider whether a placement for permanent housing review and referrals for future housing or programs, will be made on a case-by-case basis. **(115.42)**

- J. An LGBTQ+ inmate's own views with respect to his or her own safety shall be given significant consideration and recorded on their inmate record. **(115.42)**

- K. The housing and well-being of LGBTQ+ inmates shall be monitored and reassessed when needed by the Classification Supervisor. Each assessment will be documented and placed in the inmate's classification file.

- L. LGBTQ+ inmates shall be reassessed within 30 days of arrival at the jail. The Classification Officer will reassess the inmate's risk of victimization or abusiveness based on additional, relevant information received by the facility since the intake screening. **(115.41 & 115.51)**

- M. An LGBTQ+ inmate's risk level shall immediately be reassessed due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness. **(115.41 & 115.51)**

- N. Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to screening questions. **(115.41)**

- O. Transgender inmates shall be reassessed at least twice a year to review any threats to safety the inmate(s) may have experienced. Classification will record and keep these findings for permanent review and referrals for future use. **(115.42)**