POSITION STATEMENT

Transgender, Transsexual, and Gender Nonconforming Health Care in Correctional Settings

Introduction

Transgender people face an array of risks to their health and well-being during incarceration, and are often targets of physical assault and emotional abuse. They are commonly placed in correctional facilities according to their genitals and/or sex assigned at birth, regardless of their gender presentation. The health risks of overlooking the particular needs of transgender inmates are so severe that acknowledgment of the problem and policies that assure appropriate and responsible provision of health care are needed.

Sex refers to the biological and physiological characteristics that define males and females. Gender refers to the socially constructed roles, behavior, activities, and attributes that a given society considers appropriate for men and women. Transgender is an umbrella term used to describe people with gender identities and/or expressions not traditionally associated with the sex that they were assigned at birth. Transgender women are individuals whose birth sex was male but who understand themselves to be, and desire to live their lives as, women. Transgender men are individuals whose birth sex was female but who understand themselves to be, and desire to live their lives as, men. Transgender people may identify as men, women, neither, both, or another gender. They can be of any race, sexual orientation, age, religion, body type, socioeconomic background, or national origin. Transgender does not imply any specific form of sexual orientation; transgender persons display a range of sexual orientations similar to those who are not transgender. Individuals may identify their gender in different ways over the course of a lifetime.

Transsexual is an older term that originated in the medical and psychological communities. It is still preferred by some people who have permanently changed-or seek to change-their bodies through medical interventions (including but not limited to hormones and surgeries). Transsexual is not an umbrella term. It is best to ask which term an individual prefers. For the purposes of this statement, the term transgender includes those who identify as transsexual as well as gender nonconforming individuals.

Gender nonconformity refers to the extent to which a person’s gender identity, role, or expression differs from the cultural norms prescribed for people of a particular sex. Gender dysphoria refers to discomfort or distress caused by a discrepancy between a person’s gender identity and that person’s sex assigned at birth (and the associated gender role and/or primary and secondary sex characteristics). Only some gender nonconforming people experience gender dysphoria at some point in their lives. Transgender individuals are at risk for mental health issues, such as gender dysphoria, depression, and anxiety, if gender expression is suppressed. These issues can be exacerbated when transgender individuals are in correctional environments.

The National Commission on Correctional Health Care publishes Standards for jails, prisons, and juvenile confinement facilities that address board-approved recommendations for an adequate health care delivery system, including issues such as patient confidentiality, discharge planning, health professional qualifications, medication availability and delivery, and staff training. Position statements are intended to provide information on the management of specific problems not addressed in the Standards.

Position Statement

Because jails, prisons, and juvenile confinement facilities have a responsibility to ensure the physical and mental health and well-being of inmates in their custody, correctional health staff should manage transgender patients in a manner that respects their biomedical and psychological needs. The National Commission on Correctional Health Care recommends that the following principles guide correctional health professionals in addressing the needs of transgender patients:
Health Management

1. All inmates, including those who are transgender, must be treated with fairness, dignity, and respect.

2. Medical screening should include inquiries about an individual’s sexual activity, sexual orientation, and gender identity.

3. Confidential HIV and STD testing and care should be provided to all transgender patients.

4. Gynecological and obstetrical care should be provided when indicated.

5. The management of medical or surgical transgender care should follow accepted standards developed by professionals with expertise in transgender health. Determination of treatment necessary for transgender patients should be on a case-by-case basis. Ideally, correctional health staff are trained in transgender health care. Alternatively, they should have access to other professionals with expertise in transgender health care to help determine appropriate management and provide training on gender-related care.

6. Because transgender patients may be under different stages of care prior to incarceration, there should be no blanket administrative or other policies that restrict specific medical treatments. Policies that make treatments available only to those who received them prior to incarceration or that limit transition and/or maintenance are inappropriate and out of step with medical standards and should be avoided.

7. Mental health evaluations that assess an array of mental health issues, including those related to sexual orientation and gender identity, should be provided.

8. Counseling should be provided to patients who are experiencing or have experienced sexual trauma.

9. Accepted treatments for gender dysphoria should be made available to people with gender dysphoria. Providing mental health care, while necessary, is not sufficient.

10. Medical staff should ensure that commissary items consistent with an individual’s gender identity are available.

11. Psychotherapy such as “reparative” or “conversion” therapy or attempts to alter gender identity should never be employed.

12. Transgender patients who received hormone therapy with or without a prescription prior to incarceration should have that therapy continued without interruption pending evaluation by a specialist, absent urgent medical reasons to the contrary. Hormone therapy should not be discontinued precipitously as this will likely cause depression and anxiety.

13. Gender dysphoric patients who have not received hormone therapy prior to incarceration should be evaluated by a health care provider qualified in the area of gender-related health care to determine their treatment needs.

14. When determined to be medically necessary for a particular patient, hormone therapy should be initiated and regular laboratory monitoring should be conducted according to community medical standards.

15. Sex reassignment surgery should be considered on a case-by-case basis and provided when determined to be medically necessary for a patient.

16. Treatment for genital self-harm or for complications arising from self-treatment should be provided when medically necessary.
17. Medical housing should be provided as long as necessary postoperatively.

18. Transgender patients should have access to services that address self-acceptance, disclosure of sexual orientation or gender identity, family relationships, healthy intimate relationships, and sexual decision making.

19. Correctional health care providers should provide transgender patients with patient education materials on treatments and transitioning.

Patient Safety

20. Since transgender individuals are common targets for violence, health care staff should work with custody staff to ensure that appropriate safety measures are taken in matters of housing, recreation, and work assignments.

21. Vulnerable inmates should be placed in the least restrictive environment necessary to ensure safety. Isolation or segregation should not be exclusively relied on to ensure safety. Inmates cannot be placed in involuntary segregated housing unless (a) an assessment of all available alternatives is made and (b) it has been determined that no alternative means of separation is available (this determination must be made within the first 24 hours of involuntary segregation). Involuntary segregated housing should generally not exceed 30 days².

22. Medical staff should assess the safety of transgender patients. Staff must report all observed or self-reported incidents of harassment, discrimination, and abuse.

23. Correctional staff shall not search or physically examine a transgender inmate for the sole purpose of determining genital status. If the inmate’s genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner³.

Discharge Planning

24. Transgender inmates receiving hormone therapy should receive a sufficient supply upon release to last until a community provider assumes care. Referrals should be made to community-based organizations with sensitive and inclusive services for transgender people.

25. Correctional policies for management of transgender inmates should be developed and implemented in partnership with local transgender communities, particularly current and former inmates, and transgender service providers when possible.

Adopted by the National Commission on Correctional Health Care Board of Directors
October 18, 2009
April 2015 — reaffirmed with revision

Notes

1. Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People, Version 7, available from the World Professional Association for Transgender Health
2. Prison Rape Elimination Act, 28 C.F.R. § 115.43 (a)
3. Prison Rape Elimination Act, 28 C.F.R. § 115.15 (e)

Additional Resource