

COOK COUNTY JUVENILE TEMPORARY DETENTION CENTER Policies and Procedures Chapter 11: <u>Juvenile Rights</u>	Policy # 11.10	Total Pages: 12
	Subject: Lesbian, Gay, Bisexual, Transgender, Questioning, Intersex (LGBTQI) Residents	References JDF 3D-03, 04, 04-1, 06, 06-1, 07 JTDC Policies and Procedures 1.17, 3.18, 3.25, 3.28, 3.29, 5.14, 5.16, 9.13, 9.22, 9.25, 10.02, 11.03, 11.05, 11.07, 11.16 and 13.13 Prison Rape Elimination Act, Pub. L. No. 108-79 (2003, 42 U.S. Code Sec. 15602. See also 28 C.F.R. Part 115. Implementing the Prison Rape Elimination Act: A Toolkit for Jails, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance (updated 2011), available at www.prearesourcecenter.org. <i>Koehler v. Hawaii</i> <i>R.G. et.al. v. Koller, et.al.</i> 415 F. Supp.2d. 1129 (Haw. 2006).
Effective Date: 3/13/13	Authorized by: Earl Dunlap	Annual Review: 11/2013

Policy:

It is the policy of the JTDC to maintain and promote a facility that provides physical and emotional safety, effective culturally competent services, education and programming, to all residents regardless of their actual or perceived sexual orientation, gender identity, or gender expression.

All JTDC employees, contractors, volunteers and interns shall protect residents from discrimination, harassment, verbal, physical, and sexual abuse by other residents, or adults, regardless of sexual orientation, gender identity or gender expression.

Definitions:

Adverse Actions - Include, but are not limited to, knowingly placing a resident in a situation that jeopardizes the resident's safety; denying privileges without justification; imposing unwarranted discipline; making an unwarranted transfer recommendation;

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ignoring or ostracizing the resident; spreading rumors or innuendoes about the resident; or threatening any of the above conduct.

Bisexual - is a person for whom gender is not the first criteria to becoming attracted to another person emotionally, physically or romantically.

Illinois Court-Involved LGBTQ Task Force - The Illinois Court Involved LGBTQ Youth Task Force (Task Force) works to meet the needs of lesbian, gay, bisexual, transgender and questioning youth at all points in the juvenile justice system in Illinois. Its key stakeholders - judges, attorneys, probation officers, secure facilities' personnel, community providers and advocates- are committed to (1) researching and adapting promising practices relating to effective, sensitive and just policies, programs and services and (2) coordinating the implementation of these practices across the system in furtherance of creating and sustaining a system that ensures safety and respect.

Discrimination - Any act, policy or practice that, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person's actual or perceived race, color, religion, gender, national origin, ethnicity, ancestry, age, disability, sexual orientation, gender identity and expression, political view or based on that person's association with a person or group with one or more of these actual or perceived characteristics. This definition excludes those actions that are necessary to provide proper care of residents and to maintain facility security.

Exigent Circumstances - any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.

Gay - is a man (boy) who is attracted emotionally, physically or romantically to some other men (boys).

Gender Expression - is the way a person presents gender (typically, masculine or feminine) through clothing, appearance, behavior, speech, etc. Gender expression is a concept that is distinct from gender identity and sexual orientation. For example, a boy may present in an effeminate manner and identify as a heterosexual male.

Gender Identity - is a person's internal sense or experience of belonging to a particular gender category as a man (boy) or a woman (girl), and where a person feels they fit in society's man/woman structure. Gender identity is a concept that is distinct from sexual orientation. For example, a transgender girl (born biologically male but self-identifies as a girl) may identify as heterosexual, meaning that she is attracted to boys.

Gender Non-Conforming - Having or being perceived to have gender characteristics and/or behaviors that do not conform to traditional or societal expectations. May or may not identify as LGBTQI.

Harassment - Unwelcome, offensive and/or intimidating behavior. Unlawful harassment may take many forms including but not limited to:

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VERBAL CONDUCT that is directed at an individual (or group of individuals). Examples include, but are not limited to, epithets, derogatory comments, unwelcome jokes or stories, slurs, unwelcome verbal advances or invitations, requests for sexual favors, and harassing phone calls.

VISUAL CONDUCT that is directed at an individual (or group of individuals). Examples include, but are not limited to, derogatory or offensive posters, cartoons, bulletins, drawings, photographs, magazines, written articles or stories, screen savers, and electronic communications.

PHYSICAL CONDUCT that is directed at an individual (or group of individuals). Examples include, but are not limited to, touching, patting, pinching, grabbing, staring, leering, lewd gestures, invading personal space, assault, blocking normal movement, and other physical interference.

SEXUAL CONDUCT that is directed at an individual (or group of individuals). Examples include but are not limited to, sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

Intersex - a person who's sexual or reproductive anatomy or chromosomal pattern does not seem to fit the typical definition of male and female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Lesbian - is a woman (girl) who is attracted emotionally, physically or romantically to some other women (girls).

LGBTQI Youth - shall include residents who self-identify as or are perceived by others as lesbian, gay, bisexual, transgender or questioning their sexual orientation or gender identity. LGBTQI shall also refer to residents whose gender expression does not conform to the traits typically associated with male/masculine or female/feminine.

Physical Abuse - Behavior or actions that constitute corporal or unusual punishment employed by staff that may result in pain, discomfort or injury to a resident of the JTDC.

Questioning - refers to a person, often an adolescent, who is exploring or questioning issues of sexual orientation, gender identity or gender expression in his or her life. Some questioning people may ultimately identify as lesbian, gay, bisexual and/or transgender; others may not.

Retaliation - any adverse action taken against a person for filing or reporting a complaint of discrimination or harassment, or participating in and/or cooperating with an investigation of a complaint of discrimination or harassment.

Sexual Abuse - any behavior or act of a sexual nature directed toward a resident by an employee, volunteer, professional visitor, intern or contractor. This includes, but not

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limited to, sexual assault, sexual abuse, sexual harassment, sexual contact, sexual gratification, conduct of a sexual nature or implication, obscenity, and unreasonable invasion of privacy.

Sexual Orientation - is a person's emotional, physical or romantic attractions to another person or people.

Strip search - A search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.

Transgender - is a person whose gender identity (*i.e.*, internal sense of feeling male or female) is different from the person's assigned sex at birth.

Verbal Abuse - Staff language or behavior toward a JTDC resident that is profane, humiliating, demeaning, prejudicial, intimidating, harassing or psychologically damaging.

Procedures:

1. Equal Treatment Generally

JTDC employees, contractors, volunteers or interns are expected to abide by the standards set forth in JTDC Policy 3.28, Code of Ethics – Professional Conduct and Conflict of Interest. JTDC employees, contractors, volunteers or interns shall ensure that no threats of violence, actual violence, harassment, disrespectful language, suggestive comments or gestures against LGBTQI youth, or any other residents will be tolerated. The treatment of residents, regardless of actual or perceived sexual orientation or gender identity shall be in accordance with the Equal Protection Clause of the U.S. Constitution (14th Amendment).

JTDC employees, contractors, volunteers, and interns shall not prohibit or discourage communication or interaction between residents of the same sex that is not also prohibited or discouraged between residents of different sexes.

Residents shall have access to the JTDC Library Services Program in accordance with JTDC Policy 13.13, Library Services Program. The Library shall include LGBTQI-affirming books, magazines, and other materials. All residents shall be made aware of these resources and have access to them. Where possible, the JTDC shall display stickers or posters that convey to residents and employees that the JTDC maintains an LGBTQI accepting environment.

JTDC employees, contractors, interns and volunteers shall provide LGBTQI youth with access to educational, rehabilitative, recreational and other programming on the same basis as other residents. Residents shall not be denied access to programming because of actual or perceived sexual orientation, gender identity or gender expression.

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2. Admissions

All residents shall be admitted to the JTDC in accordance with JTDC Policy 10.02, Admissions Procedures.

JTDC personnel who interview residents at any point during the intake process, including without limitations nursing and mental health staff and on the Alpha Living Center (admissions unit) shall be trained regarding this policy.

Within 48 hours of a resident's arrival to the facility, health or mental health personnel shall attempt to ascertain whether a resident identifies as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may be vulnerable to sexual abuse. If residents disclose any of the above, health or mental health personnel should talk with the resident about this disclosure in a non-judgmental manner. Health or Mental Health personnel shall respond in a sensitive manner, and maintain confidentiality at all times, unless the resident gives permission to disclose this information or a health or security issue is presented.

Health or Mental Health personnel shall determine if the resident has any concerns or special needs related to identifying as LGBTQI such as housing assignment, names and pronouns or clothing.

If the resident expresses concerns or indicates that he/she has special needs and gives permission to disclose, a referral will be sent to the LGBTQI Multidisciplinary Team (MDT) within 48 hours of arrival to the JTDC.

3. LGBTQI Multidisciplinary Team

In order to make decisions for specific residents' needs, the JTDC will convene an LGBTQI Multidisciplinary Team (MDT). This team will consist of a group of trained, experienced (specifically relating to working with LGBTQI youth) professionals from diverse disciplines who provide comprehensive assessment and consultation regarding LGBTQI residents.

Within 48 hours of a resident's arrival at the JTDC, the MDT will make recommendations regarding housing assignments, clothing, and security or other issues to the Executive Director. The Executive Director will make a final decision regarding these recommendations within 72 hours of a resident's arrival. The role and specific procedures for the MDT are outlined below:

- A. Develop Individual Service Plan (ISP): A plan developed by the MDT to identify and direct services while the resident is in the custody of the JTDC.
- B. On a case-by-case basis, the MDT shall determine the best placement for each resident admitted to the facility who self-identifies as lesbian, gay, bisexual, transgender, or intersex to keep them safe and free from sexual abuse. If a resident self-identifies as lesbian, gay, bisexual, transgender, or

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intersex, a summary report will be submitted by mental health personnel to the Chair of the MDT within 24 hours of the initial mental health assessment, excluding weekends and holidays.

- C. The MDT shall be comprised, depending on the case, of the following staff members or their designees:
- 1) Executive Director
 - 2) Deputy Executive Director of Programs and Professional Services (Chair)
 - 3) Deputy Executive Director of Resident Daily Life
 - 4) Deputy Executive Director of Admission, Security and Control
 - 5) Deputy Executive Director of Administration and Legal Services
 - 6) Director of Resident Advocacy and Quality of Life
 - 7) Mental Health Program Director
 - 8) Health Services Administrator
 - 9) Nancy B. Jefferson School Principal
 - 10) Director of the Office of Girls and Gender
 - 11) LGBTQI consultant, if necessary
 - 12) Other personnel as determined by the Executive Director or Chair
- D. The MDT shall be convened by the chair, which will give a minimum 4 hour notice and will forward the mental health summary report for review prior to the meeting.
- 1) The MDT will review available documentation to determine the most appropriate course of action. At a minimum, the resident's DSI alert history, legal, medical, and mental health records will be reviewed.
 - 2) The MDT will complete an individual service plan for the resident. The service plan will address at a minimum:
 - Appropriate Housing Classification
 - Security Issues

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- 3) When there are no indicators of individual needs, the MDT will recommend that the resident be assigned to a Center following procedures outlined in JTDC Policy 9.25, Housing Classification.
- E. When the MDT review indicates individual need(s), a written recommendation will be sent to the Executive Director indicating the special need(s) and the suggested accommodation(s) and or precaution(s).
 - 1) In making a recommendation to the Executive Director, the MDT may seek the advice of a content expert/LGBTQI consultant.

The Director of Girls and Gender will maintain an up-to-date list of content experts/LGBTQI Consultants for the MDT to call upon when necessary.

4. Housing Assignments

The JTDC shall not place LGBTQI youth in confinement or on the medical unit as a means of keeping them safe from discrimination, harassment or abuse.

The JTDC shall not automatically assign self-identified transgender residents to a living center based on their birth sex. As described above, housing assignments for transgender residents shall be recommended to the Executive Director by the MDT. The MDT will take into account resident's physical and emotional safety along with the resident's perception of where they will be most secure.

5. Search Issues

All searches shall be conducted in accordance with JTDC Policy 9.13, Searches and Control of Contraband.

JTDC shall ensure that only trained staff conducts searches. All resident searches shall be conducted in a professional and respectful manner, and in the least intrusive manner possible.

JTDC employees shall not search residents for the purpose of determining the resident's gender.

JTDC shall not conduct cross-gender searches unless an exigent circumstance exists.

Transgender or intersex residents request for a cross-gender search will be referred to the MDT for review and a recommendation will be forwarded to the Executive Director.

All cross-gender searches resulting from exigent circumstance shall be documented in an incident report.

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6. Showers and Bathrooms

All showers shall be conducted in accordance with JTDC Policy 5.16, Showers.

The JTDC shall allow residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine safety checks.

Transgender and intersex residents shall be given the opportunity to shower separately from other residents and use the bathroom privately, if possible.

When individual showers are not available, these residents shall be the first or last in line so that they can shower separately.

7. Clothing and Grooming

All JTDC Residents are provided clothing in accordance with JTDC Policy 5.14, Clothing Bedding and Linen Supplies.

The decision to allow transgender or gender nonconforming residents to dress and present themselves in a manner consistent with their gender identity shall be made by the MDT to the Executive Director.

If recommended by the MDT and approved by the Executive Director, the JTDC shall provide transgender or gender nonconforming residents with institutional clothing, including undergarments, in a manner consistent with the resident's gender identity and gender expression.

All residents shall be permitted freedom in personal grooming as long as their appearance does not conflict with the facility's requirements for safety, security, identification, and hygiene in accordance with JTDC Policy 11.05, Freedom in Personal Grooming.

Transgender girls **shall not be required** to have a male haircut or to wear masculine clothing. Transgender boys **shall not be required** to maintain a feminine hairstyle, or to wear feminine clothing.

A resident shall not be prevented from, or given consequences for, presenting themselves in a manner that does not match gender norms.

8. Language and Names

When interacting with residents, JTDC staff, contractors, interns and volunteers shall use respectful language and terminology in accordance with JTDC Policy 3.25, Prohibition of Verbal and Physical Abuse. The JTDC staff, contractors, volunteers, and interns shall not imply or tell residents that they or their identities are abnormal, deviant or sinful or that they can or should change their sexual orientation and gender identity.

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In accordance with JTDC policy 3.29, Professional Boundaries – Employee Relationships with Residents, all residents shall be referred to by their legal name, unless otherwise determined by the Executive Director upon recommendation by the JTDC MDT.

The JTDC MDT shall make recommendations to the Executive Director regarding pronoun usage for LGBTQI residents who prefer to be referred to by another pronoun.

9. Training of Employees, Contractors, Interns and Volunteers

The JTDC Training Department shall provide training to all employees, contractors, volunteers, interns, and MDT members regarding the policy and procedures set forth in this policy. Staff shall be required to attend this training. The training shall include:

- How to work with LGBTQI youth in a positive and respectful manner.
- What behavior constitutes discrimination and harassment?
- Procedures for preventing, addressing and reporting discrimination and harassment.
- Ways adults are expected to support positive adolescent development, including modeling desired behavior, demonstrating respect for all colleagues and residents; reinforcing respect for differences; encouraging healthy self-esteem; and helping to manage the stigma sometimes associated with difference.

The JTDC shall provide training to all employees regarding this policy as part of required pre-service and in-service training. These trainings shall be led by a qualified trainer with experience working with LGBTQI youth.

Health and Mental Health personnel who are involved in admitting residents to the JTDC shall receive additional training regarding how to assess LGBTQI youth.

All JTDC employees, contractors, interns and volunteers shall receive a copy of this policy with their orientation materials and must acknowledge receipt and understanding of this policy by way of their signature and the date of receipt.

10. Confidentiality and Privacy

All JTDC personnel, contractors, volunteers, and interns shall comply with JTDC Policy #3.18, Confidentiality of Information.

JTDC personnel, contractors, volunteers, and interns shall not directly ask a resident about sexual orientation or gender identity. If a resident discloses sexual orientation or gender identity, JTDC management, personnel, contractors,

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interns and volunteers should talk about it with them in an open and understanding fashion. JTDC management, personnel, contractors, interns and volunteers shall not ignore a resident's disclosure. If personnel are uncomfortable, he or she should let the resident know that he/she will put him in contact with another person.

JTDC employees, contractors, interns and volunteers shall not disclose a resident's sexual orientation or gender identity to other residents at the facility or to outside parties, individuals or agencies, such as a resident's family and friends or healthcare or social service providers, without the resident's permission, unless such a disclosure is necessary to comply with federal or state law.

JTDC management, personnel, contractors, interns and volunteers shall not disclose information related to a resident's sexual orientation or gender identity unless it involves a danger to self or others. If personnel are not in a position to keep information that a resident discloses confidential, they should tell the resident that such information may have to be shared with a supervisor and mental health staff. Also, residents should be informed that under certain circumstances, such as in connection with a preferred pronoun request or housing assignment request, families may become aware that a resident has disclosed an LGBTQI identity or has raised issues relating to sexual orientation or gender identity.

These confidentiality restrictions do not prevent individuals working at the JTDC from discussing a resident's needs or services with others at the facility for planning purpose or when resolving a grievance.

11. Resident Education and Policy Dissemination for Residents

During the Reception and Orientation process, JTDC personnel shall verbally inform all residents about this policy. This policy may be provided to them upon request. Additionally, policies referenced within this policy shall be reviewed with residents.

The JTDC shall provide information about LGBTQI resources to residents' that include list of safe and supportive community resources or other appropriate books and materials. The JTDC shall provide these resources in English, Spanish and other languages, as needed.

The Director of Girls and Gender will maintain an up-to-date resource list, books, and materials for LGBTQI residents.

12. Reporting Complaints

A. Residents

It is the policy of the JTDC to encourage any resident to report when the

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resident (1) legitimately and reasonably believes that he or she has been subjected to harassment, including sexual harassment, sexual abuse, discrimination or any other prohibited conduct or (2) has first-hand knowledge of what he or she legitimately and reasonably believes to be harassment or discrimination of another resident. Resident may report a complaint of harassment or discrimination in two ways: a) through the grievance procedure JTDC policy # 11.16, Resident Grievance Procedures and/or b) to any employee.

- 1) Through the Grievance Procedure
Any resident may make a verbal and/or written complaint of harassment and/or discrimination through the established grievance procedure (JTDC policy # 11.16, Resident Grievance Procedures).

- 2) To Any Employee

Any resident may make a verbal and/or written complaint of harassment and/or discrimination under this policy to any JTDC employee, contractor, volunteer, or intern for themselves or another resident. The JTDC employee, contractor, volunteer, or intern who receives a complaint must immediately report the complaint verbally to the Team Leader, Supervisor in Charge or AOD and document the complaint in accordance with JTDC Policy # 9.22, Incident Reports.

B. Employees, Contractors, and Volunteers

Any employee, contractor, volunteer, or intern who is a witness of or has information regarding an allegation of harassment or discrimination of a resident shall immediately report the information verbally to a Team Leader, Supervisor in Charge or AOD and document the complaint in writing by the end of his/her shift on an incident report. The Team Leader, Supervisor in Charge or AOD shall address the complaint in a timely manner to ensure the protection of the resident and document the actions taken pursuant to JTDC Policy # 9.22, Incident Reports.

C. Mandatory Reporting of Suspected Child Abuse

Under certain circumstances, alleged harassment may constitute child abuse under state law. Employees, contractors, volunteers, or intern must remain aware of their statutory obligation to report suspected abuse, in accordance with JTDC policy # 11.07, Reporting Child Abuse/Neglect.

D. Privacy

The JTDC will keep complaints made under this policy confidential to the extent possible given the need to investigate and resolve the complaint. These files will be maintained by the Executive Director in a secure location.

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E. Response to Complaint

1) Immediate Action

Upon learning the details of the complaint Management or Administrative Staff shall act immediately in ensuring the resident is safe and implement a full investigation.

2) Investigation

All investigations will be handled in accordance with JTDC policy # 1.17, Investigations.

3) Notification of Investigation Results

Within two business days of making a determination on whether there has been any violation of this policy, the Executive Director or his/her designee shall advise the complainant of the findings.

F. Remedial and Disciplinary Action

The JTDC shall take remedial or disciplinary action as appropriate and outlined in policy 11.03, Protection from Discrimination and Harassment, to ensure that harassment or discrimination does not reoccur. All remedial and disciplinary action shall comply with applicable state and federal laws, local ordinances, collective bargaining agreements, and, applicable policies and procedures.

Monitoring Mechanism:

The Director of Training shall document all trainings as related to this policy that will include the name and date of staff attending. Annually, the Director of Training shall create a list of staff that have not completed the annual training and submit to their respective supervisors for corrective action.

These policies and procedures were reviewed, approved and signed by:

Earl Dunlap, Transitional Administrator Date of approval 02/11/2013

Official signed copies are maintained in the offices of the Executive Director, and the Project Manager for Policies and Procedures.