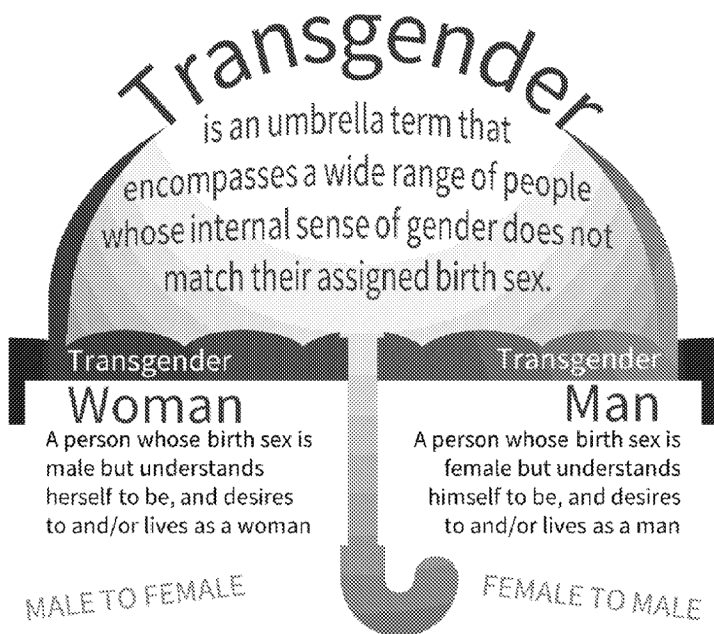


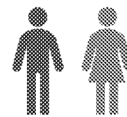


# ICE SAAPI and detained Transgender Individuals TIP SHEET

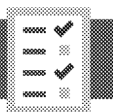
This aid is meant to provide a few considerations when applying the 2014 ICE Sexual Abuse and Assault, Prevention and Intervention (SAAPI) Directive and related guidance to adult transgender individuals in detention. For questions or concerns regarding this information, please contact the ERO LGBTI team at: (b)(7)(E) @ice.dhs.gov or SAAPI team at (b)(7)(E) @ice.dhs.gov.



- **Sex Assigned at Birth (or Birth Sex):** Biological status as male or female, with associated physical attributes (i.e., to genetic and chromosomal makeup).



- **Gender Identity (Gender):** Internal sense of being a man, a woman, or another gender.



## Assessment for Risk of Victimization and Abusiveness

- **Tips:** Use a qualified interpreter or other communication service when interviewing limited English proficient, illiterate, or disabled individuals.
- Make appropriate accommodations where additional privacy is needed during the interview (e.g., use an office or unoccupied holding cell).
  - Utilize Risk Classification Assessment (RCA) screening questions in the Special Vulnerabilities section and/or sample script in ERO Transgender Care Memorandum to solicit information related to gender identity.
  - Individual must not be disciplined for refusing to answer or for not disclosing complete information in response to sexual orientation or gender identity specific questions.
  - Where individual self-identifies as transgender, mark "Y – Yes" in the EARM Transgender field (Person Detail screen). Note: individual must self-identify to be marked as transgender.
    - There is no corresponding field in EARM to capture self-identification as gay, lesbian, bisexual, or intersex. Use comments as needed to include relevant information related to these identifications.
- Treat individual's transgender self-identification as sensitive information and only share with others who have a need to know.



## Custody and Housing

- **Tips:** Where individual does not self-identify as transgender, but information exists that may affect safety and security, consider that information when making custody and/or housing decisions.
- If individual is not subject to mandatory detention, FOD should consider on a case-by-case basis all relevant factors, including transgender identification, in determining whether the use of detention resources is warranted.
- Housing decisions must be individualized and not based solely on identity documents or physical anatomy.
- Transgender individual housing options in detention include general population (by sex assigned at birth or by gender identity), dedicated housing units, or administrative segregation/protective custody (as a last resort).
  - ICE runs dedicated housing unit(s) for transgender women (male to female).
    - Dedicated unit may not be an option due to mitigating factors including: unit capacity, detainee's preference, safety and well-being of noncitizen/other detainees, and detainee's community/family ties or legal representative in the area.
    - For more information or to request a transfer, contact the ERO LGBTQI+ team at [\(b\)\(7\)\(E\)@ice.dhs.gov](mailto:(b)(7)(E)@ice.dhs.gov).
- Administrative segregation/protective custody should be used as a last resort only when no other housing options are available and must comply with related [DHS PREA standards](#) (as applicable), [ICE SAAPI Directive](#), and ICE detention standard requirements in place at the facility.
- Whenever operationally feasible, detained transgender and intersex individuals must be given the opportunity to shower separately from other individuals.



## Limits to Transgender Cross-Gender Pat Searches

- **Tips:** Transgender people's sex assigned at birth (typically based on physical attributes) and gender identity (internal sense of self) are not the same.
  - E.g., a transgender woman (male to female) identifies as female (gender); whereas a transgender man (female to male) identifies as male (gender).
- Whenever operationally feasible, officers conducting a pat search must be of the same gender, gender identity, or declared gender as individual being searched.
  - I.e., a transgender woman (male to female) should be searched by a female officer and a transgender man (female to male) should be searched by a male officer.
- When in doubt, ask individual their preference and accommodate where possible.
- Document any time a pat search is conducted by an officer of a different gender than individual, even if that is in line with transgender individual's stated preference (i.e., document even when a transgender woman (male to female) prefers to be searched by a male officer or a transgender man (female to male) prefers to be searched by a female officer).
- In 2021, ERO issued revised mandatory training on [Best Practices for Cross-gender, Transgender, and Intersex Searches](#) for all ICE law enforcement officers and contract security personnel.



Visit [ERO LGBTQI+ Resource Center](#) on inSight for additional transgender-related aids and best practices, including [Transgender Care Refresher Training course](#). Contact ERO LGBTQI+ team at [\(b\)\(7\)\(E\)@ice.dhs.gov](mailto:(b)(7)(E)@ice.dhs.gov) with any questions.