

Australian Capital Territory

Corrections Management (Reception and Management of Transgender Prisoners) Policy 2007*

Notifiable instrument NI2007-469

made under the

***Corrections Management Act 2007*, section 14(1) (Corrections policies and operating procedures)**

1 Name of instrument

This instrument is the *Corrections Management (Reception and Management of Transgender Prisoners) Policy 2007*.

2 Commencement

This instrument commences on the day after it is notified.

3 Policies and operating procedures

Under section 14 of the *Corrections Management Act 2007* (the Act), I make the

RECEPTION AND MANAGEMENT OF TRANSGENDER
PRISONERS

in Schedule 1 to this instrument, to facilitate the effective and efficient management of correctional services.

James Ryan
Executive Director
ACT Corrective Services
17 December 2007

*Name amended under Legislation Act, s 60



Belconnen Remand Centre (BRC)
Symonston Temporary Remand Centre (STRC)
Court Transport Unit (CTU)
Symonston Periodic Detention Centre (PDC)



RECEPTION AND MANAGEMENT OF TRANSGENDER AND INTERSEX PRISONERS POLICY

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Purpose

To ensure the non-discriminatory treatment of transgender and intersex prisoners in correctional centres.

Authority

Legislation

Corrections Management Act 2007, section 14 and 79

Legislation Act 2001, sections 169A and 169B

Policy

1 Principles

- 1.1 Transgender is a term used to describe anyone who lives or wishes to live as a member of the opposite gender to his or her birth gender.
- 1.2 An intersex person is a person who, because of a genetic condition, was born with reproductive organs or sex chromosomes that are not exclusively male or female.
- 1.3 This group of people are often discriminated against, and may be vulnerable in mainstream prisoner populations.
- 1.4 Transgender and intersex prisoners in correctional centres will be treated with respect and dignity.
- 1.5 All prisoners in correctional centres will be afforded the same opportunities.

2 Identification

- 2.1 Self-identification as a member of a sex other than a person's gender of birth is the only criterion for recognition as transgender.
 - 2.1.1 There is no need for medical interventions to have been performed for the person to be considered transgender.
- 2.2 A transgender person is a person who identifies or has previously identified as a member of a sex other than their genetic sex by living, or seeking to live, as a member of that sex.
- 2.3 An intersex person is a person who, because of a genetic condition, was born with reproductive organs or sex chromosomes that are not exclusively male or female.
- 2.4 All transgender and intersex prisoners will have their preferred identity documented when they are processed at reception into in correctional centres in the ACT.
- 2.5 The management and placement of transgender and intersex prisoners will be assessed on an individual basis by the Superintendent and will be based upon an assessment of all available information from medical staff, Mental Health, and the prisoner.

3 Accommodation

- 3.1 The placement of transgender and intersex prisoners will be based on:
 - the gender the prisoner identifies with;
 - the nature of their offence and criminal history (for example, crimes of violence, including sexual, violence against women or children should be taken into consideration);
 - correctional history (for example, where there are any previous management problems that impacted on the safety of other persons or the security of a correctional centre); and
 - perceived risks to the continuing safety of the prisoner or others.
- 3.2 Ideally, the prisoner should be placed in single cell accommodation, or with other prisoners who self-identify as transgender/intersex, and given access to a private toilet and shower facilities.
- 3.3 Unless there are overriding concerns for the safety or security of any person within the centre, a transgender/intersex prisoner should be accommodated in an area appropriate to their identified gender.
- 3.4 When considering the placement of a transgender prisoner, the Superintendent may make a determination to alter the accommodation placement of the prisoner if they consider it necessary for the good order and security of the correctional centre or safety of any prisoner.

- 3.4.1 The Superintendent may obtain reports from medical or other health professionals about the detainee's sexual identity prior to making this determination.

4 Searches and urinalysis

- 4.1 Ideally, Corrections Officers of the same gender to which the prisoner identified himself or herself will carry out any searches and conduct urinalysis on a transgender or intersex prisoner.
- 4.2 When considering the appropriate gender of the Corrections Officer to conduct the above procedures on a transgender or intersex prisoner, the Superintendent will consider the following:
- the gender the prisoner identifies with;
 - the nature of their offence and criminal history (for example, crimes of violence, including sexual, violence against women or children should be taken into consideration); and
 - correctional history (for example, where there are any previous management problems that impacted on the safety of other persons or the security of a correctional centre); and
 - a report from a medical or other health professional.

5 Medical provisions

- 5.1 Should the prisoner wish to continue or commence medical procedures to alter their gender of birth, the Superintendent and the Chief Medical Officer will determine the appropriate course of action.
- 5.1.1 Where possible, the opinions of both parties will be respected.
- 5.1.2 Where doubts exist regarding any risk to the security and good management of a correctional centre, the Superintendent will have the discretion, following consultation, to recommend that such treatment be ceased.

6 Rehabilitation and reintegration

- 6.1 Transgender and intersex prisoners are to be given access to the same programs and activities as all other prisoners.
- 6.2 Transgender and intersex prisoners are to have access to services specific to their needs, as determined through case management or otherwise.

Related policies and procedures

Human Rights Policy