

Australian Capital Territory

# Corrections Management (Reception and Management of Transgender and Intersex Prisoners) Policy 2009

Notifiable instrument NI2009-159

made under the

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

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## 1 Name of instrument

This instrument is the *Corrections Management (Reception and Management of Transgender and Intersex Prisoners) Policy 2009*.

## 2 Commencement

This instrument commences on the day after it is notified.

## 3 Policy

I make the

RECEPTION AND MANAGEMENT OF TRANSGENDER AND  
INTERSEX PRISONERS POLICY

attached to this instrument, to facilitate the effective and efficient management of correctional services.

James Ryan  
Executive Director  
ACT Corrective Services  
25 March 2009



Alexander Maconochie Centre (AMC)



## RECEPTION AND MANAGEMENT OF TRANSGENDER AND INTERSEX PRISONERS

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### **Purpose**

To outline the policy for the reception and management of transgender and intersex prisoners.

### **Authority**

#### Legislation

*Corrections Management Act 2007*, sections 14 and 79.

*Legislation Act 2001*, sections 169A and 169B.

### **Policy**

#### Definitions

##### Transgender

Transgender is a term used to describe a person who lives or wishes to live as a member of the opposite gender to his or her birth gender.

##### Intersex

Intersex is a term used to describe a person who, because of a genetic condition, was born with reproductive organs or sex chromosomes that are not exclusively male or female.

#### Principles

Transgender and intersex prisoners may be vulnerable in the mainstream prisoner population.

#### Identification as Transgender or Intersex

Transgender and intersex prisoners will have their preferred identity documented when received at the AMC.

Self-identification as a member of a sex other than a person's gender of birth is the only criterion for recognition as transgender. Medical interventions need not have been performed for the person to be considered transgender.

### **Accommodation**

Decisions on placement of transgender and intersex prisoners will be assessed on an individual basis by the Superintendent. The determination will be based on an assessment of information provided by Deputy Superintendent, Corrections Health staff, mental health staff and the prisoner. Their ongoing management and placement will be determined by the Sentence Planning Group or the Remand Review Team (as appropriate).

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);
- 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
- risks to the continuing safety of the prisoner or others.

Where practicable, transgender and intersex prisoner will be placed in a single cell or room, or with other prisoners who self-identify as transgender or intersex.

Unless there are overriding concerns for the safety or security of any person (including the prisoner) within the centre, a transgender or intersex prisoner should be accommodated in an area appropriate to their identified gender. However, when considering the placement, the Superintendent may make a determination to alter the placement of the prisoner if he/she considers it necessary for the good order and security of the correctional centre or safety of any prisoner.

### **Searches and urinalysis**

Normally, searches and urinalysis testing will be conducted by a corrections officer of the same gender as the prisoner, and in accordance with the prisoner gender classification identified on induction.

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);
- 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.

### **Medical Provisions**

Should the prisoner wish to continue or commence medical procedures to alter their gender of birth, the Superintendent and the Doctor determine the appropriate course of

action. Where doubts exist regarding any risk to the security and good management of the AMC, the Superintendent will have the discretion, following consultation, to recommend that such treatment be ceased/refused.

### **Rehabilitation and Reintegration**

Transgender and intersex prisoners will be given access to the same programs and activities as all other prisoners.

Transgender and intersex prisoners are to have access to services specific to their needs as determined through case management or the Sentence Planning Group.

### **Forms/templates**

Nil

### **Related policies and procedures**

Nil