

Australian Capital Territory

Corrections Management (Reception and Management of Transgender and Intersex Detainees) Policy 2014

Notifiable instrument NI2014-542

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 and Intersex Detainees) Policy 2014*.

2 Commencement

This instrument commences on the day after it is notified.

3 Policy

I make the

RECEPTION AND MANAGEMENT OF TRANSGENDER AND
INTERSEX DETAINEES POLICY

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

4 Revocation

This instrument revokes notifiable instruments NI2007-469 and NI2009-159.

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Executive Director
ACT Corrective Services
21 October 2014



ACT Corrective Services
All Facilities and Operations



RECEPTION AND MANAGEMENT OF TRANSGENDER AND INTERSEX DETAINEES

Purpose	1
Authority	1
Policy	1
Definitions	1
Transgender	1
Intersex	1
Principles	1
Identification as Transgender or Intersex	1
Accommodation	2
Searches and urinalysis	2
Medical Provisions	3
Rehabilitation and Reintegration	3
Forms/templates	3
Related policies and procedures	3

Purpose

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

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 detainees may be vulnerable in the mainstream detainee population.

Identification as Transgender or Intersex

Transgender and intersex detainees 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 or placement of transgender and intersex detainees will be assessed on an individual basis by the General Manager, Custodial Operations. The determination will be based on an assessment of information provided by Operations Manager, Corrections Health staff, mental health staff and the detainee. 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 detainees will be based on:

- the gender the detainee 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 detainee or others.

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

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

Searches and urinalysis

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

When considering the appropriate gender of the Corrections Officer to conduct the above procedures on a transgender or intersex detainee, the General Manager, Custodial Operations will consider the following:

- the gender the detainee 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 detainee wish to continue or commence medical procedures to alter their gender of birth, the General Manager, Custodial Operations 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 General Manager, Custodial Operations will have the discretion, following consultation, to recommend that such treatment be ceased/refused.

Rehabilitation and Reintegration

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

Transgender and intersex detainees 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