

Prisoners' Legal Services Proposed Draft

Commissioner's Directive 850 "Transgender Inmates" (2017-01-31)

Transgender Inmates

Responsibilities

1. A CSC National gender identity policy consultant will be hired based on qualifications and demonstrated commitment to transgender rights.
2. The CSC National gender identity policy consultant will have oversight over implementation of this policy at each institution.
3. The CSC National gender identity policy consultant will be copied on all institutional and National level grievances that concern gender identity issues or accommodation, and will be consulted in responding to grievances.

Introduction

4. A transgender inmate is an individual whose gender identity or gender expression is different from the gender associated with their birth-assigned sex, or an individual who identifies as non-binary gender. Self-identification is the primary consideration in identifying a transgender individual. Transgender prisoners may also be identified through behaviour, outward appearance or information from an external source.
5. A transgender individual may not self-identify out of fear of physical harm or ridicule or previous negative experiences. An individual may identify differently than they did during previous admissions and may change how they identify during a period of incarceration.
6. Each transgender inmate's needs will be accommodated on a case-by-case basis. The case management teams for transgender prisoners will be specially trained and will consult with the CSC National gender identity policy consultant on any issues related to gender identity that arise during a transgender inmate's custodial sentence.

Training

7. The Institutional Head shall ensure that staff who have regular contact with transgender offenders have the necessary knowledge to effectively respond to their needs.
8. This policy will be supported by ongoing training and education for staff, and if appropriate, inmates. Content related to gender identity and gender expression will be incorporated into correctional training programs, and will be periodically reviewed and

updated. Persons who self-identify as transgender will be consulted as part of the training development, review and updating strategies.

Identification

9. Inmates are to be referred to by their preferred name(s) and gender pronouns verbally and in all written documents, except in the rare cases that an inmate's legal name is required for identification purposes. When legal names are required to be used, inmates are to be referred to using their preferred pronouns and preferred names followed by "legally known as <legal name>."

Placement and accommodation

10. Transgender inmates shall be placed in a correctional institution according to their self-identified gender if that is their housing preference, unless there are overriding health and/or safety concerns which cannot be resolved. These concerns shall be clearly articulated to the inmate. Inmates will be placed according to their gender identity if that is their preference at such time as health and/or safety concerns are resolved.
11. The inmate will be consulted and involved in the decision-making process. CSC recognizes that not all transgender inmates want to be housed according to their self-identified gender.
12. For all placement and program decisions, individual assessments shall be conducted in private with the individual, to ensure that transgender inmates are accommodated with due regard for their vulnerabilities with respect to their needs, including safety and privacy.
13. Transgender inmates who are housed according to their birth-assigned sex shall not be required to share a cell with another inmate.
14. Transgender inmates shall be provided private access to the shower and toilet for safety and privacy purposes.

Effects

15. Transgender inmates may require personal items to express their gender. Individuals are permitted to retain these items, both in the institution and upon any kind of release or absence, or transport between institutions.
16. Transgender inmates are provided with their preferred institutional clothing and underclothing while in custody and for court appearances and any kind of release or absence.

17. Transgender inmates are permitted to order canteen and catalogue items according to their gender identity through the same process as any inmate.

Searches

18. It is the policy of the Service that the searching of transgender persons be conducted under the law with full respect for human dignity and according to the highest standards of professional skill.
19. Inmates who identify as transgender are given the opportunity to choose who performs any frisk or strip search, as follows:
 - a. They may choose to be searched by a male or female correctional officer or both (a “split search”).
 - b. If a split search is elected, the inmate is provided the choice of which body parts are searched by whom.
20. A split search shall be conducted with each stage done in private.
21. An individualized search protocol will be created for all transgender inmates. Protocols will be placed as an alert on OMS if this is the inmate’s preference. To respect the dignity of the inmate, individualized protocols for searching will be put in place through private consultation with the inmate.

Urinalysis Testing

22. Inmates who identify as transgender are given the opportunity to choose whether a male or female officer observes the urinalysis test.
23. An individualized urinalysis testing protocol will be created for all transgender inmates. Protocols will be developed and placed as an alert on OMS. To respect the dignity of the inmate, individualized protocols for urinalysis testing will be put in place through private consultation with the inmate.

Health Care

24. There must be continuity of care with respect to the provision of health services for transgender inmates.
25. If a transgender inmate seeks medical treatment in relation to gender identity then the institutional physician will make a referral, at the earliest opportunity, to a qualified health professional in the area of gender identity for an assessment.
26. The qualified health care professional in the area of gender identity will normally be the same health professional specialist who provided care to the offender throughout the

transition prior to his/her incarceration, unless the offender and CSC agree to a different choice of specialist.

27. Transgender inmates will be able to initiate or to continue hormone therapy as prescribed by either a Psychiatrist who is a qualified health professional in the area of gender identity or other Specialist Physicians in the area of gender identity or endocrinology.
28. Sex reassignment surgeries will be offered when:
 - a. a qualified health professional in the area of gender dysphoria has confirmed that the inmate has satisfied the criteria for surgery under the current World Professional Association for Transgender Health "Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People"; and
 - b. the qualified health professional in the area of gender dysphoria recommends surgery during incarceration.
29. If the qualified health professional in the area of gender dysphoria provides an opinion that sex reassignment surgeries are essential medical services under CSC policy, CSC will pay the cost.
30. CSC will proceed without delay to determine the timing of the surgery.
31. If the qualified health professional in the area of gender identity provides an opinion that other transition-related needs (such as electrolysis for transgender women and prostheses for transgender men) or other surgeries (such as breast enlargement, facial feminization and voice surgery) are essential medical services, CSC will pay the cost. If transition-related needs or other surgeries are not considered essential medical services, transgender prisoners will be permitted to receive them and pay for them independently.