



Issue Brief

Oregon Department of Corrections Transgender and Intersex Adults in Custody

Correctional systems nationwide are increasingly recognizing the need for clear, equitable, and trauma-informed policies to support transgender and intersex individuals in custody. As visibility and understanding of gender diversity expands, so does the responsibility of correctional agencies to uphold constitutional rights, ensure safety, and provide appropriate medical and behavioral health care.

Intro

Transgender people in prison face many challenges, including discrimination, harassment, and appropriate medical care. The Oregon Department of Corrections (DOC) has implemented state law - [Department of Corrections, Chapter 291, Division 210, Transgender and Intersex \(AIC\)](#) – to establish Department of Corrections policy and procedures for the identification, assessment, review, and management of AICs who present or identify as transgender or intersex.

Transgender and Intersex Committee (TAIC)

TAIC is a multi-disciplinary team comprised of DOC staff from various disciplines, such as Medical Services, Behavioral Health Services, Operations/Security, Population Management, and the Prison Rape Elimination Act (PREA) Administrator. TAIC is responsible for making decisions around the needs of transgender and intersex adults in DOC custody to ensure institutions are managing individuals in a fair and consistent manner. TAIC is also charged with determining appropriate and safe housing for the transgender and intersex adults in its custody.

Housing

The DOC considers each person's needs, including where they feel safe and comfortable. In making housing placements, TAIC makes decisions on a case-by-case basis considering each AIC's individual circumstances, including but not limited to the AIC's physical sexual characteristics, gender identification, physical presentation, behavior, programming needs, individual needs, safety of the individual, safety of others they could be housed with, medical history, mental health status, observation of their behavior, and any other relevant information.

Care

DOC provides gender-affirming care and access to medical and mental health services. There are different resources available to individuals who have been diagnosed with Gender Dysphoria. Literature and books about gender identity, products that help AICs express their gender identities and hormone therapy are available. Gender-affirming surgery may also be considered for those individuals demonstrate significant distress not attributable to conditions of confinement, mental illness, or other factors.

Prison Rape Elimination Act

DOC has a zero-tolerance policy for sexual abuse and harassment and makes prevention a top priority. The Prison Rape Elimination Act (PREA) of 2003 is a federal law that seeks to eliminate sexual assaults and sexual misconduct.

AICs who are being sexually harassed, abused, or assaulted are encouraged to talk to a staff member. This will allow for the quickest response. Each institution has a Sexual Assault Response Team (SART) that can respond and ensure needed services are provided. SART members meet with Transgender, Intersex, Nonbinary, and Genderfluid AICs at least once every six months to ensure they feel safe and address any concerns they may have.

Each AIC is screened for risk of vulnerability and potential to be abusive upon intake and transfer to each facility within 72 hours after arrival at the facility, and again within 30 days. AICs who are at high risk of victimization are not housed with AICs at high risk of aggressiveness. Additionally, these designations are considered when assigning programs, work, and education opportunities.

Information on reporting safety concerns is available to AICs on posters, handbooks, and videos. AICs can report an allegation of sexual abuse or sexual harassment by calling the Inspector General’s hotline number, by the AIC tablets, to any staff member, by written communication, or to the Governor’s Office. Friends and family members of AICs can report on their behalf. AICs may remain anonymous.

Every allegation of sexual abuse or sexual harassment is investigated by a trained investigator. AICs are monitored for retaliation for at least 90 days after reporting an allegation.

Staff Training

All staff are required to take “PREA – What You Should Know,” “Respectful Communication,” and “Search Training” during New Employee Orientation (NEO), basic Corrections Course (BCC), and annual in-service training. All of these have important PREA aspects, and guide DOC staff in interactions and management of transgender or intersex adults in custody.

Legal

The Eighth Amendment of the U.S. Constitution protects those in custody from cruel and unusual punishment. This includes ensuring that individuals receive adequate health care for serious medical and mental health needs.

Courts have consistently ruled that gender dysphoria is a serious medical need that may require treatment. This means that blanket bans on hormone therapy or gender affirming surgery are unconstitutional.

The Ninth Circuit Court of Appeals (Oregon included) has made several legal decisions regarding transgender prisoners and their access to medical care.

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The mission of the Oregon Department of Corrections is to protect communities, promote accountability, and transform lives.