


Chapter:	Facility Case Management	Classification:	Public Document
Subject:	Gender Diverse Persons in Custody		
For:	Correctional Facilities	 Authorized by Executive Director	


## 1. Policy

- 1.1 Correctional Services actively works to develop and maintain correctional facilities and community corrections offices that are safe, respectful and free of discrimination and harassment, and which affirm individuals in conflict with the law's gender identity and expression where:
- 1.1.1 Gender identity: refers to a person's understanding and experience of their own gender. Everyone has a gender identity; for some people, it corresponds with the gender assigned at birth, and for some others, it does not. Gender identities are expansive and diverse.
  - 1.1.2 Gender expression: refers to the ways in which a person chooses to publicly present their gender.
  - 1.1.3 Gender Diverse: an umbrella term to refer to individuals whose gender identity or expressions differ from what has been traditionally expected for their perceived gender and/or their assigned sex.
- 1.2 Correctional Services will ensure the rights of individuals who identify as gender diverse are maintained in accordance with
- 1.2.1 *Nova Scotia Human Rights Act (HRA)*
  - 1.2.2 *Correctional Services Act*
  - 1.2.3 *Correctional Services Regulations*
  - 1.2.4 *Code of Professional Conduct*
  - 1.2.5 *Respectful Workplace Policy*
  - 1.2.6 *Workplace Violence Prevention Policy*
  - 1.2.7 Guidelines to Support Gender Diverse Employees
  - 1.2.8 collective agreements
  - 1.2.9 this policy

## 2. Guiding Principles


- 2.1 Correctional Services is committed to supporting the rights and needs of individuals in custody who identify as gender diverse, see Appendix A, Gender Diverse, Terms and Concepts ([34.05.00-A](#)) for related terminology, using these guiding principles
- 2.1.1 self-identification is the sole measure of an individual in custody's gender identity

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- 2.1.2 supporting factors for identification include personal identity, personal history, collateral sources of support, gender expression (how someone expresses their gender outwardly).
- 2.1.3 the individual in custody's self-identified name is to be used in all cases except for in circumstances when the individual's legal name is required
- 2.1.4 gender diverse individuals in custody are treated with dignity and respect
- 2.1.5 unit placement on the sole basis of sex assigned at birth is not appropriate and may place the individual at risk for victimization
- 2.1.6 unit placement decisions will consider safety and security as well as the individual's gender identity, dignity and personal safety
  
- 2.2 All employees are expected to
  - 2.2.1 contribute to a safe, healthy and secure environment that meets those rights afforded in the HRA
  - 2.2.2 maintain confidentiality of individuals in custody gender identity except in situations where the individual has provided consent to disclose need-to-know confidential information in order to work collaboratively towards unit placement and/or case management goals
  - 2.2.3 develop and maintain security and good order of our facilities and community corrections offices
  - 2.2.4 abide by the public service values - respect, integrity, diversity, accountability and the public good
  
- 2.3 Individuals in custody will be asked to identify their gender upon each new admission. This recognizes and affirms that gender identity and expression are fluid and respects the autonomy of individuals to identify differently at any point in time, e.g., between or during periods of incarceration.
  
- 2.4 Recognizing individuals in custody may not have access to legal and identifying documentation, such documents are not to be relied on to confirm or verify gender identity as an individual may
  - 2.4.1 not have, or be able to access documentation that reflects their gender identity

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- 2.4.2 not choose or otherwise be able to apply to the appropriate authorities to change their name and gender designation on identity documents
- 2.4.3 possess documents that indicate different names and/or gender designations
- 2.5 Intake and admission processes respect the individual in custody's gender identity and staff will work collaboratively to identify accommodations and supports if requested/required. When placement is unclear, a referral will be sent to a Correctional Services Social Worker. The social worker will
  - 2.5.1 meet with the individual in custody to complete the Gender Identity Conversation Guide ([34.05.00-B](#))
  - 2.5.2 assess needs and offer support (i.e., gender affirming care, gender affirming undergarments, etc.)
  - 2.5.3 provide relevant information to the superintendent/youth custody manager or designate to inform a placement decision
- 2.6 All individuals in custody will be assessed and case management decisions will be made, in collaboration with the individual, using factual and objective information in accordance with individual's comfort, safety, and identified wishes except where circumstances dictate or require other considerations. Factors to be considered include the individuals
  - 2.6.1 gender identity/expression
  - 2.6.2 housing preference
  - 2.6.3 health, individual's safety & security needs
- 2.7 Decisions regarding placement, case management, and program participation of individuals who identify as gender diverse is an individualized process that is to be coordinated between the superintendent, youth custody manager, deputy superintendent, correctional staff directly involved in the individual's custody i.e., social worker, correctional case worker, youth worker, health care staff and the individual. The individual may also wish to include parent(s)/guardian(s), probation officer and other supports/workers.
- 2.8 Gender diverse individuals will not to be placed in administrative close confinement solely based on their gender identity/expression.

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### 3. Admission

- 3.1 Where the Sherriff Services or another escorting justice agency, e.g., Correctional Services Canada, Canada Border Services, etc., contacts a facility in advance to inform they have an individual who identifies as gender diverse, the facility will direct them to a facility that corresponds with their gender identity, e.g. a person identifying as female will be redirected from SNSCF to CNSCF women’s unit, unless the individual indicates a preference that they be housed otherwise.
- 3.2 At the start of a new admission, admitting staff will
- 3.2.1 complete the Self-Identified Admission Questionnaire, [38.00.00-B](#) (adult) or [38.00.00-C](#) (youth), with all admissions to custody
  - 3.2.2 ensure that this information is documented on JEIN in accordance with Section 9 of this policy
  - 3.2.3 make a referral to social work services if requested/required
  - 3.2.4 continue the admission process in accordance with Policy & Procedures, Subject No. 38.00.00, [Admission to a Correctional Facility](#)

### 4. Searches

- 4.1 Admitting staff will explain the frisk, pat and strip search process, including any search of gender affirming devices/items.
- 4.2 Search techniques will be carried out in accordance with Policy and Procedures
- 4.2.1 Subject No. 39.00.00, [Searches – General Requirements](#)
  - 4.2.2 Subject No. 39.01.00, [Searches of Offenders Staff and Visitors](#)
  - 4.2.3 in accordance with Correctional Services training standards
- 4.3 Designated Correctional Services staff of the individual’s identified gender are authorized to conduct searches.
- 4.4 Prior to all searches, individuals who identify as gender diverse will be asked to identify which gender they would prefer to have the search completed by. Where an individual chooses to have a “split search”, corrections staff will

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- 4.4.1 confirm with the individual which body parts are searched by which staff, e.g., male-identifying staff search bottom, female-identifying staff search top
- 4.4.2 document the search preference in Section B of the Self-Identified Admission Questionnaire, [38.00.00-B](#) (adult) or [38.00.00-C](#) (youth)
- 4.5 If the individual's gender preference for the search is unavailable, admission staff will
  - 4.5.1 secure the individual pending a resolution
  - 4.5.2 advise their immediate supervisor
- 4.6 If the individual's gender preference for the search is unavailable, the supervisor will resolve the situation by
  - 4.6.1 reassigning a correctional officer identifying as the preferred gender from another operational area
  - 4.6.2 in the absence of a correctional officer identifying as the preferred gender, a manager identifying as the preferred gender will be directed to conduct the search
  - 4.6.3 in the absence of both, call in an off-duty staff identifying as the preferred gender to attend the facility to conduct the search
- 4.7 Gender diverse individuals may request or require gender affirming products to express their gender and reduce distress, anxiety and/or depression, e.g., binders, gaffs, packer, or other approved devices. Upon completion of a search, individuals will be permitted to retain these items unless there are safety reasons, as determined by the superintendent, youth custody manager, or designate, that cannot be resolved. The superintendent, youth custody manager, or designate will provide the individual the reasons in writing for a decision to remove personal items.

**5. Clothing**

- 5.1 Individuals who identify as gender diverse will be provided with facility clothing consistent with their assigned unit placement.

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- 5.2 Underwear and supplemental clothing needs will be provided in accordance with gender identity/expression and not be restricted based on unit placement:
  - 5.2.1 Individuals who identify as gender diverse will be asked what type of underwear they require.
  - 5.2.2 The individual's response will be documented in Section B of the Self-Identified Admission Questionnaire, form [38.00.00-B](#) (adult) or [38.00.00-C](#) (youth).
  - 5.2.3 If the individual's required underwear is not immediately available, interim/next best solutions will be implemented and expected timeframe for resolution will be documented on the Self-Identified Admission Questionnaire, form [38.00.00-B](#) (adult) or [38.00.00-C](#) (youth), and explained to the individual.

## 6. Orientation and Assessment Program


- 6.1 Designated staff will complete the Orientation and Assessment as follows
  - 6.1.1 in accordance with Policy & Procedure,
    - 6.1.1.1 Subject No. 34.00.00, [Orientation and Assessment – Adult Custody](#), Sub-section 3.2
    - 6.1.1.2 Subject No. 34.02.00, [Case Management – Youth in Custody](#), Sub-section 4
  - 6.1.2 complete any relevant sections of the Self-Identified Admission Questionnaire, form [38.00.00-B](#) (adult) or [38.00.00-C](#) (youth)
  - 6.1.3 forward the completed form to the correctional case worker/youth worker

## 7. Unit Placement

- 7.1 Individuals who identify as gender diverse will be assigned a unit placement according to their gender identity, unless
  - 7.1.1 otherwise requested by the individual to be housed in a facility that does not correspond to their self-identified gender
  - 7.1.2 privacy concerns and/or health and safety risks are identified
  - 7.1.3 security concerns are identified that may impact the placement decision (e.g., information from other sources)

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- 7.2 Any information regarding a placement decision that is not consistent with the individual's gender identity will be documented in Section I of the Self-Identified Admission Questionnaire, form [38.00.00-B](#) (adult) or [38.00.00-C](#) (youth).
- 7.3 The superintendent, youth custody manager, or designate will be advised of the placement within the facility for any individuals in custody who identify as gender diverse.
- 7.4 When it is requested that an individual who identifies as gender diverse be held in administrative close confinement for their own protection, the superintendent, youth custody manager, or designate in consultation with manager, case management & social work services/NSYC unit review board will
- 7.4.1 review the request
  - 7.4.2 assess the request for access to programming and socialization with other individuals in custody
  - 7.4.3 authorize the request
  - 7.4.4 clearly document the situation
  - 7.4.5 explain the decision to the individual
- 7.5 If an individual disagrees with their placement, they will be provided with information about the complaint/appeal process in accordance with Policy & Procedure,
- 7.5.1 Subject No. 5.04.00, [Complaint Process](#)
  - 7.5.2 Subject No. 5.05.00, [Appeal Process](#)

## 8. Unit Placement Review

- 8.1 When an individual who identifies as gender diverse is assigned a unit placement other than general population, a social worker or IWK staff for youth will meet with the individual to review placement needs within 72-hours of placement.
- 8.2 Either the manger, case management and social work services or social worker or youth worker will review the placement as needed at the weekly case management team meeting/NSYC unit review board.

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8.3 In accordance with Section 2.3 above, an individual’s gender may be fluid and may change during an incarceration. In such cases requests by the individual to be relocated within a correctional facility will be referred to the manger, case management & social work services and facility social worker or youth worker to be further assessed and presented at the unit placement board. Decisions to relocate an individual based on fluidity will be determined in accordance with Section 2.5 above.

8.4 Any change to unit placement or cell assignment requires approval by the superintendent, youth custody manager or deputy superintendent with the exception of placement as a result of a disciplinary requirement.

## 9. Documentation on JEIN

9.1 In cases where the individual identified name or gender designation varies from what appears on legal or identity documentation, facility staff will ensure this information is reflected in JEIN as follows

9.1.1 the individual’s identified name will be recorded as a new alias

9.1.2 the individual’s gender identity will be selected in the gender field of the new alias

9.1.3 an alert will be recorded in JEIN, under the “Gender Diverse” alert type

9.1.4 the individual’s gender identity, male, female, trans, trans male, trans female, two-spirit, non-binary etc., will be typed into the alert comment field

9.2 The completed Self-Identified Admission Questionnaire, form [38.00.00-B](#) (adult) or [38.00.00-C](#) (youth) will be uploaded to JEIN.


## 10. Transfer

10.1 If the current facility cannot accommodate the individual’s identified gender or unit placement preference, the superintendent or designate will

10.1.1 ensure the individual who identifies as gender diverse is transferred as soon as reasonably possible

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- 10.1.2 where legitimate extenuating circumstance prevent transfer from occurring, e.g., court appearance, ensure the individual is transferred as soon as reasonably possible after those circumstances have been resolved
- 10.1.3 implement, in consultation with the individual, interim or next-best solutions regarding placement until the individual can be transferred
- 10.1.4 clearly document the situation in JEIN
- 10.2 Where individuals who identify as gender diverse are transported by any escorting justice agency, correctional staff will
  - 10.2.1 advise the agency in advance of any accommodations granted to the individual
  - 10.2.2 communicate any other necessary information to assist them in making appropriate transport arrangements
  - 10.2.3 ensure when communicating information to a transporting agency, the individual's confidentiality, safety and consistent fair treatment will be primary considerations

## **11. Standard Operating Procedures (SOP)**

- 11.1 The superintendent or youth custody manager is responsible to establish Standard Operating Procedures (SOPs) with respect to this policy as follows
  - 11.1.1 advising the superintendent, youth custody manager, or designate that an individual admitted to custody who identify as gender diverse has been placed in orientation and is awaiting unit assignment
  - 11.1.2 placement of an individual who identify as gender diverse awaiting search
  - 11.1.3 steps to resolve concerns regarding the individual who identifies as gender diverse search preference
  - 11.1.4 communication regarding approval of gender affirming devices/items deemed necessary that have been approved to be retained by the individual
  - 11.1.5 communication and resolution process regarding correctional staff's inability to issue required underwear

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- 11.1.6 communication process regarding requests for change to unit placement or cell assignment
- 11.1.7 superintendent's or youth custody manager designate regarding placement decisions
- 11.1.8 staff responsible to document JEIN information
- 11.1.9 staff responsible to communicate with agencies regarding transfers