

Correctional policies for the management of trans people in Australian prisons

Charlie Winter 

Department of Criminology, Flinders University, Adelaide, South Australia, Australia

ABSTRACT

Background: Despite existing international standards for the prison management of incarcerated trans people, carceral policies across Australian jurisdictions vary in their availability, breadth, and appropriateness. Trans populations in prison represent a vulnerable population, having specific needs surrounding their health, safety, and wellbeing. Prior reviews into Australian carceral policies highlight where contemporary prison practices fall short of meeting those specific needs.

Aims/method: A review was conducted on the available carceral policy documents of each Australian correctional service regime, examining their coverage of issues including healthcare access, placement decisions, and classification systems against international standards and prior Australian recommendations. Forty-one relevant policy documents were reviewed against eighteen benchmark recommendations, along with supplementary data.

Results: Australian jurisdictions varied widely on the coverage of the reviewed areas. Benchmark attainment ranged from twelve out of eighteen (Victoria and Western Australia) to three out of eighteen (Queensland). The use of administrative segregation was identified as the area in most need of policy reform. No jurisdiction met every benchmark.

Conclusions: This review highlights the need for carceral policy reform across Australian jurisdictions in order to meet the unique needs of incarcerated trans people, especially in the areas of administrative segregation and healthcare access. The review also highlights the need for carceral policy reform to bring Australian jurisdictions in line with each other on the management of incarcerated trans people, to reduce disparate outcomes across states and territories.

KEYWORDS


Australia; correctional policies; imprisonment; policy review; prison; trans

Background

This paper is an examination of extant correctional policies for the care and management of adult transgender people (henceforth trans people¹) in Australia, over each of the eight internal states and territories. It is an update and extension of prior evaluations of Australia's policies surrounding the care of trans people over the past 23 years. Since the most extensive of these reviews (Lynch & Bartels, 2017) was published, many Australian jurisdictions have amended the policy documents reviewed by the authors or, in the case of Tasmania, made their relevant policy documents public. Therefore, this update is timely.

Though recent data from the United States estimates that between 0.6% and 1.6% of American adults identify as trans (Brown, 2022;

Herman et al., 2022), with rates increasing especially among those under 18, similar population level data for Australia currently does not exist (Carman et al., 2020). Data on gender modality is not often recorded or recorded accurately, rendering trans people an invisible population even within broader Australian society, let alone behind prison walls. The number of trans people incarcerated within Australia is also unknown, though some estimates place it at approximately 400 in 2018 (Bali, 2020), or less than 1% of the Australian prison population (Rodgers et al., 2017). One study, through a Rights to Information process, found that 68 trans persons were recorded as being incarcerated in Queensland between 2014 and 2020 (Brömdal et al., 2023). Though it must be stated that these numbers are

CONTACT Charlie Winter  charlie.winter@flinders.edu.au  Department of Criminology, Flinders University, Adelaide, South Australia, Australia

© 2023 The Author(s). Published with license by Taylor & Francis Group, LLC

This is an Open Access article distributed under the terms of the Creative Commons Attribution-NonCommercial License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits unrestricted non-commercial use, distribution, and reproduction in any medium, provided the original work is properly cited. The terms on which this article has been published allow the posting of the Accepted Manuscript in a repository by the author(s) or with their consent.

likely underestimations and that the true number may be higher; this underestimation has been attributed to, among other reasons, the potential result of inadequate record-keeping policies and procedures (Lynch & Bartels, 2017).

However, an additional common finding in international research is that trans people are overrepresented in criminal justice systems across Western nations relative to population size (Clark et al., 2023; Gorden et al., 2017; Grant et al., 2011; Sexton et al., 2010). This is a pattern similar to the carceral overrepresentation of other minority groups (Broadus, 2009). Additionally, anti-trans biases and structural racism combine against trans people of color; they fare worse on measures of poverty, homelessness, overrepresentation in the criminal justice system, and abuse/harassment both in and outside of the criminal justice system (Grant et al., 2011; Hébert et al., 2022; Kane, 2014), among many other measures, than white trans people. This is a continuation of the systematic policing and control of queer identities that has a long history in Australia and other nations (Haritaworn et al., 2014; Stanley, 2021; Stanley & Smith, 2015).

Trans people within prison systems are at high risk of harm due to their unique vulnerabilities interacting with carceral policies. Key issues surrounding incarcerating trans people, identified by Australian research over the past 23 years (Australian Human Rights Commission (AHRC), 2015; Blight, 2000; Brömdal, Clark, et al., 2019; Brömdal et al., 2023; Clark et al., 2023; du Plessis et al., 2023; Halliwell et al., 2022; Lynch & Bartels, 2017; Mann, 2006; Mitchell et al., 2022; Rodgers et al., 2017; Samiec, 2009; Sanders et al., 2023), include protection from sexual and physical assaults, increased access to medical care inclusive of gender-affirming treatments, the implementation of identify-affirming policies such as use of correct names and pronouns, access to gender-affirming clothing and belongings such as wigs or binders, and transparency around placement and the use of solitary confinement. Whether these needs are being met by extant correctional policies in Australia is still to be determined.

As Lynch and Bartels noted, Australian correctional policies must be placed in the contexts that

they exist within, including international and national human rights frameworks, guidelines for corrections in Australia, and the non-carceral Australian standards of care for trans people. There are limited international standards for human rights that have legal influence within Australia unless incorporated within domestic legislation, with the *International Covenant on Civil and Political Rights* (ICCPR) only being enforceable within the ACT and, in a partial way, Victoria (Lynch & Bartels, 2017). Additionally, in 2017 Australia ratified the United Nation's *Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT), which has specific provisions for the protection of people who have been deprived of their liberty (see Mackay (2021) and the Australian Human Rights Commission (AHRC, 2020) for an overview of OPCAT's implementation in Australia).

However, anti-discrimination legislation protecting trans people exists across Australia on a federal level as well as for each jurisdiction. The scope of these legislations, and the reach of their protections, hinges upon the definitions they employ surrounding gender, sex, gender identity, and when a person reaches the "threshold" to be legally defined as trans; additionally, these definitions are not consistent across jurisdictions (Lynch & Bartels, 2017). These thresholds affect not just the protections a trans person may be covered by depending on their jurisdiction, but also legislation surrounding their ability to alter birth certificates to reflect their gender identity. Limitations in access to correcting official identity documentation can lead to difficulties once a trans person comes into contact with the criminal justice system, especially where their presentation does not match the gender on their documentation.

Lynch and Bartels discussed the limitations with the *Standard Guidelines for Corrections in Australia* (Corrective Services Administrators' Council [CSAC], 2012) (henceforth known as the *Guidelines*), which at the time of their review was the governing document for the treatment of incarcerated people in Australia. They recommended that the *Guidelines* be updated to adhere to 2015 alterations made to the influencing document, the *Standard Minimum Rules for the*

Treatment of Prisoners (United Nations [UN], 1955) (henceforth, *SMR*), now known as the *Nelson Mandela Rules* (UN General Assembly, 2016). Notably, the updated *Nelson Mandela Rules* have provisions for the care of trans people where the *SMR* does not. In 2018, the *Guidelines* were replaced with a new document (CSAC, 2018), the *Guiding Principles for Corrections in Australia* (now, the *Principles*). The *Principles* make brief reference to the management of trans people in the “emerging themes” section but little else throughout the body of the document. The *Principles* also reference the *Nelson Mandela Rules*, purporting itself to be a document guided by this framework.

However, while in agreement with Lynch and Bartels that the *Guidelines* were limited in their provision of care to incarcerated people and their alignment to the *Nelson Mandela Rules*, Mackay (2021) finds that the *Principles* are even less so. While not specifically critiquing the *Principles*’ reform in the area of trans care and management, the three categories where the *Principles* fail to represent reform as identified by Mackay, being the use of solitary confinement, bodily searches, and restraints, are three areas that are represented in rights violations involving trans people in Australia (OmbudsmanSA, 2018; Perry, 2015). Finally, it must be noted that neither the *Guidelines* nor the revised *Principles* have the force of law.

Recognizing the legislative limitations of the above national documents, this review uses the following national and international frameworks to assess extant Australian correctional policies against in order to apply a consistent benchmark to Australian jurisdictions:

- Recommendations made by national reports into carceral conditions of incarcerated trans people by the Australian Human Rights Commission [AHRC] (2015) and the ACT Human Rights and Discrimination Commissioner (Watchirs et al., 2014).
- Recommendations made by international frameworks including the World Professional Association for Transgender Health’s (WPATH) Standards of Care for the Health of Transgender and Gender

Diverse People (Coleman et al., 2022; Knudson et al., 2018) and the *Nelson Mandela Rules* (UN General Assembly, 2016).

It must be noted that these frameworks are not without their own limitations and operate here only as benchmarks for comparison. The WPATH Standards of Care in particular are criticized for being paternalistic, for increasing gatekeeping between trans people and healthcare, and for being less “patient-centered” than informed consent models (Amengual et al., 2022; Cavanaugh et al., 2016). Further research would benefit from a more critical, in-depth application of these, or other, frameworks that actively engages with their exclusions and limitations in regards to the current policy landscape.

Method

There are nine sentencing regimes in Australia and eight correctional services regimes under which people who proceed to incarceration are held (under remand or a prison sentence). It is the eight correctional services regimes which are under evaluation in this paper; specifically, how each of the eight regimes makes provisions for trans people under their remit.

This review applied an inductive, semantic approach to thematic analysis (Braun & Clarke, 2006), building a thematic framework from an initial review of the dataset with a focus upon the explicit content (as written) of the correctional policies. All available correctional policy documents were downloaded from each Australian jurisdiction’s correctional services website (Table 1) over a period ranging from September 2022 to November 2022. The total number of documents, policy names, version numbers, and most recent update dates were charted into a spreadsheet during this initial documentation stage. Any correctional policy documents explicitly focused upon the care and management of trans people, along with any correctional policy documents referenced within the trans care policies, were reviewed once to identify their focuses when it came to the carceral management of trans people. Following this initial appraisal, they were reviewed

Table 1. Summary of Australian sentencing & correctional services regimes.

Jurisdiction	Sentencing legislation	Correctional services legislation	Policy documents retrieved from:
Federal ACT	Crimes Act 1914 Crimes (Sentence Administration) Act 2005	– Corrections Management Act 2007	– https://www.correctiveservices.act.gov.au/about-us/policies-and-publications
NSW	Crimes (Sentencing Procedure) Act 1999	Crimes (Administration of Sentences) Act 1999 No. 93	https://correctiveservices.dcj.nsw.gov.au/csnsw-home/resources/policies-and-publications/policies.html
NT	Sentencing Act 1995	Correctional Services Act 2014	No public policies listed
Qld	Penalties and Sentences Act 1992	Corrective Services Act 2006	https://corrections.qld.gov.au/documents/procedures/custodial-operations-practice-directives/
SA Tas	Crimes (Sentencing) Act 1988 Sentencing Act 1997	Correctional Services Act 1982 Corrections Act 1997	No public policies listed https://www.justice.tas.gov.au/prisonservice/about/policies-and-procedures
WA	Sentencing Act 1995	Prisons Act 1981	https://www.wa.gov.au/organisation/department-of-justice/corrective-services/custodial-policies-and-procedures
Vic	Sentencing Act 1991	Corrections Act 1986	https://www.corrections.vic.gov.au/standards-for-people-and-offenders

Table 2. Summary of benchmark recommendations applied to Australian correctional policies.

Source literature	Recommendations
AHRC (2015, p. 3)	HEALTHCARE: Access to hormone therapy while incarcerated should be based on medically identified need, not discretion. PLACEMENT: All Australian jurisdictions to develop correctional policies on the placement of incarcerated trans people.
The <i>Nelson Mandela Rules</i> (UN General Assembly, 2016)	CLASSIFICATION: "The following information shall be entered in the prisoner file management system upon admission of every prisoner: (a) Precise information enabling determination of his or her unique identity, respecting his or her self-perceived gender" (p. 4). SOLITARY: "Solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review" (p. 15). HEALTHCARE: "Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination" (p. 8) SEARCHES: "Intrusive searches, including strip and body cavity searches, should be undertaken only if absolutely necessary. Prison administrations shall be encouraged to develop and use appropriate alternatives to intrusive searches" (p. 16)
Watchirs et al. (2014, p. 194)	CLASSIFICATION: That policies recognize the needs of gender diverse detainees who do not identify as exclusively male or female. PLACEMENT: That policies include a "reasonable" timeframe for making determinations about placement. SEARCHES: That incarcerated trans people be allowed to state a preference as to whether they are searched by a male or female correctional officer.
WPATH (Coleman et al., 2022, p. S104)	CLASSIFICATION: That all staff address incarcerated trans people by their correct names and pronouns. HEALTHCARE: That hormones be supplied to incarcerated trans people who need them "without undue delay and in accordance with the SOC-8." PLACEMENT: That placement decisions "consider the individual's housing preference, gender identity and expression, and safety considerations rather than solely their anatomy or sex assignment at birth." PLACEMENT: That policies allow for incarcerated trans people to have access to private shower and toilet facilities. SOLITARY: That policies "ensure the safety of [trans people] without segregating or isolating these individuals." HEALTHCARE: That gender-affirming surgical treatments are recommended and supported "in accordance with the SOC-8 when sought by the individual, without undue delay." BELONGINGS: That incarcerated trans people have access to clothing and grooming options "concordant with their gender expression"
WPATH (Knudson et al., 2018, pp. 355–356)	CLASSIFICATION: "The right to legal gender recognition should not be based on diagnosis or treatment [...] WPATH urges governments to eliminate barriers to gender recognition, and to institute transparent, affordable and otherwise accessible administrative procedures affirming self-determination."

once more and tabulated along the following thematic areas:

1. Provisions for the classification of a person as trans in official carceral documentation, including whether diverse identities such as non-binary persons as recognized within the policy documents.
2. Provisions for placement decisions.
3. Provisions for the use of solitary confinement and/or administrative segregation.
4. Provisions for access to transition-related healthcare.
5. Provisions for intimate searches.
6. Provisions for access to gender-affirming clothing and belongings.

The coverage of each jurisdiction's carceral policies were compared to recommendations made by the literature outlined above, in order to apply a consistent benchmark of standards across Australian correctional services regimes (Table 2).

Results

Public, unlimited accessibility of correctional policy documents varied widely across Australian jurisdictions, ranging from 85% of listed correctional policy documents in Western Australia (WA) being publicly accessible to no access to any correctional policy documents in South Australia (SA) or the Northern Territory (NT) (Table 3).² During the search period of this review, 74 carceral

Table 3. Total amount of & accessibility to Australian correctional policies, by jurisdiction.

Jurisdiction	Total policy documents ^a	Trans-relevant policies	Public access	Limited access ^b	No public access ^c	Under review
ACT	227	5	158 (69.6%)	0	69 (30.4%)	0
NSW	165	12	99 (60%)	18 (10.91%)	25 (15.15%)	23 (13.94%)
NT ^d	No public access	–	–	–	–	–
Qld	89	5	23 (25.84%)	47 (52.81%)	19 (21.35%)	0
SA	No public access	–	–	–	–	–
Tas	101	14	13 (12.87%)	9 (8.91%)	55 (54.46%)	24 (23.76%)
Vic	203	8	142 (69.95%)	1 (0.49%)	60 (29.56%)	0
WA	80	11	68 (85%)	0	12 (15%)	0

^aApproximate amount from public listings on government websites.

^bIncludes partially/majority redacted documents and assessed disclosure (Tas).

^cIncludes unlisted documents, fully redacted documents, excluded (ACT), in confidence (Qld), restricted access (Vic, WA), and confidential (Tas).

^dThe author again thanks the anonymous reviewer who forwarded through the relevant policies for the NT and SA, which were unavailable on their respective correctional websites.

policy documents associated with trans incarceration were located across the six Australian correctional service regimes that had publicly accessible documents, with 41 of these being accessible for review (Table 4). For the two regimes without public access to policy documents, copies of the relevant policies were supplied by a third party. As Lynch and Bartels (2017) identified during their review, difficulties with access to official policy documents meant that some reliance had to be placed on media sources; however, it must be noted that this is not endorsement of the sometimes-sensationalized tone of these articles, nor acceptance that some of them act to misgender the trans people featured.

None of the Australian jurisdictions in this review had extant correctional policies which met every outlined benchmark described in Table 2. Victoria met the most, having policies for five of the six areas under review, and meeting ten of the eighteen benchmarks in full and two partially. WA closely followed, with policies for four of the reviewed areas, and meeting ten of the benchmarks in full and two partially. Queensland met the least benchmarks, having policies for only two areas under review and meeting two benchmarks in full and one partially.

A detailed summary of correctional policies by area of focus is as follows.

Prison classification systems

Classification criteria for when a correctional system views someone as “being trans” in official documentation have implications for every aspect

of an incarcerated person’s life, ranging from whether the system will recognize their identity at all (especially regarding non-binary identities) to whether they will be allowed to access health-care, and even whether correctional staff will be held to a standard regarding the use of names and pronouns. The ways that Australian correctional policies classify a person as trans have some variation (Table 5), complicated further by the wide range of variation in requirements for trans people to change birth certificate sex or gender markers across Australian jurisdictions. Current international standards for best practice cite self-identification as being the predominant criteria that should be used to classify someone as trans (Knudson et al., 2018). All jurisdictions are in line with this standard, though Queensland’s policies state that self-identification is subject to assessment.

The ACT, NSW, Tasmania, WA, and Victoria reached all four applied benchmarks in their carceral policies for classification of people as trans; however, though it was not an established benchmark of this review, it must be noted that Victoria is the only Australian jurisdiction that applies an additional hurdle to incarcerated trans people changing their legal names or gender/sex markers on their birth certificates. In Victoria, it is an offense for an incarcerated person to apply to change their name or sex/gender marker without having obtained the permission of the Secretary of the Department of Justice and Community Safety. One of the refusal criteria of

Table 4. Summary of Australian correctional documents relevant to the management of incarcerated trans people.

Jurisdiction	Main trans management policy document	Most recent update	Related documents
ACT	Corrections Management (Management of Transgender Detainees and Detainees Born with Variations in Sex Characteristics) Policy 2018 (referred to as NI2018-689)	2018 (v. 1)	Corrections Management (Admissions) Procedure 2014 (No 1) ^a Corrections Management (Escort) Policy and Operating Procedure 2017 (No 2)* Corrections Management (Searching) Policy 2022 (referred to as NI2022-25) Corrections Management (Strip Search) Operating Procedure 2022 (referred to as NI2022-57)
NSW	COPP Section 3.8 Transgender and intersex inmates ^a ^b	2017 (v. 1)	COPP Section 1.1 Reception procedures ^{**} COPP Section 4.1 Property on reception* COPP Section 4.2 Receiving property after reception* COPP Section 6.8 Medications COPP Section 7.3 Searching female inmates* COPP Section 8.14 Inmate buy-ups COPP Section 17.1 Searching inmates COPP Section 18.1 Testing inmates for drug use COPP Section 19.1 General escort procedures* Justice Health and Forensic Mental Health Network policy 1.410 Management of transgender patients Classification and Placement of Transgender and Intersex Inmates Youth Justice NSW Working with LGBTQIA+ Young People Policy 2.4.10 Management of Transgender Prisoners* 2.2.8 Escorts* 9.8 Prisoner Searches* 2.4.6 Inmate Mothers and their Children, Reception Procedures* 9.2.3 Urinalysis Collection Procedures* 9.4.1 Escorts* 9.8 Prisoner Strip Searches in B Block*
NT	NTPS Management of Transgender, Gender Diverse and Intersex Offenders*	2021 (v. 2)	COPD Prisoner Search** COPD Admission & Assessments** COPD Admission & Induction** COPD Classification & Placement**
Qld	COPD Transgender Prisoners** (referred to as TP-COPD)	2023 (v. 06)	Policy 00 Employee Conduct* Policy 08 Humane Care Guideline* 05 Community Corrections Practice Manual* SOP 001 A Custodial – Admission, Case Management* SOP 001B Custodial-Assessment-Case Management* SOP 001 C Custodial-Planning-Case Management* SOP 005 Protective Custody* SOP 023 Searching of Prisoners and DCS Institutions* SOP 085 Prisoner Clothing* MoU between SA Prison Health and DCS*
SA	Policy 35 Transgender and Intersex Offenders and Prisoners*	2018 (v. 02)	DSO – 1.10 (Searching)** DSO – 1.20 (External Escorts)* DSO – 1.22 (Substance Testing)* DSO – 1.24 (Separate Confinement of Prisoners)* DSO – 1.38 (Medical Appointments and Hospital Admissions)* DSO – 2.01 (Suicide and Self-harm Prevention)* DSO – 2.02 (Induction and Case Management)* DSO – 2.04 (Classification and Placement) DSO – 2.05 (Accommodation Placement)* DSO – 2.18 (Hygiene and Grooming)* DSO – 2.20 (Preventing Bullying (Prisoners/Detainees))* DSO – 4.05 (Visits (Professional))* DSO – 4.08 (Health Services)*
Tas	DSO – 2.15 (Transgender, Transsexual and Intersex Prisoners)	2018 (v. 2.A)	Section 1.2.3 - Strip Searches in Prison Section 1.2.9 - Contraband and Controlled Items Section 2.1.1 - Prisoner Property Section 2.4.2 - Anti-Discrimination with Respect to Prisoners Section 4.3.1 - Prisoners' Name Changes Section 4.3.3 - Prisoners' Application to Alter their Record of Sex Health care for people who are trans, gender diverse or intersex*
Vic	Section 2.4.1 - Management of Prisoners who are Trans, Gender Diverse or Intersex	2021 (v. 9)	COPP 1.3 – Standing Orders COPP 2.1 – Reception COPP 2.2 – Orientation COPP 2.3 – Assessments and Sentence Management COPP 3.1 – Managing Prisoner Property COPP 4.9 – At-Risk Prisoners COPP 6.5 – Prisoner Hygiene and Laundry COPP 11.2 – Searching COPP 12.3 – Conducting Escorts COPP 12.4 – Prisoner Transfers
WA	COPP 4.6 – Trans, Gender Diverse and Intersex Prisoners	2022 (v. 4.0)	

^aAll documents without public access are marked by *.^bAll partially redacted documents marked by **.

Table 5. Jurisdictional correctional policies on classification systems.

Jurisdiction	Jurisdiction has policies on classification of an incarcerated person as trans	Benchmark #1: Classification is based on self-identification, not diagnosis/treatment	Benchmark #2: Specific gender information taken at reception	Benchmark #3: Policies specify that correct names and pronouns are to be used	Benchmark #4: Policies recognize diverse identities outside of binary male/female
ACT	✓ (NI2018-689)	✓ (NI2018-689 ss 4.1–4.3)	✓ (NI2018-689 ss 5.1–5.3)	✓ (NI2018-689 ss 5.4)	✓ (NI2018-689 s 3)
NSW	✓ (Section 3.8; Policy 1.410)	✓ (Section 3.8 ss 1.1; Policy 1.410 ss 3.2)	✓ (Section 3.8 ss 1.1-ss 1.4; Section 1.1 ss 4.13)	✓ (Section 3.8 ss 1.2; Policy 1.410 ss 2.1)	✓ (Section 3.8 ss 1.1; Policy 1.410 ss 2.1)
NT	✓ (NTCS Policy)	✓ (NTCS Policy s 2)	✓ (NTCS Policy ss 7.1)	Limited ^a (NTCS Policy ss 7.1)	✓ (NTCS Policy s 6)
Qld	✓ (TP-COPD)	Limited ^b (TP-COPD s6)	×	✓ (TP-COPD s6)	×
SA	✓ (Policy 35)	✓ (Policy 35 Strategies)	×	Limited ^c (Policy 35 Strategies)	✓ (Policy 35 Strategies)
Tas	✓ (DSO – 2.15)	✓ (DSO – 2.15 s 2; s 9)	✓ (DSO – 2.15 ss 7.1; s 9)	✓ (DSO – 2.15 ss 11.1.2)	✓ (DSO – 2.15 s 5)
Vic	✓ (Section 2.4.1)	✓ (Section 2.4.1 ss 5.1-5.5)	Discretionary ^d (Section 2.4.1 ss 6.2)	✓ (Section 2.4.1 ss 6.11)	✓ (Section 2.4.1 ss 5.1.1)
WA	✓ (COPP 4.6; COPP 2.1)	✓ (COPP 4.6 s 3)	✓ (COPP 2.1 s 3; COPP 2.1 s 4.7)	✓ (COPP 4.6 s 3.2)	✓ (COPP 4.6 s 2)

^a“Offenders must be referred to by their preferred name, pronoun, and gender identity (unless there is a lawful reason not to do so).”

^b“A prisoner who self identifies as transgender will be accepted as such [...] to the extent practicable.”

^c“Transgender and intersex offenders and prisoners must be identified by their preferred name [...] (unless there is a lawful reason not to do so).”

^d“In respecting the privacy of the individual, it is not necessary to identify all imprisoned people who are trans, gender diverse or intersex, particularly where such identification is unlikely to influence their custodial management and supervision.”

that application is if the Secretary believes the change would be “reasonably likely to be regarded as offensive by a victim of crime or an appreciable sector of the community” (Section 4.3.1, ss 5.1.1), phrasing which gives veto powers to the incarcerated person’s transition process based on moral judgements of “offensiveness.”

NSW’s Section 3.8 draws a distinction between a recognized trans person (someone having identification proof of their trans status (e.g. updated birth certificate) and a trans person being someone who self-identifies as such. This distinction between recognized and identified has implications for the management of trans people, especially as NSW is one of the few jurisdictions in Australia which still requires trans people to undergo a surgical procedure to amend their birth certificates. Section 3.8, like the ACT’s *NI2018-689*, recognizes that the gender a person may have identified as during prior periods of incarceration may not be the one that they present as during current reception processes.

A 2015 submission to the AHRC by the executive director of the Darwin Community Legal Service states that “current practice is to classify

transgender inmates according to sex at birth, rather than gender identity, unless medical evidence is provided indicating that this is not appropriate” (Perry, 2015, p. 3) However, the current Northern Territory Correctional Service (NTCS) policy, released in May 2021, now cites self-identification as being the criteria to be used by NTCS employees to classify an incarcerated person as trans, indicating that positive adjustments have been made in the NT’s approach to incarcerated trans populations since 2015.

While SA’s 2018 *Policy 35* cites self-identification in its (brief) policy statement, statements throughout the OmbudsmanSA’s (2018, p. 11) investigative decision on the carceral management of trans woman, Krista Richards, cited that her difficulties in obtaining a birth certificate identifying her as female were a substantive hurdle to her being acknowledged as such by South Australia’s Department of Corrective Services (DCS); self-identification and a history of medical care were enough to have her arrest and prison documentation identify her correctly. This delay in amending Richards’s records further complicated issues of the name she was referred to by staff

and cell nameplate, as well as decisions on placement and transfer during her sentence, leading to her complaints against DCS for discriminatory treatment. These complaints were upheld by the ruling, which stated that “the department acted in a way that was improperly discriminatory” and “in breach of its policy” (OmbudsmanSA, 2018, p. 21). The department’s failure to adhere to their own policy had severe repercussions for Richards’s treatment and wellbeing. In the 2018 ruling, OmbudsmanSA recommended that DCS amend *Policy 35* to more accurately reflect the needs of people under its remit. As *Policy 35* was released prior to the OmbudsmanSA ruling, it does not appear that this has yet occurred in the 5 years since 2018. Additionally, it serves as a reminder that policy often fails to inform practice.

All jurisdictions had specific policies citing that the correct names and pronouns of incarcerated trans people should be used, though both NT and SA stated that this directive can be ignored if there is a “lawful reason not to do so.” Additionally, the OmbudsmanSA (2018) decision cited sections of SA’s *Policy 35*, noting again that the ruling was based on DCS’s failure to adhere to that policy.

All jurisdictions’ policies, barring Queensland, acknowledged diverse identities such as those that do not fit into a binary identity of male or female. Of these, the ACT’S *NI2018-689* is notably explicit in recognizing that there are many ways to be trans and/or intersex, that these identities may be distinct or overlap (i.e. someone may be trans and intersex, or cis and intersex), and that medical interventions are not needed for identities to be recognized. Additionally, Victoria’s Section 2.4.1 makes provisions for a wide range of identities, including First Nations gender identities such as *Sistergirls* and *Brotherboys*. Additionally, the policy makes space for diversity within gender identities too, making sure to explicitly state that the needs of individual trans people cannot be assumed.

Finally, jurisdictions with policies that specifically direct staff to record gender identity at reception (where disclosed) include the ACT, NSW, Tasmania, WA, NT, and Victoria. Victoria, markedly, while directing staff to record gender identity at reception, also noted that it is not necessary to

identify all trans people entering custodial systems as trans, with a focus upon the safety of the trans person when disclosing their identity.

Placement decisions

Placement is an area of critical importance, with gender-incongruent housing decisions substantially increasing the risk of sexual assault, trauma, self-harm, and suicide (Brömdal, Clark, et al., 2019), and with the use of segregation as a first resort identified as a primary source of harm for incarcerated trans people (Arkles, 2009; Smith, 2012). Again, policies surrounding the housing of incarcerated trans people vary across Australian jurisdictions (Table 6). All jurisdictions function on case-by-case discretionary placement procedures, with trans people being processed through risk assessment processes to ascertain whether

Table 6. Jurisdictional correctional policies on placement decisions.

Jurisdiction	Jurisdiction has policies on placement of incarcerated trans people	Benchmark #1: Placement does not solely rely on sex at birth	Benchmark #2: That policies specify a timeframe for placement decisions to be made	Benchmark #3: Allowances are made for private shower and toilet facilities
ACT	✓ (NI2018-689)	✓ (NI2018-689 s 6)	×	×
NSW	✓ (Section 3.8; Policy 1.410)	✓ (Section 3.8 ss 1.5; Policy 1.410 ss 3.2)	×	×
NT	✓ (NTCS Policy)	✓ (NTCS Policy ss 7.1)	×	✓ (NTCS Policy ss 7.1)
Qld	✓ (TP-COPD)	✓ (TP-COPD s5)	×	×
SA	Limited (Policy 35)	? ^a	×	? ^b
Tas	✓ (DSO – 2.15)	✓ (DSO – 2.15 s 2; s 10)	×	✓ (DSO – 2.15 s 10)
Vic	✓ (Section 2.4.1)	✓ (Section 2.4.1 ss 6.1; ss 6.5)	✓ (Section 2.4.1 ss 6.6.3)	✓ (Section 2.4.1 ss 6.8)
WA	✓ (COPP 4.6)	✓ (COPP 4.6 ss 3.1; s 6)	✓ (COPP 4.6 ss 6.2.6)	✓ (COPP 4.6 s 6)

^aThe only statement Policy 35 makes on accommodation decisions is that they are made on a “case-by-case” basis and that consideration will be made as to placement in an “appropriate facility.”

^bAs in footnote 11, “an appropriate level of privacy” is the only mention made in regards to showers and toilet facilities.

placement in a facility of their identified gender presents a threat, most often, to the safety and security of the facility, barring SA's *Policy 35* which only states that consideration will be made regarding placement in an "appropriate facility" (p. 3, paragraph 3). Additionally, despite recommendations made that placement decisions be made on a clear and transparent timeline, only Victoria and WA clearly define the timelines that these decisions are to be made upon; additionally, Victoria and WA were the only jurisdictions to attain all three benchmarks for placement policies.

SA's *Policy 35* has only the following paragraph on placement:

Key factors to be assessed and reviewed on a case by case basis for transgender and intersex prisoners [...] Immediate and long term accommodation needs, giving consideration to placement in an appropriate facility. The privacy and safety of the individual is a key consideration, balanced with the safety of other prisoners, as well as the security and good order of the prison. (p. 3, paragraph 3)

While *Policy 35* is both brief and unabashedly discretionary, fragments of DCS's decision-making processes regarding placement can be found in external media, most notably the following statements:

It will be unlawful discrimination if a transgender prisoner is accommodated less favourably than non-transgender prisoners just because of the gender they identify [...] The ideal approach is to accommodate a transgender woman with women prisoners and a transgender man with male prisoners. (*Policy 35*, as cited by Garcia & Opie, 2022)³

Placement decisions are made after careful consideration of a range of factors that include, but are not limited to, a thorough assessment of the rehabilitative requirements of the prisoner, including health matters, a prisoner's security rating, safety, program participation, education or vocational needs, employment and prisoner's behaviour. Placement is continually monitored and reviewed in accordance with a prisoner's assessed needs and risks. (OmbudsmanSA, 2018, p. 5)

This case-by-case management system produces unequal outcomes. Krista Richards experienced periods in both men's and women's prisons, as well as an isolated protective unit (Hunt, 2011; OmbudsmanSA, 2018). The unnamed intersex woman behind the 2022 complaint against DCS and the Central Adelaide Local Health Network

was remanded in a men's prison in 2019 despite a magistrate noting that she should have been taken to a women's prison; she reported experiencing "ridicule and cruel and degrading treatment" (Garcia & Opie, 2022).

NSW's distinction between a recognized trans person and a trans person is apparent in *Section 3.8*. Recognized trans people "must" be managed according to the sex recorded upon their identification documents, while trans people without birth certificate amendments, though to be managed according to their identified gender, are subject to assessment before any placement decisions are made (pp. 5–6). Assessments are made based on the person's offending history, custodial behavior, and on "perceived risk(s) to the continuing safety of the transgender inmate and/or other inmates" (p. 6). This directive is repeated, in more detail, in the companion document 'Classification and Placement of Transgender and Intersex Inmates' (2021).

Queensland's *TP-COPD* gives no clear answer as to where trans people will be housed. Instead, it lists a series of considerations that will influence the case-by-case basis trans people entering custody are subject to including, but not limited to: risk to the trans person and other incarcerated people, risk to the safety and security of the placement facility, whether the trans person has lived prior as a "member of the acquired gender in the community," surgical status, staff concerns, and "any other factors considered relevant" (p. 4). The only clear determinant given is that if the trans person has had "reassignment surgery completed and noted in the Register of Births" then they are "excluded from this requirement," though the phrasing is unclear as to whether that means they would be excluded from the placement assessment or whether they are excluded from the requirement of the Deputy Commissioner to be advised of all placement management decisions surrounding trans people.

Finally, only four jurisdictions (Tasmania, WA, NT, and Victoria) make explicit provisions for access to private shower and toilet facilities, with Victoria notably citing that care must be taken to ensure the trans person is not endangered by perceptions of favoritism when given access to private spaces.

Solitary confinement/administrative segregation

Policies on the use of solitary confinement and/or administrative segregation represent both a considerable challenge to the wellbeing of incarcerated trans people and a notable area of improvement for Australian jurisdictions (Table 7). Only two jurisdictions (Victoria and Tasmania) have available correctional policies on the use of segregation as it relates to incarcerated trans people, with Victoria alone attaining one of the three benchmarks. However, while not in line with the recommendation that segregation be a last resort, NT's policy does have one line that states "wherever possible" incarcerated trans people should be separated from other incarcerated populations, though it also notes that trans people should have the opportunity to voice their preference as to whether they wish to have segregated, single, or shared accommodation (NTCS policy, ss 7.1).

While Tasmania's *DSO 2.15* notes that trans people are vulnerable in mainstream prison populations, it explicitly states that if "it is deemed the prisoner requires protection from the general prison population, they must be placed in administrative segregation until a decision is made regarding their ongoing placement" (pp. 5–6); the following line recognizes that trans people placed into administrative segregation are at a higher risk of self-harm when isolated. Conversely,

Victoria's Section 2.4.1 also notes the increased vulnerability of incarcerated trans people, but that "the containment of prisoners in closed environments" (p. 2) represents a challenge to their wellbeing. Victoria and NT both have policies allowing incarcerated trans people to state preferences regarding their isolation from mainstream prison populations, though Victoria's alone also notes that the trans person should be managed under the least restrictive conditions possible while managing their safety.

While not having a policy specific to the use of segregation on trans people, Queensland's *TP-COPD* does note that "Transgender prisoners should not be placed on a safety order, isolated or restricted from association with other prisoners, work or programs, unless this is reasonably necessary to mitigate risk" (p. 4). No other trans-specific correctional policies contained statements regarding the use of administrative segregation.

Healthcare

Denial of access to healthcare, both trans-specific and general, has been identified as a source of harm for incarcerated trans people, increasing the health burden upon them as well as their risk of self-harm and suicide (Sevelius & Jenness, 2017). Information on transition-related healthcare access policies for trans people in Australian prisons is limited, with what policies that could be found varying across jurisdictions (Table 8). No extant policies on healthcare access could be found for Victoria, WA, QLD, or the ACT. While Victoria's Section 2.4.1 has a statement about the diversity of gender-affirming treatments available, the specific policy outlining access to transition-related healthcare while incarcerated in Victoria is under review (p. 4). No Australian jurisdiction reached all three of the applied benchmarks, with only WA noting that healthcare for incarcerated trans people should be comparable to community healthcare; however, WA's *COPP 4.6* makes no further reference to access to trans-specific healthcare beyond a single paragraph that states "Trans, gender diverse or intersex shall be assessed and clinically managed in accordance with their clinical needs and in

Table 7. Jurisdictional correctional policies on solitary confinement.

Jurisdiction	Jurisdiction has policies on the use of solitary confinement	Benchmark #1: That policies recognize the need to ensure trans people's safety without using solitary	Benchmark #2: That solitary is stated as being a last resort	Benchmark #3: That the use of solitary is subject to independent review procedures
ACT	×	×	×	×
NSW	×	×	×	×
NT	Limited (NTCS Policy)	× ^a (NTCS Policy ss 7.1)	×	×
Qld	×	×	×	×
SA	×	×	×	×
Tas	✓ (DSO – 2.15)	×	×	×
Vic	✓ (Section 2.4.1)	✓ (Section 2.4.1 ss 6.3.7)	×	×
WA	×	×	×	×

^aTo manage risks associated with accommodation [...] considerations include, wherever possible, the separation of transgender, gender diverse and intersex offenders from other offenders."

Table 8. Jurisdictional correctional policies on healthcare access.

Jurisdiction	Jurisdiction has policies on access to transition-related healthcare	Benchmark #1: Policies state that carceral healthcare access is comparable to community healthcare access	Benchmark #2: Access to hormone treatments is based on need, not discretion	Benchmark #3: That gender-affirming surgical treatment is accessible where sought
ACT	×	?	?	?
NSW	✓ (Section 3.8; Policy 1.410)	×	✓ (Section 3.8 ss 1.8; Policy 1.410 ss 3.1.1–3.1.2)	Limited (Section 3.8 ss 1.8; Policy 1.410 ss 3.5)
NT	✓ (NTCS Policy)	×	×	Limited ^a (NTCS Policy ss 7.2)
Qld	×	×	×	×
SA	Limited (Policy 35)	×	×	Limited ^b (Policy 35, key factors)
Tas	✓ (DSO – 2.15)	×	Discretionary (DSO – 2.15 s 13)	Limited ^c (DSO – 2.15 ss13.3)
Vic	Under review	?	?	?
WA	Policy link broken	✓ (COPP 4.6 ss 4.1.4)	×	×

^aSubject to the “determination that the treatment is an essential medical need.”

^b“Given prison is not the ideal environment to embark on sexual transition [...] sexual reassignment will only be considered if it is deemed an essential medical necessity.”

^c“Since January 2010, some elective surgery procedures are no longer routinely performed in Tasmanian public hospitals. This includes gender reassignment surgery. Therefore, at the date of the release of this Standing Order, prisoners are not able to undergo gender reassignment surgery in Tasmania.”

accordance with Health Services (HS) policies” (p. 8). The link supplied to the Health Services policies does not work. However, the WA’s Department of Justice website states that “Under existing policy, people undergoing hormone replacement therapy prior to admission can continue the treatment while in prison” (2020); this was the only reference to transition-related healthcare in WA’s correctional facilities able to be located.

For the ACT, there are no provisions laid out in *NI2018-689* on transition related healthcare access; however, there is a brief reference to the notification of Justice Health upon identification of a trans person being taken into custody. In the ACT’s prior 2014 policy document, provisions were made for people who wished to continue or commence medical transition at the discretion of the General Manager, Custodial Operations, and a doctor. This provision was moderated by a statement that treatment could be ceased or refused if it was determined to be a risk to the “security and good management of the AMC” (p. 3), but no similar statement exists in the current policies.

SA’s *Policy 35* has two short notes on healthcare access for incarcerated trans people, stating that hormone access considerations are case-by-case and under the remit of the South Australia Prison Health Services, where trans people will be referred upon request. Regarding surgical access, *Policy 35* notes that “prison is not the

ideal environment to embark upon sexual transition” and warns that surgical access will only be considered upon the person seeking it proving “essential medical” need (*Policy 35*, p. 3, paragraph 6). This is similar to NT’s approach to surgical access, though the NT’s policy does allow that trans people may “request access [...] including but not limited to hormone therapy, mental health services and surgery” (NTCS policy, ss 7.2). Prior cases in SA involving trans woman Krista Richards (OmbudsmanSA, 2018) and an unnamed intersex woman (Garcia & Opie, 2022) allege that the women were denied access to the continuation of their hormone therapy regimes and, in the case of the unnamed intersex woman, her depression medication, showing another area where the broad discretionary powers granted by *Policy 35* create opportunities for further harm to the trans people incarcerated under their remit.

Queensland’s *TP-COPD* does not cover provisions for transition-related healthcare access. However, the AHRC report found that requests for hormone regime or gender-affirmation surgery access will be considered if treatment began prior to the carceral sentence, with discretion afforded to the Assistant Director-General and Senior Director to refuse these requests. The report also states that there is a “Blanket refusal of treatment for transgender people who have not commenced treatment prior to incarceration” (2015, p. 70). It must be noted that these findings were dated prior to the release of the current *TP-COPD*.

Under Tasmania's *DSO 2.15*, trans people who began hormonal therapy prior to incarceration may continue treatment, "at their own expense" (p. 8) if it is recommended by Correctional Primary Health Services (CPHS). For trans people who have not begun hormonal therapy prior to incarceration but wish to, there is provision for them to be referred for assessment to begin. Hormonal therapy may then be accessed if CPHS recommends it, again, at the person's expense. There is no codified reference to mental health or psychosocial support for trans people in *DSO 2.15*, only ongoing management and monitoring by CPHS; whether this includes the above supports is unstated. Finally, *DSO 2.15* makes limited provisions for trans people to request gender-affirmation surgery. Once access to gender-affirmation surgery has been requested, the trans person will be referred to CPHS. If CPHS recommends approval of their request, "any additional transport, escort and supervision costs may be charged to the prisoner at the discretion of the Director of Prisons" with "costs be covered prior to the commencement of the surgery" (p. 8). However, these provisions are cursory at best, as *DSO 2.15* goes on to state "some elective surgery procedures are no longer routinely performed in Tasmanian public hospitals. This includes gender reassignment surgery" meaning that at this point in time "prisoners are not able to undergo gender reassignment surgery in Tasmania" (p. 8).

NSW's Section 3.8 and *Policy 1.410* state that for recognized trans people who began hormonal therapy prior to incarceration, hormonal therapy must be continued under a treatment plan including ongoing risk assessments for the trans person and other people within the center. For trans people who have not begun hormonal therapy prior to incarceration, a treatment plan must be developed in collaboration with a psychologist, depending on length of sentence. *Policy 1.410* also makes reference to the potential for incoming trans people to have been undergoing self-administered hormonal treatments without prescription, colloquially known as DIY HRT, and the need for specific management in these cases; this is the only current Australian correctional policy that covers this topic. Both Section 3.8 and *Policy 1.410* make additional explicit

references to mental health and psychosocial support for trans people, codifying psychological care into the policy's management processes. At the time of Lynch and Bartels' review (2017), NSW was the only Australian jurisdiction to have policies explicitly stating that gender-affirmation surgery may be sought while in custody by adult trans people, "at their own expense" (p. 8); however, following the implementation of *DSO 2.15* by the Tasmania Prison Service in 2018 and the review of both NT and SA's policies (missing from Lynch and Bartels's review), this is no longer true. However, while Section 3.8 allows that applications for elective gender-affirmation surgery may be made, *Policy 1.410* clarifies that surgery will "not generally be arranged for transgender persons in custody" (p. 5).

Intimate searches

Intimate searches represent a challenge to incarcerated trans people, where they are vulnerable to abuse, humiliation, harm, and assault (Kirkup, 2009). Policies for search and drug-testing processes across Australian jurisdictions are generally in line with the recommendation that incarcerated trans people be able to choose the gender of the officer conducting intimate searches upon them, with several exceptions (Table 9). The ACT's *NI2018-689*, Tasmania's *DSO 2.15*, WA's *COPP 4.6*, Victoria's Section 2.4.1, and NSW's Section 3.8 all state that the trans person the search is being conducted on can state a preference for the staff member performing the search, with some emergency caveats (Tasmania, NSW, Victoria). WA's *COPP 4.6* and Tasmania's *DSO 2.15* both state that if the trans person has no preference, then an officer of the same identified gender is to conduct the search. Three jurisdictions (ACT, WA, Victoria) also make allowances for searches to be conducted by staff members of different genders, depending on which part of the body is being searched. Notably, Victoria's Section 2.4.1 is the only correctional policy from all Australian jurisdictions to make allowances for trans people who use prostheses during searches, stating that the trans person undergoing a search should not have their prosthesis removed (with a clause

Table 9. Jurisdictional correctional policies on intimate searches.

Jurisdiction	Jurisdiction has policies on intimate searches on incarcerated trans people	Benchmark #1: Trans people can state a preference as to the gender of the officer searching them	Benchmark #2: Intimate searches are used as a last resort	Benchmark #3: Appropriate alternatives to intimate searches are outlined
ACT	✓ (NI2018-689; NI2022-25; NI2022-57)	✓ (NI2018-689 ss 7.1–7.2; NI2022-25 ss 4.6; NI2022-57 ss 2.2)	×	×
NSW	✓ (Section 3.8; Section 1.1; Section 17.1)	Conditional on whether trans person has legal documentation of trans identity (e.g. birth certificate amendments)	×	×
NT	✓ (NTCS Policy)	×	×	×
Qld	× ^a	×	×	×
SA	Limited (Policy 35)	×	×	×
Tas	✓ (DSO – 2.15; DSO – 1.1)	✓ (DSO – 2.15 s 12; DSO – 1.1 ss 8.4)	✓ (DSO – 1.1 ss 6.5)	×
Vic	✓ (Section 2.4.1; Section 1.2.3)	✓ (Section 2.4.1 ss 5.1.21; Section 1.2.3 ss 6.13)	✓ (Section 1.2.3 ss 3.5–3.6)	✓ (Section 1.2.3 ss 3.6–3.9)
WA	✓ (COPP 4.6; COPP 11.2)	✓ (COPP 4.6 ss 3.3; COPP 11.2 ss 3.3)	✓ (COPP 11.2 s 2)	×

^aWhile TP-COPD does have a section titled “Search (Transgender Prisoner)” (p. 7), the only statement this section contains is as follows: “Staff should be aware, and be prepared for the fact, that a transgender prisoner may not have the genitalia of the gender with which the prisoner identifies.”

for safety/security) and that if it must be removed then the trans person should be the only one to handle it.

NSW’s Section 3.8 states that for recognized trans people, searches must be conducted by “an officer of the same sex as the recognised sex of the inmate” (p. 6), though the officer is able to refuse the task. Upon an officer refusing, another officer of the same gender is to be assigned. For trans people who have not amended their birth certificates, the policy outlines that they are to be able to state their preference. People without a binary gender identification may also state their preference under this directive. When a person with a binary (male/female) gender identification states no preference, an officer of that same gender should conduct the search; when a person without a binary gender identification states no preference, the officer instead should be

conducted according to the facility the person is housed in (i.e. a men’s prison would have a male officer conduct the search and vice versa).

There is only one available reference to provisions for strip searches in SA’s *Policy 35*: that “consideration is to be given to the issue of strip searching to [...] avoid undue humiliation when searched” (*Policy 35*, p. 3, paragraph 7). This is similar to NT’s approach, which further goes on to state that the “*Correctional Services Act* requires searches to be conducted by an officer of the same sex” (NTCS policy, ss 7.4). As trans people may have nonstandard genitals for either their birth sex, noted sex/gender upon birth certificate, or their identified gender, this statement is ambiguous as to how it would translate into practice. NT’s policy also specifies that urinalysis searches are to be conducted by an officer of the same gender identification as the trans person undergoing the testing, except in the case of non-binary persons who may request a “male or female officer.”

Three jurisdictions (Tasmania, Victoria, WA) noted that intimate searches should be used as a last resort (generally stating that the least invasive search technique possible should be used), with Victoria being the only jurisdiction to clearly outline potential alternatives to body searches, Victoria’s Section 2.4.1 also takes care to outline the specific vulnerabilities to intimate searches that trans people may have due to the demographic risk of being a victim of sexual assault (p. 11). Victoria is the only Australian jurisdiction to reach all three benchmarks outlined for intimate searches.

The only provisions for intimate searches of trans people in Queensland’s *TP-COPD* is the somewhat ominous statement that “Staff should be aware, and be prepared for the fact, that a transgender prisoner may not have the genitalia of the gender with which the prisoner identifies” (p. 7).

Gender-affirming belongings

Policies allowing for access to gender-affirming belongings, including appropriate clothing and underwear, vary across Australian jurisdictions (Table 10). Many of these provisions only allow

Table 10. Jurisdictional correctional policies on gender-affirming belongings.

Jurisdiction	Jurisdiction has policies on access to gender-affirming belongings	Benchmark #1: Access is given to gender-affirming clothing regardless of placement	Benchmark #2: Access is given to gender-affirming hygiene / grooming items regardless of placement
ACT	×	×	×
NSW	✓ (Section 3.8; Section 8.14)	✓ (Section 3.8 ss 1.7; Section 8.14 ss 1.4)	✓ (Section 3.8 ss 1.7; Section 8.14 ss 1.4)
NT	✓ (NTCS Policy)	×	Discretionary (NTCS Policy ss 7.5)
Qld	×	×	×
SA	✓ (Policy 35)	×	×
Tas	✓ (DSO – 2.15)	×	×
Vic	✓ (Section 2.4.1)	×	Discretionary ^a (Section 2.4.1 ss 6.9.4–5)
WA	✓ (COPP 4.6)	Inconsistent	Inconsistent

^a“Assessments will be made by the CMRC on a case by case basis as to the manner in which the cosmetics will be worn and when they will be worn [...] In the management of a prisoner’s safety, consideration must be given to the degree to which their presentation may increase the risk of them being harmed or abused.”

for gender-affirming clothing and personal care item access (excluding underwear) to people who are placed in facilities matching their gender identity. NSW’s Section 3.8 is the only carceral policy of this review to attain both benchmarks for gender-affirming belongings, allowing explicit access to clothing and personal care items appropriate to trans peoples’ self-identified genders regardless of housing placement. Section 3.8 also takes care to extend these allowances to people without a binary gender identification, allowing them to state a preference in clothing, cosmetics, and personal care items. While Victoria’s Section 2.4.1 is the only correctional policy from all Australian jurisdictions to recognize trans people who use prosthetics in its section on belongings, including wigs, its allowances for personal care products are discretionary based on risk to the trans person.

Victoria’s Section 2.4.1 states that convicted trans people “will be provided with standard, prison issue clothing according to the prison where they are placed” while people held without convictions “will ordinarily have the right to wear their own clothing, with the proviso that the General Manager retains the right to determine

what clothing is suitable within the prison” (p. 9). It additionally states that trans people will have access to underwear specific to their identified gender. Similarly, Tasmania’s *DSO 2.15* states that clothing allotments to trans people are determined according to the facility they are housed within. However, underwear allotments are determined according to gender identity. Furthermore, the policy states that trans people “have the right to wear their own suitable clothing when appearing in court” so long as they “exercise appropriate modesty and consideration for the sensitivities of other people and staff in their style of dress” (p. 7). *DSO 2.15* also outlines that personal care and cosmetic item access is, like clothing, determined according to the facility.

Queensland’s *TP-COPD* uses case conferences to decide upon the outcomes of clothing and personal item requests, with no further information available. WA’s *COPP 4.6* has three separate statements on clothing and belongings, with the opening policy statement citing that trans people will be provided with “gender specific clothing, personal hygiene and other items that enable them to maintain their self-identified gender” (p. 3). The section on the first night in custody states that trans people will be “provided with decent and appropriate clothing including underwear appropriate to the prisoner’s self-identified gender” (p. 6). A third statement, just below the prior one, notes that the “Superintendent shall consider providing the prisoner with clothing and personal effects (e.g. cosmetics) appropriate for their self-identified gender and individual requirements” (p. 6), moderating this ambivalent policy further by adding that considerations of risks and safety are paramount.

SA’s *Policy 35* determines clothing according to facility the trans person is housed in, though “appropriate underwear” is available “on request” and “to be worn with discretion” (*Policy 35*, p. 3, paragraph 8). It explicitly notes that “cosmetics will not be made available to prisoners in male prisons” (*Policy 35*, p. 3, paragraph 9). Finally, the policy notes that trans people’s decisions regarding their clothing while attending court “must be respected” (*Policy 35*, p. 3, paragraph 11). This policy is a continuation of seemingly irregular decision-making on the part of DCS with

regards to correctional clothing provisions for trans people. Krista Richards made complaints to the Commission for Equal Opportunity and the Ombudsmen in 2011, citing DCS's refusal to allow her to have access to make-up or wear women's clothing in prison or during court appearances despite her being allowed during a former period of incarceration from 1994 to 1998. Then-Chief Executive Officer of Correctional Services, Peter Severin, stated that Richards had "clearly not undergone full gender reassignment since his [sic] release from prison in 1998 to his [sic] readmission in 2010; that he [sic] was admitted to prison as a male and will be treated as a male prisoner" (Hunt, 2011); additionally, Severin stated that prior arrangements allowing Richards to have access to women's clothing were "entirely counterproductive to the good management of the prison."

The NT's policies are again in line SA's *Policy 35*, with clothing determined according to facility, court clothing to be at the trans person's preference, and underwear available if "worn with discretion" (NTCS policy, ss 7.5). However, NT's policy allows for make-up and wigs to be worn by request, under consideration by the General Manager.

Finally, there was no mention of gender-affirming belonging access in the ACT's policies. However, the ACT's *NI2018-689* does make general reference that all trans people held under their remit must be managed according to their identified gender including "maintenance of a detainee's gender or non-gender identity" (p. 5). Whether this extends to clothing is not clarified.

Discussion

Though there are no firm numbers on how many trans people are in Australian prisons, the existence of specific carceral policies devoted to their unique needs while in prison is testament to the disproportionate disadvantages and vulnerabilities they experience. Despite only six years passing between the time of writing this paper and Lynch and Bartels 2017 review (see also, Rodgers and colleagues' (2017) similar review), there have been changes in the policy landscape of Australian correctional services to

reflect evolving understandings of these needs. Jurisdictions which were unable to be captured in 2017 have since then made their policies public, enabling a more informed comparison of Australian correctional regimes. Several jurisdictions, notably Victoria and WA, reached many of the benchmarks set out in [Table 2](#) of this review. WA in particular was a jurisdiction that, in 2017, was described as having a limited policy that was under review. In the areas of classification and placement, more jurisdictions met the benchmarks than failed to. Additionally, NSW and Victoria have policy documents which appear to have had input by advisors knowledgeable about trans issues, showing a depth of understanding about issues such as prosthetics, black-market hormone use, and diverse identities which indicate a commitment to improvement.

Other areas remain in the same or worse state than in 2017. No further corrections legislation has introduced specific provisions related to the incarceration of trans people, as recommended by Lynch and Bartels, in order to reduce reliance on policies to regulate the care of this vulnerable population. Two jurisdictions—SA and the NT—still have not made their policies public, and therefore transparent, despite prominent cases of trans people in those jurisdictions experiencing disproportionate harm during their carceral sentences. Though Queensland's policies are now public, they are limited and highly discretionary; they are also the only Australian jurisdiction to contain a section in every policy document outlining the circumstances in which human rights can be limited. The ACT's policy documents have had provisions removed which arguably decrease the breadth of their coverage. While almost all jurisdictions had some recognition of the diversity of identities that are encapsulated under trans, including non-binary persons and First Nations identities, further sensitivity and inclusion in these areas is still needed. All Australian jurisdictions should work to bring their carceral policies in line with each other and under a consistent, national benchmark of standards to reduce disparity of outcomes; some jurisdictions have further to go than others.

While all the areas reviewed in this paper require further improvement in the way Australian

jurisdictions implement them into their carceral policies, the issue of administrative segregation stands out as the one in greatest need of reform. Only two jurisdictions had public policies specific to the use of administrative segregation on incarcerated trans people, despite it being a prominent source of carceral harm to trans people (Arkles, 2009; Smith, 2012). Of those two, only Victoria recognized this harm. The use of segregation and solitary confinement on trans people in Australian prisons is also a notable area in need of further research, with limited literature currently available.

While this review positions itself as reformist, it must be noted that there are other perspectives tackling, and challenging, the issue of trans incarceration. Some more radical alternatives to policy reform approaches include abolition and decarceration, with significant and important work being done in this area (Ball, 2021; Lambie, 2011; Walker et al., 2022). Policy reform has considerable limitations, and as some scholars have discussed, can even perpetuate harms (Jenness, 2021; Razack, 2015; Yona & Katri, 2019). However, this review's focus has been written with the desire to provide a broad analysis of the current Australian policy landscape in regards to trans incarceration, and with a focus upon specific areas for reform. Though policy reform is a more modest approach than alternatives, it presents possibilities for more immediate and achievable change over the medium-term.

However, there are limitations to how applicable this review is to the reality of being trans in Australian prisons. As this paper is a review of extant correctional policies relating to the care and management of, specifically, adult trans populations in Australian prisons, its scope does not cover the lived experience of trans people incarcerated under these policies' remit. While good work has been done in that area by other scholars (Brömdal, Clark, et al., 2019; Brömdal et al., 2023; Clark et al., 2023; du Plessis et al., 2023; Sanders et al., 2023), it is important to note again that policy does always not translate into practice, and that this review cannot speak to the experiences of incarcerated trans people and whether these policies altered the trajectory of their carceral sentences. While policies may state that trans people are to be respected in their

identities or that carceral practices that are associated with harm should only be implemented as a last resort, evidence suggests that these policies are not transferring into practice (Brömdal, Mullens, et al., 2019; Mitchell et al., 2022; Wilson et al., 2017). SA is a clear example of this in an Australian context, with the highly discretionary *Policy 35* failing to limit the harms underwent by the trans people incarcerated under its remit. Further research needs to focus on the implementation of these policies, not just their written intent; furthermore, that research should bring the voices of trans people experiencing incarceration to the forefront. Additionally, youth justice was an area outside of the scope of this paper, but young trans people are critically vulnerable when coming into contact with correctional systems and represent a key area in need of further research and reform (Watson et al., 2023). First Nations identities are also a key area of required focus in an Australian correctional context.

In all measures of daily living and wellbeing (housing, hygiene, identity, health), trans people conflict with carceral systems. Policies implemented without consideration of the unique needs of trans people, especially those housed in gender-incongruent prison facilities, increases trans people's vulnerability to sexual and physical assault. Where Australian correctional policy surrounding trans incarceration fails to translate into practice, severe harm occurs. While literature surrounding trans experiences in carceral systems is growing, more needs to be done in this area both in research and in policy implementation. Incarcerated trans people, who are both invisible in external datasets while often being highly visible, and therefore vulnerable, within prison environments, are a critical demographic for carceral reform.

Notes

1. The author recognizes that summarising all gender-diverse identities under the term trans—including Indigenous identities that are not fully synonymous with Westernized understandings of trans people—is far from ideal. In this paper, I “use the term trans to include a very broad and all-encompassing understanding of the diverse trans communities, i.e. communities of people with gender expressions and

gender identities that differ from the sex recorded at birth, including nonbinary people” (Bouman et al., 2017, p. 6).

2. The author extends his sincerest gratitude to the anonymous reviewer who supplied copies of the relevant correctional policy documents for South Australia and the Northern Territory, allowing their inclusion in this review.
3. It must be noted that while Garcia and Opie cite this as a direct quote, this phrase does not appear in the *Policy 35* document that this author has access to. As such, this statement should be regarded with scepticism.

Acknowledgements

The author would like to extend his sincerest thanks to the anonymous reviewers for their expert guidance and advice in the revision of this paper. Additionally, he would like to thank his supervisory team for their support and tutelage. Thank you to Dr. R.V. Gundur and Dr. Melissa vel de Palumbo for providing feedback on earlier versions of this paper and during revisions, and to Professor Damien Riggs for his advice and support during the submission period.

Disclosure statement

This research was supported by an Australian Government Research Training Program (RTP) Scholarship. No financial interest or benefit has arisen from the direct applications of this research. This research does not contain any datasets drawn from human or animal participants. No ethical approval was required for this research.

Funding

The author(s) reported there is no funding associated with the work featured in this article.

ORCID

Charlie Winter  <http://orcid.org/0000-0001-8992-4346>

References

- Amengual, T., Kunstman, K., Lloyd, R. B., Janssen, A., & Wescott, A. B. (2022). Readiness assessments for gender-affirming surgical treatments: A systematic scoping review of historical practices and changing ethical considerations. *Frontiers in Psychiatry, 13*, 1006024. <https://doi.org/10.3389/fpsy.2022.1006024>
- Arkles, G. (2009). Safety and solidarity across gender lines: Rethinking segregation of transgender people in detention. *Temple Political & Civil Rights Law Review, 18*(2), 515–560. <https://ssrn.com/abstract=2055807>
- Australian Human Rights Commission (AHRC). (2015). *Resilient individuals: Sexual orientation gender identity & intersex rights: National consultation report* (pp. 1–100). Australian Human Rights Commission. www.humanrights.gov.au/sogii
- Australian Human Rights Commission (AHRC). (2020). Implementing OPCAT in Australia (pp. 1–41). Australian Human Rights Commission. <https://humanrights.gov.au/our-work/rights-and-freedoms/publications/implementing-opcat-australia-2020>
- Bali, M. (2020, July 2). Why are transgender women jailed in men’s prisons around Australia? *ABC News*. <https://www.abc.net.au/news/2020-07-03/why-are-transgender-women-jailed-in-mens-prisons-in-australia/12416562>
- Ball, M. (2021). Queering penal abolition. In *The Routledge international handbook of penal abolition*. Routledge.
- Blight, J. (2000). Transgender inmates (*Summary 168; Trends & Issues in Crime & Criminal Justice*) (pp. 1–6). Australian Institute of Criminology. <https://www.aic.gov.au/publications/tandi/tandi168>
- Bouman, W. P., Schwend, A. S., Motmans, J., Smiley, A., Safer, J. D., Deutsch, M. B., Adams, N. J., & Winter, S. (2017). Language and trans health. *International Journal of Transgenderism, 18*(1), 1–6. <https://doi.org/10.1080/15532739.2016.1262127>
- Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology, 3*(2), 77–101. <https://doi.org/10.1191/1478088706qp063oa>
- Broadus, K. W. (2009). The criminal justice system and trans people. *Temple Political & Civil Rights Law Review, 18*(2), 561–572. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/tempcr18&div=23&id=&page=>
- Brömdal, A., Clark, K. A., Hughto, J. M. W., Debattista, J., Phillips, T. M., Mullens, A. B., Gow, J., & Daken, K. (2019). Whole-incarceration-setting approaches to supporting and upholding the rights and health of incarcerated transgender people. *The International Journal of Transgenderism, 20*(4), 341–350. <https://doi.org/10.1080/15532739.2019.1651684>
- Brömdal, A., Halliwell, S., Sanders, T., Clark, K. A., Gildersleeve, J., Mullens, A. B., Phillips, T. M., Debattista, J., Du Plessis, C., Daken, K., & Hughto, J. M. W. (2023). Navigating intimate trans citizenship while incarcerated in Australia and the United States. *Feminism & Psychology, 33*(1), 42–64. <https://doi.org/10.1177/09593535221102224>
- Brömdal, A., Mullens, A. B., Phillips, T. M., & Gow, J. (2019). Experiences of transgender prisoners and their knowledge, attitudes, and practices regarding sexual behaviors and HIV/STIs: A systematic review. *The International Journal of Transgenderism, 20*(1), 4–20. <https://doi.org/10.1080/15532739.2018.1538838>
- Brown, A. (2022, June 1). About 5% of young adults in the U.S. say their gender is different from their sex assigned at birth. *Pew Research Center*. <https://www.pewresearch.org/short-reads/2022/06/07/about-5-of-young-adults-in-the>

- u-s-say-their-gender-is-different-from-their-sex-assigned-at-birth/
- Carman, M., Farrugia, C., Bourne, A., Power, J., & Rosenberg, S. (2020). Research matters: How many people are LGBTIQ? (pp. 1–8). Rainbow Health Victoria. <https://rainbowhealthaustralia.org.au/media/pages/research-resources/research-matters-how-many-people-are-lgbtqi/4170611962-1655786476/researchmatters-numbers-lgbtqi.pdf>
- Cavanaugh, T., Hopwood, R., & Lambert, C. (2016). Informed consent in the medical care of transgender and gender-nonconforming patients. *AMA Journal of Ethics*, 18(11), 1147–1155. <https://doi.org/10.1001/journalofethics.2016.18.11.sect1-1611>
- Clark, K. A., Brömdal, A., Phillips, T., Sanders, T., Mullens, A. B., & Hughto, J. M. W. (2023). Developing the “oppression-to-incarceration cycle” of black american and first nations Australian trans women: Applying the intersectionality research for transgender health justice framework. *Journal of Correctional Health Care : The Official Journal of the National Commission on Correctional Health Care*, 29(1), 27–38. <https://doi.org/10.1089/jchc.21.09.0084>
- Coleman, E., Radix, A. E., Bouman, W. P., Brown, G. R., de Vries, A. L. C., Deutsch, M. B., Ettner, R., Fraser, L., Goodman, M., Green, J., Hancock, A. B., Johnson, T. W., Karasic, D. H., Knudson, G. A., Leibowitz, S. F., Meyer-Bahlburg, H. F. L., Monstrey, S. J., Motmans, J., Nahata, L., ... Arcelus, J. (2022). Standards of care for the health of transgender and gender diverse people, Version 8. *International Journal of Transgender Health*, 23(Suppl 1), S1–S259. <https://doi.org/10.1080/26895269.2022.2100644>
- Corrective Services Administrators’ Council (CSAC). (2012). Standard guidelines for corrections in Australia (pp. 1–36). Corrective Services Administrators’ Council. <https://www.ics.act.gov.au/research-portal/standards-for-adult-corrections>
- Corrective Services Administrators’ Council (CSAC). (2018). Guiding principles for corrections in Australia (pp. 1–36). Corrective Services Administrators’ Council. <https://www.ics.act.gov.au/research-portal/standards-for-adult-corrections>
- Department of Justice (DoJ). (2020). Dignity, respect at heart of trans prisoner reforms. <https://www.wa.gov.au/government/announcements/dignity-respect-heart-of-trans-prisoner-reforms>
- Du Plessis, C., Halliwell, S. D., Mullens, A. B., Sanders, T., Gildersleeve, J., Phillips, T., & Brömdal, A. (2023). A trans agent of social change in incarceration: A psychobiographical study of Natasha Keating. *Journal of Personality*, 91(1), 50–67. <https://doi.org/10.1111/jopy.12745>
- Garcia, S., & Opie, R. (2022, July 4). Intersex woman lodges complaint after being taken to Yatala Labour Prison for men. *ABC News*. <https://www.abc.net.au/news/2022-07-04/sa-intersex-woman-lodges-complaint-after-taken-male-prison/101206190>
- Gorden, C., Hughes, C., Roberts, D., Astbury-Ward, E., & Dubberley, S. (2017). A literature review of transgender people in prison: An ‘invisible’ population in England and Wales. *Prison Service Journal*, 233(0), 11–22. <https://www.crimeandjustice.org.uk/publications/psj/prison-service-journal-233>
- Grant, J. M., Mottet, L. A., Tanis, J., Harrison, J., Herman, J. L., & Keisling, M. (2011). Injustice at every turn: A report of the national transgender discrimination survey (pp. 1–220). The National Gay and Lesbian Task Force and the National Center for Transgender Equality. <https://www.thetaskforce.org/injustice-every-turn-report-national-transgender-discrimination-survey/>
- Halliwell, S. D., Du Plessis, C., Hickey, A., Gildersleeve, J., Mullens, A. B., Sanders, T., Clark, K. A., Hughto, J. M. W., Debattista, J., Phillips, T. M., Daken, K., & Brömdal, A. (2022). A critical discourse analysis of an Australian incarcerated trans woman’s letters of complaint and self-advocacy. *Ethos (Berkeley, Calif.)*, 50(2), 208–232. <https://doi.org/10.1111/etho.12343>
- Haritaworn, J., Kuntsman, A., & Posocco, S. (Eds.). (2014). *Queer necropolitics* (1st ed.). Routledge.
- Hébert, W., Burke, N. B., Santini, T., Suerich-Gulick, F., & Barile, D. (2022). A qualitative look at serious legal problems: Trans, two-spirit, and non-binary people in Canada (pp. 1–69). Department of Justice Canada. <https://www.justice.gc.ca/eng/rp-pr/jr/qlslptnpc-rqjgptbnc/index.html>
- Herman, J. L., Flores, A. R., & O’Neill, K. K. (2022). *How many adults and youth identify as transgender in the United States?* (pp. 1–25). The Williams Institute, UCLA School of Law. <https://escholarship.org/uc/item/4xs990ws>
- Hunt, N. (2011, October 15). Sex-change inmate in dress plea. *The Advertiser*. <https://www.adelaidenow.com.au/news/south-australia/sex-change-inmate-in-dress-plea/news-story/de962431421668b5160246762cd8681e>
- Jeness, V. (2021). The social ecology of sexual victimization against transgender women who are incarcerated: A call for (more) research on modalities of housing and prison violence. *Criminology & Public Policy*, 20(1), 3–18. <https://doi.org/10.1111/1745-9133.12540>
- Kane, J. (2014). Sistergirl inside: Doubly colonised, doubly trapped. *Griffith Journal of Law & Human Dignity*, 1(1), 1–20. <http://hdl.handle.net/10072/60057>
- Kirkup, K. (2009). Indocile bodies: Gender identity and strip searches in canadian criminal law. *Canadian Journal of Law and Society*, 24(1), 107–125. <https://doi.org/10.1017/S0829320100009790>
- Knudson, G., Green, J., Tangpricha, V., Ettner, R., Bouman, W. P., Adrian, T., Allen, L., De Cuypere, G., Fraser, L., Hansen, T. M., Karasic, D., Kreukels, B. P. C., Rachlin, K., Schechter, L., & Winter, S. (2018). Identity recognition statement of the world professional association for transgender health (WPATH). *International Journal of Transgenderism*, 19(3), 355–356. <https://doi.org/10.1080/15532739.2018.1470399>
- Lamble, S. (2011). Transforming carceral logistics: 10 reasons to dismantle the prison industrial complex using a queer/trans analysis. In E. A. Stanley & N. Smith (Eds.), *Captive genders: Trans embodiment and the prison industrial complex* (2nd ed., pp. 269–300). AK Press.

- Lynch, S., & Bartels, L. (2017). Transgender prisoners in Australia: An examination of the issues, law and policy. *Flinders Law Journal*, 19(2), 185–231. <https://doi.org/10.3316/informit.549069155072100>
- Mackay, A. (2021). Human rights guidance for Australian prisons: Complementing implementation of the OPCAT. *Alternative Law Journal*, 46(1), 20–26. <https://doi.org/10.1177/1037969X20962863>
- Mann, R. (2006). The treatment of transgender prisoners, not just an American problem: A comparative analysis of American, Australian, and Canadian prison policies concerning the treatment of transgender prisoners and a universal recommendation to improve treatment. *Law & Sexuality: A Review of Lesbian, Gay, Bisexual, and Transgender Legal Issues*, 15, 91–134. <https://heinonline.org/HOL/P?h=hein.journals/lsex15&i=97>
- Mitchell, M., McCrory, A., Skaburskis, I., & Appleton, B. (2022). Criminalising gender diversity: Trans and gender diverse people's experiences with the Victorian criminal legal system. *International Journal for Crime, Justice and Social Democracy*, 11(2), 12. <https://doi.org/10.5204/ijcjsd.2225>
- OmbudsmanSA. (2018). *2018 investigative decisions (South Australia; Investigative Decisions 2017/09006)*. <https://www.ombudsman.sa.gov.au/publications/investigation-reports/2018-investigation-decisions>
- Perry, C. (2015). Submission No 1 to Australian Human Rights Commission. <https://humanrights.gov.au/our-work/lgbti/projects/sogii-rights>
- Razack, S. (2015). *Dying from improvement: Inquests and inquiries into indigenous deaths in custody*. University of Toronto Press.
- Rodgers, J., Asquith, N. L., & Dwyer, A. (2017). Cisnormativity, criminalisation, vulnerability: Transgender people in prisons. *Tasmanian Institute of Law Enforcement Studies Briefing Paper*, 12, 1–13. <http://www.utas.edu.au/tiles/briefing-papers>
- Samiec, J. (2009). Transgender prisoners: A critical analysis of Queensland Corrective Services' new procedure. *Queensland Law Student Review*, 2, 33–44.
- Sanders, T., Gildersleeve, J., Halliwell, S., Du Plessis, C., Clark, K. A., Hughto, J. M., Mullens, A. B., Phillips, T. M., Daken, K., & Brömdal, A. (2023). Trans architecture and the prison as archive: "Don't be a queen and you won't be arrested." *Punishment & Society*, 25(3), 742–765. <https://doi.org/10.1177/14624745221087058>
- Sevelius, J., & Jenness, V. (2017). Challenges and opportunities for gender-affirming healthcare for transgender women in prison. *International Journal of Prisoner Health*, 13(1), 32–40. <https://doi.org/10.1108/IJPH-08-2016-0046>
- Sexton, L., Jenness, V., & Sumner, J. M. (2010). Where the margins meet: A demographic assessment of transgender inmates in men's prisons. *Justice Quarterly*, 27(6), 835–866. <https://doi.org/10.1080/07418820903419010>
- Smith, W. E. (2012). In the footsteps of Johnson v. California: Why classification and segregation of transgender inmates warrants heightened scrutiny. *The Journal of Gender, Race, and Justice*, 15(3), 689–727. <https://www.proquest.com/docview/1508764482/abstract/662DF2CDEFA14D48PQ/1>
- Stanley, E. A. (2021). *Atmospheres of violence: Structuring antagonism and the trans/queer ungovernable*. Duke University Press.
- Stanley, E. A., & Smith, N. (2015). *Captive genders: Trans embodiment and the prison industrial complex* (2nd ed.). AK Press.
- UN General Assembly (2016). *United Nations standard minimum rules for the treatment of prisoners (the Nelson Mandela Rules)* (A/RES/70/175). United Nations. <https://www.refworld.org/docid/5698a3a44.html>
- United Nations (UN) (1955). *United Nations standard minimum rules for the treatment of prisoners (A/RES/70/175)*. United Nations. <https://www.refworld.org/docid/5698a3a44.html>
- Walker, A., Petersen, A. M., Wodda, A., & Stephens, A. (2022). Why don't we center abolition in queer criminology? *Crime & Delinquency*, 0(0), 1–19. <https://doi.org/10.1177/00111287221134595>
- Watchirs, H., McKinnon, G., Costello, S., Thomson, J. (2014). *Human rights audit on the conditions of detention of women at the Alexander Maconochie Centre* (pp. 1–232). ACT Human Rights Commission. www.hrc.act.gov.au/humanrights
- Watson, J., Bryce, I., Phillips, T. M., Sanders, T., & Brömdal, A. (2023). Transgender Youth, challenges, responses, and the juvenile justice system: A systematic literature review of an emerging literature. *Youth Justice*, 14732254231167344, 1473225423116734. <https://doi.org/10.1177/14732254231167344>
- Wilson, M., Simpson, P. L., Butler, T. G., Richters, J., Yap, L., & Donovan, B. (2017). 'You're a woman, a convenience, a cat, a poof, a thing, an idiot': Transgender women negotiating sexual experiences in men's prisons in Australia. *Sexualities*, 20(3), 380–402. <https://doi.org/10.1177/1363460716652828>
- Yona, L., & Katri, I. (2019). The limits of transgender incarceration reform. *Yale Journal of Law and Feminism*, 31(2), 201–248.