



Fact Sheet  
August 31, 2023

SPECIAL REVIEW: THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION'S IMPLEMENTATION OF THE TRANSGENDER RESPECT, AGENCY, AND DIGNITY ACT (REPORT N<sup>o</sup> 22-01 SR, AUGUST 2023)

Introduction

The Transgender, Respect, Agency, and Dignity Act (the Act) was enacted to improve conditions for incarcerated people in California's prison system who do not identify as strictly male or female by, among other things, allowing individuals to transfer to prisons, consistent with their gender identity. In our special review, we assessed the California Department of Corrections and

Rehabilitation's policies, practices, and procedures in processing transfer and bed change requests under the Act. We also assessed the department's efforts to protect the incarcerated populations of its women's prisons and investigate allegations of sexual misconduct and assault involving transferees. This fact sheet presents highlights from our report published in August 2023.

Results

Chapter 1. Evaluating Requests to Transfer

The transfer process under the Act begins when incarcerated people complete a Gender Identity Questionnaire (GIQ) designating their gender identity and indicating whether they want to be housed at a different prison consistent with their gender identity. At hub institutions—prisons with resources for transgender, nonbinary, and intersex (TNI) incarcerated people—prospective transferees are enrolled in a mandatory *Right Person, Right Prison* (RPRP) course to inform them about the physical infrastructure, management, and cultural differences between men's and women's prisons.

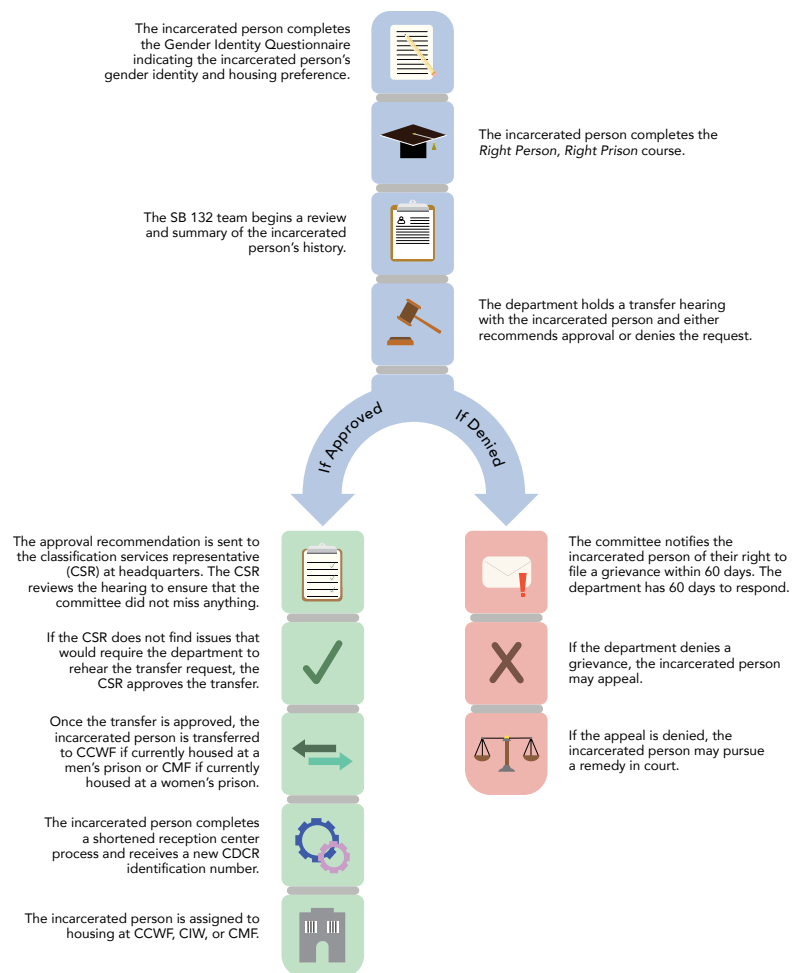
Incarcerated people who request a transfer under the Act are recommended for approval or denied for transfer at a hearing following an extensive review of their entire criminal and administrative disciplinary history. If the hearing committee denies the transfer, the incarcerated person may file a grievance with the department. If the committee recommends the transfer be approved, the decision is reviewed by staff at the department's headquarters and, if confirmed, the transfer order is forwarded to the sending and receiving prisons (see figure, right).

While the Department Has Been Developing Its Process for Evaluating Requests to Transfer Under the Act, Decisions on Transfer Requests Have Been Significantly Delayed

The department requires four counselors at its SB 132 unit to review, summarize, and analyze all transfer requests statewide. This review process has resulted in significant delays for the nearly 400 incarcerated people through 2022 seeking transfers under the Act.

Through 2022, the department has conducted only 55 gender-based transfer hearings, and almost half were held in the first five months after implementation. On average, incarcerated people wait 208 days from the day they complete the GIQ to the day they participate in a transfer hearing. While it is important to thoroughly review an incarcerated person's history, the department's process has resulted in significant delays in scheduling transfer hearings. During these long delays, the department should provide more information about the transfer process to TNI people who are waiting to transfer.

The Department's Process of Implementing the Transgender Respect, Agency, and Dignity Act



Note: CCWF stands for Central California Women's Facility, CIW stands for California Institution for Women, and CMF stands for California Medical Facility.  
Source: California Department of Corrections and Rehabilitation's records.



## Chapter 2. Addressing Safety and Privacy Concerns

### *Many Incarcerated People at Women's Prisons Still Fear for Their Safety and Privacy When Living With Transferees*

Many incarcerated people at CCWF and CIW have expressed safety and privacy concerns living with transferees. Especially concerning was showering around transferees, particularly those who have not had gender-affirming surgery. However, the department has multiple policies and procedures in place for the safety and security of its incarcerated population. For example, incarcerated people can report safety or security concerns to departmental staff, can request a bed change or be placed in temporary restrictive housing, and may file a grievance if their concerns are not resolved.

## Chapter 3. Processing Bed Change Requests

### *Requirements Imposed by the Act Create Inconsistent and Inequitable Processing of Bed Change Requests, and CCWF's Policies and Procedures for Processing Bed Change Requests Do Not Fully Comply With the Act*

The Act creates inequity and tension between TNI people, whose perception of health and safety must be given serious consideration, and the rest of the incarcerated population, who must either accept housing assignments or be subject to disciplinary action. This disparity contributes to a feeling of resentment toward the transferees and the perception that transferees are treated differently.

The Act requires that the department document the reason a TNI person is denied an alternative bed assignment based on their perception of health and safety and share it with the TNI person.

However, housing officers at CCWF inconsistently documented, and in some cases failed to document, bed change requests. Housing officers at CIW more consistently documented bed change requests on a specific form.

Although the Act does not specifically require the department to share its reason for the denials in writing, without written documentation, neither the department nor other interested parties can reasonably assess whether a TNI incarcerated person's perception of health and safety was considered.

## Chapter 4. Responding to Claims of Sexual and Physical Misconduct

### *The Department Properly Responded to Consensual Sexual Misconduct Allegations We Reviewed Involving Transferees and Investigated All Claims of Sexual and Physical Violence Filed by or Against Transferees*

The department properly investigated or responded to all allegations of consensual sexual misconduct and sexual assaults we reviewed. None of the incidents of sexual assault alleged rape or attempted rape, and most alleged that a transferee either touched another incarcerated person in an unwanted sexual manner or forced someone to touch them in an unwanted manner. The department did not substantiate any allegations of sexual assault. In contrast, the department sustained numerous allegations of consensual sexual misconduct between transferees and other incarcerated people at CCWF and CIW. In addition, many incarcerated people reported witnessing transferees abusing their romantic partners. Forms of abuse reportedly included both physical violence and demeaning behavior.

## Recommendations

### *The Transfer Process*

- The department should develop specific criteria for counselors to evaluate gender-based transfer requests
- Once specific criteria are established, the department should evaluate how long a review should take when applying the new criteria, develop a time line for completing the review process, and communicate those expectations to counselors
- The department should provide training to counselors on how to complete the transfer request reviews once specific criteria are established

- The department should develop a plan to reduce the number of prospective transferees waiting for transfer request reviews and a time line for implementing the plan
- Because the RPRP course is a prerequisite to eligibility for transfer, the department should establish procedures to ensure prospective transferees are not delayed from taking or completing the class because of transfers between hub prisons
- If specifically asked, the department should share information with prospective transferees about the transfer process and estimate when the prospective transferee may expect to be scheduled for a transfer hearing

- The department should evaluate and determine whether designating only one men's prison to receive transferees under the Act is sufficient to meet its operational needs

### *Bed Change Requests*

- All prisons housing TNI people should document in writing the specific reason a TNI person's bed change request was denied to ensure compliance with the Act
- All prisons housing TNI people should give them a copy of the written reason their bed change request was denied to ensure compliance with the Act