

Behind bars

Once behind bars, the prison system forces trans people to face a range of troubling issues. These include:

- lack of respect for expressed gender,
- placement in a male or female prison based solely on external genitalia,
- inconsistent and often negligent dealings with health-care needs, and
- harassment and abuse—mental, physical and sexual.

History

CSC's history toward trans people in prison has been one of neglect, disrespect and arbitrariness.

One trans woman, Kathy Johnson (see resources: *Prisoner of Gender*), spent over 30 years in the prison system. She spent most of that time struggling to get health services and access to appropriate medical specialists. Even when she did and they “confirmed” that she indeed was a transsexual, CSC continued to deny her access to services. Kathy faced harassment and abuse from both guards and other prisoners. She spent years in segregation, much of it motivated by her need to protect herself.

The previous CSC policy was to “freeze” people at the stage they were at when they came into prison. For example, a transsexual prisoner who was taking hormones before s/he was admitted to jail was able to continue on the hormones. However, a person who was transitioning before incarceration but without the supervision of a certified gender specialist, or a prisoner who wanted to begin transition while inside, did not have access to any treatment—gender counseling, hormones, primary or secondary sex reassignment surgery or cosmetic surgery—for her medical condition.

Health care

Trans people have complex medical, legal and psychosocial health needs that often continue to be blatantly disregarded while incarcerated. This is partly due to the prison system's denial of transgender prisoners and their health concerns, and partly due to prison staff who similarly reject the validity of trans-specific needs. As such, despite policy, the treatment of trans prisoners becomes arbitrary, depending on the prison personnel.

Segregation: A punishing solution

Due to concerns about keeping trans people in the general prison population, some prisons place them into either segregation or Protective Custody (PC) units. Placing trans people in segregation further punishes them as it creates a prison within a prison. Furthermore, it is not a long-term solution as isolation can cause extreme mental and physical damage. PC units are equally problematic as they house prisoners that are often harassed by the general population, such as known sexual offenders. As such, PC units are clearly not suitable for people particularly vulnerable to sexual violence and exploitation.

Resources

Johnson, Katherine & Stephanie Castle. 1997. *Prisoner of Gender*. Vancouver: Perceptions Press (available at VPL)

Correctional Service of Canada policy on trans issues. (See section on Gender Identity Disorder)
www.csc-scc.gc.ca/text/plcy/cdshtm/800-cde_e.shtml

For a full list of resources used in this leaflet go to:
www.prisonjustice.ca



TRANSGENDER PRISONERS IN CANADA

“**Transgender**” is an umbrella term used to describe those who live outside of normative gender/sex relations. This includes transsexuals, cross dressers, intersex people and others who challenge the gender binary.

This leaflet focuses primarily on the experiences of transsexual women (Male to Female—MTF) in the Canadian prison system.

Criminalization of trans people

While some trans people are well-supported and face minor discrimination, there are disproportionately high rates of depression, street involvement, HIV infection, poverty, alcohol and drug use, suicide and incarceration within trans communities.

Trans people are often misunderstood by society and can be rejected by family, friends, communities, employers and social services. This means that trans people are often put in vulnerable situations and are at greater risk of coming into contact with the criminal justice system.

For trans people who transition to their desired gender—with hormones or sex-reassignment-surgery (SRS)—the process can be dangerous and costly. This in turn puts them at higher risk for self-defense related or poverty-related crimes.

How many trans prisoners are there in Canada? Statistics on trans prisoners

It is difficult to know how many trans people are inside prisons since the Correctional Service of Canada (CSC) does not keep statistics which they can retrieve.

However, in one study done by the Prisoners HIV/AIDS Support Action Network (PASAN) from 1993-1999, the network worked with over 200 HIV positive prisoners from across Canada. Approximately 10% of PASAN’s HIV positive clients identified as transsexual or transgender.

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The Synthia Kavanagh Human Rights Case

In 1993, Synthia Kavanagh filed three complaints with the Canadian Human Rights Commission. Kavanagh was born male but had dressed and lived as a woman since age 13, with a legal name change at age 19. At the time of her sentencing to a life term, she had already started hormone therapy. However, once in prison, her hormone dosage was restricted to a level that reversed the physical changes she had undergone, and she was refused her repeated requests for sex reassignment surgery.

In desperation, Kavanagh attempted to slice off her penis. Kavanagh characterized showering with the male prisoners and strip searches by male guards as “humiliating”. She served several years in segregation after being taunted, harassed, and sexually assaulted while in the general population. Even though the judge in her case recommended that she serve her term in a prison for women, her request to be transferred to Kingston’s Prison For Women was denied by CSC.

In the 2001 ruling in Synthia’s case, the Canadian Human Rights Tribunal found that:

- Not placing pre-operative transgendered people in prisons for their targeted sex was reasonable given the circumstances of prison life. However, the tribunal also observed that this did not in any way diminish the need to do everything possible to accommodate transgendered people in prison, such as protecting them from sexual attacks and harassment.

- Transsexuals and their housing needs should be assessed individually in consultation with a physician expert in the treatment of gender dysphoria.
- Policy should permit incarcerated individuals who had completed the qualifying period for sex reassignment surgery before going to jail to have the necessary surgery while in prison, if surgery was recommended by their physicians.
- CSC is expected to cover the costs of surgery for transsexual prisoners who meet the above criteria.

CSC appealed the human rights case but lost the appeal in 2003. Synthia received SRS and is now serving her time in a woman’s prison.

CSC’s Current Policy

In response to this ruling, the CSC created an official policy on the transitioning of prisoners (see resources). A vital section of this policy required that trans prisoners complete the ‘real life test’ where they live as their desired gender for 1 to 2 years before any treatment such as hormones or SRS can be available. The CSC claims that the artificial environment of a prison cannot serve as a real life test. Therefore, unless a prisoner has already completed the real life test under the supervision of a certified gender specialist prior to incarceration, they will never be allowed to transition. Ultimately, the effect of the CSC’s official policy was to make transitioning essentially inaccessible prisoners.