

The Transgender Community is Suffering Behind Bars and Many in the U.S. Have No Idea

By: Erin Derick

The transgender community is suffering from a denial of basic human rights while incarcerated in United States prisons. Prison life is far from glamorous and trends towards the dangerous for even the most average person incarcerated. The danger is exponentially greater towards residents who identify as transgender. While denied true freedom due to crimes they've been convicted of, people in prisons still have rights such as the ability to receive medical attention and medications when needed, and officials and officers have a legal obligation to reduce a person's risk of assault or discrimination behind bars. Transgender individuals are not receiving their rights in prison and jails by being denied hormonal therapy and not being housed in facilities based on the gender they identify or where they prefer to reside.

The research available on the transgender community in prison is not nearly expansive enough to show the true scale of the discrimination and degradation they face. But several news articles and current and former transgender residents have come forward with stories of the oppression that prisons heap upon transgender prisoners: being denied expression of their gender, invasive strip searches, and being held in solitary confinement (ostensibly for their "protection" but feeling like a punishment). Some of these individuals are suing the prisons for denying them hormonal therapy and restricting their choice of where they are housed. (Sosin, 2020). States like California have been innovative in recent years with issues presented in their courtrooms by siding and ruling with these incarcerated transgender individuals, but the United States' prison system as a whole has a long way to go before progress can be made.

Only a small percentage of the United States' transgender community are in or have been in prisons, but that does not diminish the discrimination they experience within correctional

facilities. In the report of the 2015 U.S. transgender survey conducted by the National Center of Transgender Equality (NCTE), the survey found that only 2% of the respondents had been incarcerated in the last year. February of 2020 brought forth an NBC article on the known transgender individuals incarcerated in the United States, finding that only 15 of the nearly 5,000 transgender inmates were being housed according to their lived gender (James, et al, 2016). That equates to only 0.3% of transgender individuals across the entire United States. This disparity is proof of the amount of discretion given to the criminal justice and prison systems, and the studies illustrate carceral systems' inability to keep the large majority of the transgender community safe.

California's recent legislation from early 2021 has been the most ground-breaking for the transgender, cisgender, and intersex community regarding housing assignment and transfers for the transgender community. Kelly Blackwell's story and the many others in the *Los Angeles Times* article from April 2021 painted the picture of the newest freedom to request and possibly be given a transfer, but they have also described the discrimination and problems that have arisen from the new law. The new law has put into practice a new method of entering the prison system; incarcerated individuals will now "be asked upon admission about their gender identity, their pronouns, whether they prefer the female or male search policy, and if they want to be housed in an institution that aligns with their gender identity, according to the corrections department" (Miller, 2021). The discrimination arising from this policy has come from inside the prisons. Females incarcerated in female prisons are worried about their safety, staff of prisons cause panic in these females by referencing the transgender transfers as "men," and some residents are applying for transfers claiming to be nonbinary or transgender when they are not a part of the transgender community.

Though there are still flaws within recent legislation, there have been small improvements made for the transgender community that cannot be denied. like medical treatment. John Leland's article in the *New York Times* highlighted Jessica Sunderland, a transgender woman, who was both housed with men and denied her hormonal therapy during her time in jail. Sunderland spoke about the mistreatment directed to herself and other transgender women in prison, "Transgender women are routinely held in male facilities, subjected to strip searches or pat-downs by male guards, and are often held in near solitary confinement, ostensibly for their protection, but it can feel like punishment" (Leland, 2019). Sunderland, as of February 2019, had won her lawsuit against the doctors of the facility for denying her 14th Amendment right to equal protection of the law for denying her care and hormonal therapy because she identified as transgender. This winning case could be a possible landmark verdict calling to attention the incarceration and mistreatment of transgender individuals in prison. In addition to the denial of hormonal treatment, transgender individuals in prison are being subjected to high levels of discrimination.

Staff and legislators have argued that individuals should be housed by biological sex. Society has been biased against the prison community in general through stereotypes that have been passed down and incarcerated cisgender individuals are being misinformed about the transgender individuals requesting and being granted transfers. The lack of knowledge among all groups and incompetency of the training given to the staff of prisons can be seen through the continuing discrimination and lack of attention brought to the public and policymakers that can bring the changes needed.

There are a variety of changes that could be brought about, some states putting forth legislation to kickstart these changes. Minor changes – like legislation being passed and transfers

being made for the transgender individuals in prison – could be fixed with one major action: communication. Communication between every group in the prison system and out in society would be the start of many other changes that could improve the lives of the transgender community both inside prisons and outside of them. The stem of this entire issue – stereotypes against the prison community and discrimination against transgenders and LGBTQ+ community as a whole – being fixed throughout society could be the result of the minor changes that communication and education could bring. There are a multitude of articles available across the Internet that every person reading this should look into, one website being the National Center for Transgender Equality. Educating oneself and asking questions are the first steps to understanding what is happening to the transgender community when they are incarcerated. Marches and protests are also located in nearly every major city – Philadelphia, Washington D.C., Baltimore and New York City to name a few – to aid and bring awareness to how the transgender community is being discriminated against. Read, march, and talk to others to increase the conversation on transgender discrimination so that it can be eliminated for good.

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