

(C)locked Up: Transgender Women in the American Prison System

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ABSTRACT. The most recent statistics indicate there are an estimated 3,200 transgender inmates in the United States correctional system. The majority of trans inmates in prison are trans women. Regardless of criminal status, transgender individuals face social isolation, violence, and both explicit and implicit discrimination. These hardships are often magnified inside the walls of a correctional facility. In addition to facing institutional challenges, transgender women must navigate the culture of prison as someone who falls outside of normative conceptions of gender in a sex-segregated environment, often characterized by androcentrism, hypermasculinity and violence. This article aims to review the literature on the experiences of transgender women using theoretical conceptions of gender and gender performance, as well as highlight some of the unique challenges faced by trans women behind bars. Specific problems faced by trans women include violence and sexual abuse, lack of adequate healthcare, and being denied gender affirming accommodations. Research grounded in feminist standpoint theory is needed in order to prioritize the voices of trans women in prison, increase awareness of the hardships faced by trans women, inform activism efforts, and achieve institutional change.

The most recent statistics indicate there are an estimated 3,200 transgender inmates in the United States correctional system (Beck, 2014), the majority of them being trans women. Institutional discrimination, such as lack of trans-specific healthcare, failing to provide protection from violence and sexual assault, and placing inmates in prisons according to sex assigned at birth, creates mental and physical danger for trans women behind bars. In addition to facing institutional challenges, trans women must navigate

the culture of prison as someone who falls outside of normative conceptions of gender in a sex-segregated environment, often characterized by androcentrism, hypermasculinity and violence.

Regardless of criminal status, transgender individuals face social isolation, violence, and both explicit and implicit discrimination. These hardships are often magnified inside the walls of a correctional facility. This article aims to review the literature on the experiences of transgender women using theoretical conceptions of gender and gender performance, as well as identify some of the unique challenges faced by trans individuals behind bars. Inmate-centered research, and research on trans inmates in general, has only minimally informed policy. This is likely due to the trans population being small, trans issues not being prioritized by policy makers, lack of visibility and awareness of the trans population, and the prevalence of institutional problems, such as inmate mistreatment, inadequate resources, and high rates of recidivism. By employing feminist standpoint theory and grounding advocacy work in the lived experiences of incarcerated trans women, activism efforts can focus on specific issues and institutional changes as identified by the inmates themselves.

The Standpoint of Trans Women

Research on the incarcerated trans population should not be an end itself, but a means to achieve social justice and social change. Given the marginalized nature of the trans population, research efforts must be conducted that prioritize the well-being and protection of trans women, and with the ultimate goal of improving conditions for the incarcerated trans population. Feminist standpoint theory refers to “a method of inquiry that works from the actualities of people’s everyday lives and experience to discover the social as it extends beyond experience” (Smith, 2005, p. 10). Oppressed groups experience reality differently than

dominant groups, and their standpoints reveal aspects of society invisible to those in power (Collins, 1989; Smith, 1992). Knowledge and claims of reality are determined by experts who represent the epistemic standpoint of their own social position. When dominant groups, such as cisgender individuals, are the experts who validate new claims and knowledge, the experiences, thoughts, and realities of marginalized populations are discredited (Collins, 1989). By implementing research methodology that is grounded in the experiences and realities of incarcerated trans women, policy and change that accurately addresses the experiences, needs, and safety of trans women can be put into place.

Despite the limited amount of empirical research on the experiences of and unique problems faced by incarcerated trans women, there is an overall consensus in the literature that suggests trans women are a vulnerable population that faces harms related to violence, healthcare, lack of gender affirmation, and sexual abuse (Bassichis, 2007; Clark, White Hughto, & Pachankis, 2017; Dorsey, 2015; Jenness, Maxson, Matsuda, & Sumner, 2007; National Center for Transgender Equality, 2012; Sexton, Jenness, Sumner, & Macy, 2010). Nearly all research that has been conducted on the experiences of trans individuals in prison is qualitative given the relatively small population of trans inmates (Beck, 2014), and the difficulty of conducting research on small populations in prison (Jenness & Fenstermaker, 2014; Sumner & Sexton 2016). Due to the qualitative methodologies used in most of the studies reviewed, researchers have been able to convey in great detail the highly personal experiences of trans individuals navigating the prison system. The lived experiences of trans inmates should provide starting points for future research and efforts to promote institutional change to improve the lives of individuals from across the gender spectrum in prison.

Prison as a Gendered Institution

As demonstrated by the fact that most correctional facilities are sex-segregated, prison as a social institution assumes cisnormativity, or the ideology that everyone is cisgender. Sumner and Sexton (2016) compared how trans inmates interact with the larger institution of the sex-segregated correctional system to Minow's (1990 as cited in Sumner & Sexton, 2016) idea of the dilemma of difference. According to Minow, focusing on difference is likely to introduce objections from the majority, and promote harmful ideologies and stigma. On the other hand, ignoring difference can silence harmful ideologies and stigma, but often fails to meet the needs of marginalized groups. When applied to the case of trans inmates, the dilemma of correctional institutions is either to acknowledge the sex-segregated correctional system that has historically been uncontested, failed a marginalized population, and begun to provide more inclusive accommodations for trans inmates, or to deny that the system is inherently flawed and refuse to change the institution to fit the needs of others apart from the sex-segregated cisgender inmates for whom it was designed (Sumner & Sexton, 2016). Ignoring differences between trans and cisgender inmates is unjust because it fails to protect trans inmates from harm, as well as neglects their unique physical and mental health needs.

The primarily sex-segregated United States correctional system is a social institution in which gender is highly salient. The reality of life as a trans woman in an all-male prison is characterized by the inability to pass as a cisgender female and woman. The fact that a prison is all-male immediately reveals the sex assigned at birth of each inmate, regardless of an inmate's gender performance. Instead of aiming to pass, many trans women aim to conform to a set of traditionally upheld gender norms in order to be affirmed as women (Jenness & Fenstermaker, 2014).

An overarching theme among trans women was the pursuit of being "the real deal," defined by Jenness and

Fenstermaker (2014) as “the complicated dynamic whereby transgender prisoners claim and assert their femininity in prison—a hegemonically defined hypermasculine and heteronormative environment with an abundance of alpha males, sexism, and violence” (p.13). Trans women consistently vocalized their acknowledgement of themselves as male, and being recognized by others as male. However, if a trans woman was able to perform gender in a way that is traditionally prescribed to women, they were able to achieve a status of being seen as a “real woman” by the “real men” that lived among them. Being seen as a cisgender woman was unable to be achieved, so a different standard of being seen as a “real woman” was to be constantly pursued by trans women (Jenness & Fenstermaker, 2014; Sumner & Sexton, 2016). This new standard is for trans women to continuously pursue a context-oriented feminine gender performance and live according to normative standards for femininity set by the prison culture, such as earning the affection of men and pursuing an increasingly feminine appearance.

Often used by the trans community, “clocked” is a slang term for one’s status as trans being revealed. Because of their inability to pass, many trans women reported feeling less pressure to hide aspects of their bodies or deny their anatomical differences from cisgender women. One woman reported her fears of wearing shorts due to perceiving her legs as manly, but her fear of being clocked, or “outed,” was not applicable in the prison environment. She stated, “Now I’ll wear shorts, too, even though I have manly legs” (Jenness & Fenstermaker, 2014, p.15). On the other hand, there are serious risks to being known as trans in an all-male prison. Some trans women reported never having the issue or fear of being clocked outside of prison (Jenness & Fenstermaker, 2014). Being known as trans increases one’s chances of being the victim of sexual or physical assault (Jenness et. al., 2007)—a risk that may have not existed in such capacity prior to being incarcerated.

Trans women reported utilizing their unique position in the social hierarchy of an all-male prison environment to receive protection from victimization due to one's trans identity. Trans women reported trying to earn the respect of other inmates—specifically cisgender inmates they considered “real men”—by behaving in a way one described as “staying in the woman’s spot” (Jenness & Fenstermaker, 2014, p.18). Trans women shunned promiscuity and excessive aggression, and praised passivity and being “lady-like” (Jenness & Fenstermaker, 2014, p.7; Sumner & Sexton, 2016). Participants reported receiving greater attention from men inmates, such as men letting them go first in line at meals, men defending them in altercations, or receiving increased sexual attention. Trans women reported feeling affirmed in their gender identity and felt recognized as “real women”—even when this treatment was characterized by increased unwanted sexual attention (Jenness & Fenstermaker, 2014; Sumner & Sexton, 2016). One woman said, “I’ve found that men need women to be vulnerable. They want to take care of you—almost like a pet. I like it” (Jenness & Fenstermaker, 2014, p. 25). The fact that trans women spoke positively of their often exploitative treatment from men is indicative of internalized transmisogyny in that trans women experienced benevolent sexism and as a sign of privilege, or affirming of their identity as a woman.

The Experience of Being Trans Behind Bars Correctional Facility Placement

Prisons are segregated by sex, and placement in a prison facility is often determined by sex assigned at birth. Therefore, trans women have historically been placed in all-male prisons (Bassichis, 2007; Jenness & Fenstermaker, 2014; Jenness et al., 2011; Sexton et al., 2010). In addition to being placed in a sex-segregated facility, the inmates are placed in either a general population setting or in protective custody. Protective custody is used to protect vulnerable

inmates from violence or other harm enacted by other inmates. While some trans women have reported protective custody being desirable, some reported missing out on vocational or educational programming, or being more vulnerable to harassment and violence from correctional officers because of a lack of security cameras or oversight (Bassichis, 2007). This vulnerability is especially dangerous for trans women due to their marginalized status and already increased likelihood of being victims of sexual and physical assault (Jenness et al., 2007).

Violence and Sexual Abuse

Physical and sexual violence disproportionately affect incarcerated trans individuals. Incarcerated trans women are 13 times more likely to be sexually assaulted than cisgender inmates (Jenness, et al., 2007), and 58.5% of transgender inmates in California reported experiencing sexual assault since being incarcerated (Jenness et al., 2011). Reports of sexual misconduct were even higher; 69.4% of trans inmates report being the victim of some type of sexual misconduct since being incarcerated (Jenness et al., 2011). Interviews with trans women conducted by the Sylvia Rivera Law Project discussed the issue of trans inmates experiencing violence and sexual abuse. Every inmate interviewed reported some sort of harassment or assault during their time in prison. When physically, sexually, or verbally assaulted by other inmates, trans women reported the corrections officers failing to intervene, giving explicit permission, or even participating in the abuse themselves. Trans women reported frequently being involved in forced prostitution and coerced sexual activity by both inmates and correctional officers. (Bassichis, 2007).

The violence experienced by trans women was influenced by one's status as trans and the social implications of fighting with a trans woman. The prison environment is characterized by androcentrism, hypermasculinity and violence, and trans women's subordinate status make them

likely targets. Trans women spoke of the frequent harassment and violence they faced on a daily basis, which ranged from derogatory comments, to fights, to stabbings. A cisgender inmate acknowledged that despite a trans woman's gender identity, he recognized she was "still a man" and "can fight me as hard as anyone" (Sumner & Sexton, 2016, p.632). One trans woman spoke of violence among trans and cisgender inmates as a "lose-lose situation" because of the lack of status awarded to an individual who "beat up a dude with breasts," and the shaming of inmates who, if they lose the fight, get ridiculed for getting "beat up by a dude with breasts" (Sumner & Sexton, 2016, p.632). Staff shared similar opinions regarding victimization and violence towards trans women. More often than not, staff did not think trans women were more likely to be victims of violence because being violent towards a trans woman did not lead to an increase in prison status (Sumner & Sexton, 2016). However, this perception is inaccurate, as shown by the high rates of victimization of trans individuals in prison (Jenness et al., 2007).

Medical Treatment

Trans individuals often have specialized medical needs ranging from hormone treatment, to gender confirmation surgery. Additionally, many trans individuals benefit from psychotherapy or support groups with others who identify as trans (Bockting, 2008). Upon incarceration, trans inmates can lose the ability to get the care they need. Gender-related services are often seen as cosmetic, and unnecessary (Clark et. al., 2017), despite transition-related procedures being considered medically necessary (American Medical Association, 2008).

Federal prison policy states that trans inmates must have been diagnosed with Gender Identity Disorder and on hormones prior to incarceration in order to receive hormones while in prison (United States Department of Justice, 2017). Many trans women could not obtain a

prescription for hormones from a doctor because of poverty, discrimination, or lack of insurance. Some resorted to obtaining hormones from non-medical sources (including other inmates) once being incarcerated. However, even trans inmates who had gone through the means necessary to receive hormones reported their treatment has not been consistent nor correct. Several inmates reported being arbitrarily denied their doses, or having their hormones incorrectly dosed (Bassichis, 2007).

Additionally, sex-reassignment surgery, or gender-confirmation surgery, is a medical procedure that some trans individuals elect to undergo in their lifetime. Gender confirmation surgery is not an option for inmates in nearly all states. Only recently did California become the first state to allow a trans woman to receive state-financed gender confirmation surgery (Phillips, 2017). Because of the severe distress experienced by trans women who are not able to receive the medical treatment they need, several reported resorting to attempting to perform surgery on themselves, or know other inmates who did the same (Bassichis, 2007).

Gender-Affirming Accommodations

In addition to the more severe harms of violence and denial of appropriate medical treatment, trans women are faced with a host of everyday problems ranging from issues with clothing, to lack of privacy. Specific policies vary by jurisdiction, but trans women in all-male prisons are not allowed to have certain hairstyles, wear makeup, have longer nails, wear nail polish (Bassichis, 2007). Until very recently, trans women were not permitted to wear bras. Federal prison policy now permits trans women to wear undergarments of their identified gender (United States Department of Justice, 2017). Inmates who have experienced these denials of the opportunity to express their gender reported feeling traumatized and experiencing other negative mental health outcomes (Bassichis, 2007; Jenness & Fenstermaker, 2014; Sumner & Sexton, 2016). This is

unlikely to cause many problems for most cisgender inmates, but this policy effectively denies some trans women one of the only feasible ways to express their gender identity in prison.

Additionally, because of the communal nature of the showers and bathrooms, trans women reported often not being given privacy. Trans women who are on hormones or have undergone surgical body-modification procedures reported increased unwanted sexual attention from other inmates, even when fully-clothed. Several trans women reported experiencing both verbal and physical sexual harassment as a result of using communal bathrooms (Bassichis, 2007). These denials of everyday aspects of performing gender have much larger consequences, such as increased gender dysphoria, increased risk for violence and harassment, and negative mental health consequences, that must be taken into consideration by the powers at large of the prison system.

Moving Forward

Social scientists often aim to cultivate an ethic of objectivity, or prioritizing separating their own interests from the subjects and objectives of their research. While this objectivity can be necessary in order to generate sound and unbiased results, being interested in a subject or invested in a cause does not equate to invalidating knowledge generated by one's research (Smith, 1972). Researchers whose primary objective is to be neutral on issues related to the negative experiences and treatment of incarcerated transwomen are neglecting to use their position of authority and privilege to improve the lives and living conditions of a marginalized population—at times translating to being neutral to situations of life and death. Therefore, it is imperative to marry research with advocacy efforts to improve living conditions, policy, and resources for incarcerated trans women.

Given the marginalized status and increased risk of discrimination, trans inmates should be protected by formal policy informed by inmate-centered research prioritizing the voices and needs of those personally affected by a broken system. Dorothy Smith's (2005) conception of relations of ruling can be applied to prison as a social institution. Relations of ruling refers to the "extraordinary yet ordinary complex of relations that are textually mediated, that connect us across space and time and organize our everyday lives—the corporations, government bureaucracies, academic and professional discourses, mass media, and the complex of relations that interconnect them" (Smith, 2005, p.10). Institutional organization, policy, administration, and change in prison are governed by the dominant group of cisgender men. Effective social change occurs when the needs of a particular group are prioritized in a way that validates and holds as true lived experiences in informing the identification of injustice. In order to put standpoint theory into practice and allow marginalized voices to enter into the system of ruling relations, institutional change must be grounded in the lived experiences of incarcerated trans women.

Based on the existing research on the experiences of incarcerated trans women, trans inmates as a whole should be given agency to be a part of the decision making process of determining the gendered facility in which they are to be housed in order to prioritize their safety, wellbeing, and access to gender-affirming accommodations. Additionally, there is a need for increased protection for trans women, whom are at increased risk for violence and abuse, that does not employ the use of solitary confinement. The perpetrators of abuse should be punished, not the survivors.

Trans inmates should not be required to stop their transition process, or be restricted from beginning the transition process, as a result of being incarcerated. Correctional facilities should employ preferred name policies and the ability to legally change one's name and/or gender. In terms of access to trans-specific medical care,

correctional facilities should provide trans inmates with access to hormone replacement therapy regardless of inmate possession of a prescription prior to incarceration. Trans individuals may not have a medical prescription for hormones for a variety of reasons, such as being unable to afford medical care or hormones themselves, not being ready to begin hormone therapy, being on street hormones, or being in the process of obtaining a prescription prior to arrest. Similarly, gender confirmation surgery and other medical procedures should be accessible for trans inmates if deemed medically-necessary as determined by a healthcare provider experienced in treating the trans population.

Trans inmates are given little to no visibility due to their marginalized status and scarcity in the prison system. The harms faced by trans inmates warrant greater advocacy and change to improve prison conditions for not just trans inmates, but all inmates. The injustices faced by trans inmates, such as not receiving medically-necessary care, being frequent targets of sexual violence, and hostile discrimination from fellow inmates and staff, are symptoms of a larger failing correctional system. By using feminist standpoint theory to inform and direct research and advocacy efforts, priority is given to the voices and experiences of those directly affected by the oppressive and discriminatory practices of the prison system. Mental and physical safety are basic human rights, regardless of incarceration status. Prisons should not be places where individuals struggle to survive, but places of rehabilitation, education, and centers of assistance aimed at preventing recidivism and improving inmate well-being.

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