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For Transgender Detainees, a Jail Policy Offers Some Security



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Visitors wait outside the Cook County Jail.

By ADRIENNE LU
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For as long as she can remember, Maribel said, she has felt that she was different. She was born a boy in Mexico, and came to the United States at 16. Two years later, she started taking hormone pills and later underwent some operations to become physically the woman she always believed herself to be.

Maribel, 40, concedes she has long lived on the margins of society, never holding down a job and bouncing in and out of jail over the years.

In March, she was charged with retail theft and sent to Cook County Jail. Despite her shoulder-length hair, fuller lips and breasts, Maribel (who agreed to be interviewed on the condition that only her first name be used) was housed with male detainees.

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Maribel, a transgender detainee at Cook County Jail. She was housed with male detainees for two weeks and subjected to cruelty until she was moved to a women's division.

"It was horrible," she said. "Sometimes words hurt more than a punch. People can be very cruel." After two weeks she was moved to the women's division, where she remains while awaiting trial.

Also in March, Cook County Jail instituted a new policy for detainees like Maribel, who either identify themselves as transgender or are identified by the jail's medical staff as having gender-identity disorder, the formal diagnosis for those who feel at odds with their sex at birth.

Under the policy, which covers procedures for housing, clothing, showering, grooming, medical care and other aspects of life in jail, a gender identity committee meets periodically to determine and review plans for each transgender detainee. Among the decisions the committee makes is whether the detainee should be housed with men or women.

Of the 60 or so transgender detainees who have entered the jail since the new policy took effect, only two — Maribel and another person who was

born with male anatomy but identifies as a woman — have been housed with women, jail officials said. All of the others, who were born male but identify as women, are housed with men but have opted for protective custody and are kept separately from the other detainees, a choice available to anyone entering the jail.

Sheriff Thomas J. Dart said he instituted the new procedures when he realized that the jail — which holds an average daily population of about 8,900, primarily consisting of people awaiting trial — did not have a policy on how to deal with transgender detainees.

In one of his weekly meetings of jail officials, "when it came up, I asked around the room what everyone's thoughts were on it, and there was a collective pause," Mr. Dart said. "It just became clear to me that we needed to have a more affirmative position."

Jails around the country are starting to address the difficult and sensitive issue of how to deal with transgender detainees. Lawsuits over their mistreatment have focused more attention on the issue. Another factor has been increased knowledge about the vulnerability of transgender detainees and inmates, in part due to the federal [Prison Rape Elimination Act of 2003](#).

Randi Ettner, an Evanston psychologist who is chairwoman of the World Professional Association for Transgender Health's Committee for Incarcerated Persons, said policies dealing specifically with transgender inmates are critical for protecting their safety and health.

"I've been in many other prison settings where patients who need and require medical interventions are ignored," said Dr. Ettner, who helped the Cook County Jail staff craft their policy. "They're inappropriately treated when they

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do receive treatment and, sadly, this has led to a lot of self-harm in prison systems,” including attempts to castrate themselves to rid their bodies of testosterone.

About 1 in 11,000 men and 1 in 30,000 women are born with gender-identity disorder, Dr. Ettner said. Treatment typically consists of psychological, hormonal and sometimes surgical approaches.

The issue is a significant concern for corrections officials because transgender people are more likely to end up in jail than the general population. A 2011 report based on a survey of 6,450 people described as transgender or gender nonconforming, sponsored by the National Gay and Lesbian Task Force and the National Center for Transgender Equality, said: “They are more likely to interact with police because they are more likely to be victims of violent crime, because they are more likely to be on the street due to homelessness and/or being unwelcome at home, because their circumstances often force them to work in the underground economy, and even because many face harassment and arrest simply because they are out in public while being transgender.”

Seven percent of respondents reported being arrested or detained in jail due only to their gender identity.

Sexual assaults are 13 times more prevalent among transgender inmates than the general prison population, according to a 2007 University of California, Irvine, study of California state prisons.

Transgender detainees are sometimes inappropriately placed in solitary confinement or mental health facilities in misguided efforts to protect their safety, experts said. Lack of access to hormone therapy, counseling and other medical services is another common problem for transgender detainees.

In August, a United States Court of Appeals upheld the right of transgender people to receive medical care while in jail, agreeing with a Federal District Court decision that overturned a 2005 Wisconsin law that prohibited doctors from prescribing medically necessary hormone therapy or sex reassignment surgery to inmates.

Harper Jean Tobin, policy counsel for the National Center for Transgender Equality, said that Cook County Jail’s transgender policy is among the stronger in the nation, along with those in Cumberland County, Me., and the District of Columbia.

Owen Daniel-McCarter, project attorney with the Transformative Justice Law Project of Illinois, which offers low-income transgender people free criminal legal services, said the most noticeable change at the jail is his clients’ improved access to hormone therapy, although some have complained that they have not received the right kinds of hormones or the right doses.

“The physical, mental and emotional effects of being pulled from hormones overnight is devastating,” Mr. Daniel-McCarter said. “People will go into suicidal ideations. It’s like going into menopause overnight.” For clients who have been taking hormones since they were teenagers and never went through male puberty, a cessation of treatment can be very difficult and result in irreversible changes, he added.

Although Maribel has never changed her birth name legally, she has gone by Maribel for 23 years. She said she was grateful that she had been transferred to the women's division, where she has been working on turning around her life.

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"I'm so glad somebody made the decision," Maribel said, wiping away tears. "I've learned that I don't have to do nothing I really don't want to do just to please people. I know I can survive here."

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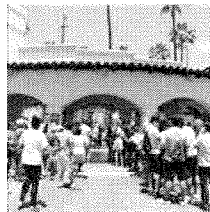
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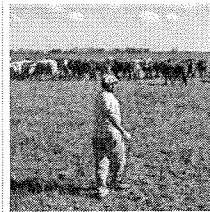
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Rules Regarding Transgender Inmates Continue to Change

(12/05/2012)

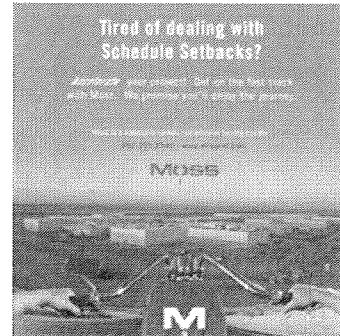
SACRAMENTO, Calif. — California prison officials are revising their official rules and manuals to address transgender inmates. Several legal battles, rule changes and disputes have occurred in various states over the last year, repeatedly raising the difficult question of how prisons treat and house transgender inmates.

The Los Angeles Police Department created one of the earliest headlines in April, when it opened a separate detention section for transgender inmates at the Metropolitan Detention Center in downtown Los Angeles. The department cited an increased risk of violence, rape and emotional abuse compared to other inmates as the reasoning behind the change. This action made the LAPD the first department in the country to provide a specific area for transgender inmates. The facility provides male and female clothing, along with medical treatment, including hormone therapy. Officers were also instructed to address inmates by their preferred gender and names. These changes only applied to inmates being held for arraignment, upon transferring to county jails, run by the L.A. County Sheriff's Department, transgender inmates are held with the general population.

A judge in Massachusetts turned heads in September when U.S. District Court Judge Mark L. Wolf ruled that a transgender inmate was entitled to a surgical sex change procedure, funded by the Department of Correction. This was the first ruling of its kind in the nation's history. The judge previously ruled that hormone therapy was a necessary treatment in 2003, before taking this ruling a step further. The argument for the surgical procedure was that the inmate, Michelle Kosilek, born Robert Kosilek, was not receiving adequate relief from mental distress from the hormone therapy alone. The state has appealed the judge's ruling.

There are several factors that have likely contributed to this outcome. Gender identity disorder is considered a medical disorder by the most recent version of the Diagnostic and Statistical Manual of Mental Disorder, which is known as the "bible of psychology." In 2005, the American Medical Association provided testimony for another case, arguing that hormone therapy and surgical procedures "are medically necessary and effective therapeutic treatments." In his ruling, Wolf argued that surgery was the "only adequate treatment" for Kosilek.

A California inmate lost a similar case in 2011. The California prison system is currently updating its manuals to use the term "transgender," instead of the previous official designation of "effeminate homosexual." Transgender inmates will also be able to request bras or boxer shorts as part of their prison clothing. The state already has a policy of paying for hormone treatments for inmates who were taking the drugs when incarcerated, which is the line many states draw on the issue.



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