

*Chapter 19: Transgender in prison*

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The official prison policy and practice of housing men posing as ‘women’ in women’s prisons is a particularly striking example of the way the transgender agenda’s ideological obliteration of women plays out in the real world. In a version of the ‘vulnerability’ trope, transgender claims that male criminals claiming to be ‘women’ are particularly at risk if they have to serve their sentences in men’s prisons. One suggestion to protect these supposedly vulnerable men, is to allow them to serve their sentences in women’s prisons, even if they have been convicted of sex offences or other violent crimes.

For special pleading to house men claiming to be ‘women’ in women’s prisons, in order ‘to avoid the potential infliction of cruel and unusual punishment’, see: Tedeschi, 1995. See also: Bali, 2020; Wilson et al, 2017;

for a literature review offering pro-transgender advice to a ‘prison service becom[ing] progressively more sensitive to the needs of those who have commenced the process of gender reassignment or who are contemplating starting this complex journey’, see: Jones and Brookes, 2013;

for an argument, sympathetic to transgender, *against* placing men posing as ‘women’ (‘transgendered prisoners’) in women’s prisons, because women would have to be segregated for their own safety (although not the men to prevent them from getting access to the women): ‘[t]he overwhelmingly male population in co-correctional institutions led to security problems between men and women, which required placing women under higher levels of control and denying them resources’, see: Rosenblum, 2000;

for another argument, sympathetic to transgender, *against* placement by self-id, because women claiming to be ‘men’ would be in danger in men’s prisons, because men claiming to be ‘women’ might perpetrate<sup>1</sup> violence against the women they are housed with, and because the women’s right to privacy would be violated, see: Shah, 2010. See also: Simopoulos and Khin Khin, 2014.

Although policies everywhere state that transgender men won’t be placed with women if there are ‘security concerns’, in practice, prison authorities ignore this warning and place men convicted of serious offences, including sex offences, with women. Inevitably these men rape and otherwise harass the women they are incarcerated with, and when the women complain, it is they who are punished, not the violent men. The total lack of consideration for the well-being and safety of women on the part of the relevant authorities is utterly preposterous, and yet it is only to be expected in the context of a misogynist, male supremacist society.

For all the transgender prison articles by Fair Play for Women, see: <https://fairplayforwomen.com/prisons/>.

A note on terminology: The correctional authorities allow these men to use other nomenclature than ‘woman’ to indicate how they ‘identify’: ‘non-binary’, ‘two-spirit’, ‘mahu’, ‘gender fluid’, ‘agender or without gender’, ‘third gender’, ‘genderqueer’, ‘gender variant’, ‘gender nonconforming’—all of which are listed in the Californian legislation, SB132 (see below). However, since they’re all nonsensical, and since the aim is to get into a women’s prison whatever the men call themselves and that project is transgender-inspired, I use the phrases ‘men posing as “women”’, ‘men claiming to be “women”’ and ‘transgender men’ to identify the men the authorities are placing in women’s prisons.

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<sup>1</sup> This source uses the word ‘perpetuate’ instead of ‘perpetrate’, and not just once. In fact, this usage is common amongst those who subscribe to the transgender worldview. See, for example, Simopoulos and Khin Khin, 2014 and the references quoted below. Of course, not all usages of ‘perpetuate’ are malapropisms for ‘perpetrate’, e.g. ‘perpetuate stereotypic roles for women’ (CSC, 1990: 24); ‘perpetuated negative stereotypes’ (Peek, 2004: 1216); ‘practices that perpetuate the ongoing criminalisation’ (Rodgers et al, 2017: 9); ‘perpetuate the mistakes of the past’ (Tarzwell, 2006: 219).

## Policy

### NSW

One typical example of such prison policies is that of Corrective Services NSW. In the usual de-gendered language hiding the fact that they're only talking about men, the policy states,

A person received into custody must be managed as the gender with which they identify at the time of their incarceration regardless of their identified gender in previous periods of incarceration ... Self-identification as a member of the opposite gender is the only criterion for identification as transgender (NSW Corrective Services, 2023: 4, 5)

This doesn't automatically mean that the 'person' (i.e. man) will be placed 'in a correctional facility of their gender of identification' (i.e. a women's prison), although they do have that 'right'. They could be placed 'in a correctional centre of their biological sex' (i.e. a men's prison) if 'it is determined through classification and placement' that that would be more appropriate. Reasons why it might be more appropriate are listed as:

the nature of their current offence and criminal history (for example, crimes of violence and/or sexual assault against women or children); custodial history (for example, previous behaviour in custody which impacted on the safety of other persons or the security of the correctional centre); and perceived risk(s) to the continuing safety of the transgender inmate and/or other inmates' (NSW Corrective Services, 2023: 5, 6).

But as the Australian authors of a submission to the UN Subcommittee on the Prevention of Torture said, policy statements like this can't be relied on. They point out that 'the chilling effect of opprobrium towards those who criticise self-identification policies' means that the authorities are reluctant to treat men posing as 'women' as men, 'for fear of allegations of discrimination' (AWF, 2022: 1). The policy doesn't say that men who have committed crimes of violence and/or sexual assault against women or children would never be housed with women. A moment's reflection should be enough to realise that housing men with women, especially men known to be violent, was highly inappropriate and should never happen. And yet, so powerfully influential is the transgender agenda, prison authorities everywhere simply can't bring themselves to implement such sensible policies.

For policies throughout Australia that are similar to NSW's, see: AWF, 2022;

for an earlier overview of 'policies, procedures, and practices regarding the treatment of transgender people [sic—actually men] in prisons' in Australia, '[d]rawing on a conceptual framework of cisnormativity' (i.e. the usual trans gobbledegook), see: Rodgers et al, 2017;

for the Australian Institute of Criminology's sympathetic approach towards 'transgender inmates', who are 'are at substantially high risk of assault and/or self-harm', see: Blight, 2000 (there's nothing more recent on the AIC's website);

for a discussion by a pro-trans advocate from Flinders University in South Australia, of 'placement decisions' policy for 'trans people' (i.e. men) on the part of correctional authorities throughout Australia, see: Winter, 2023: 137-8;

for an earlier overview of ‘the treatment of transgender people in Australian prisons’ see: Lynch and Bartels, 2017.

## **UK**

In England and Wales from 2010 until the recent policy change (see below), male trans prisoners with a Gender Recognition Certificate were automatically sent to women’s prisons (Brown, 2020). As the earlier policy stated: ‘those people with a GRC [for which surgery is not required] must be treated in the acquired gender in every respect’ (UK MoJ, 2016). Those without a GRC have been able to apply for a transfer to a women’s prison since 2016 (Brown, 2020).

But in February 2023, the UK Ministry of Justice (MoJ) announced a ‘new transgender prisoner policy’ which stated that ‘transgender women [sic—men] offenders [would] no longer [be] housed in women’s prisons if they have male genitalia or have committed sex crimes ... [or] violent crimes’ (UK MoJ, 2023). This new policy applies to those who have a GRC (as well as to those who don’t). This policy change is despite the 2021 High Court ruling that the MoJ’s transgender policies were ‘not unlawful’ (see below).

Perhaps the MoJ was responding to the recommendation from the UK Women and Equalities Committee (2021), that ‘male prisoners with a record of sexual assault or domestic violence, who self-identify as a woman, should not be transferred to a woman’s prison’ (p.33, para.97). It would also seem that the MoJ has finally found itself in agreement with the woman who brought the test case to the High Court (see below). She was quoted saying,

[b]y bringing this challenge, I did not seek to prevent trans women in prison from living in dignity, or to exclude all trans women from women’s prisons. However, I feel that trans women who have a history of violence and sexual offending against women should not be in a situation where they can put our safety at risk (Lawrie, 2021).

Perhaps the MoJ is finally defying the trans lobby’s prohibition on using ‘anatomy’ (i.e. sex) to decide where to place men claiming to be ‘women’ in the prison estate. And again in defiance of the trans lobby, the situation of women is acknowledged as the reason for the policy change: ‘the government has decided to take this further step as an additional measure to protect women’ (UK MoJ, 2023). This change can only be welcomed by people of good will, although even castrated men aren’t women and they still retain their sense of male entitlement and their bodily strength. And it’s not clear how it will work in practice, given the MoJ’s earlier commitment to the transgender agenda and the power of the transgender lobby. Still, it’s an improvement on both its own earlier policy and policies elsewhere.

### *E-wing at Downview*

It would also seem that the MoJ was already taking the criticisms into account in 2019, especially in the wake of the ‘Karen White’ case (Tingle, 2024) and that of Martin Ponting (see below), when a unit was opened in south London in March specifically for male trans inmates (E-wing in Downview), the first in Europe (Gilligan, 2019; BBC, 2019).

The Justice minister was reported to say in the House of Commons in early February,

Denise Thompson

We take the Karen White case very seriously ... New guidelines will be published shortly, to ensure that it continues to strike the right balance between ensuring that all female prisoners are kept safe, that transgender prisoners have their rights respected and that we comply with our legal obligations under statute (Shaw, 2019).<sup>2</sup>

The media reports say ‘transgender inmates’, but once again the de-gendered language hides the fact that we’re only talking about men (although the headline in one report—Gilligan, 2019—says ‘trans women’—without the quotation marks—and only men are called ‘trans women’). And it is still women who must accommodate men—the newly purposed unit is in a women’s jail.

The unit is intended to house particularly dangerous men with GRCs:

Residents will be transgender women [sic—men] holding Gender Recognition Certificates who have been assessed as presenting a high risk of harm to other [sic] women in custody and exhibiting behaviour (or predicted behaviour through risk assessment) that is dangerous, disruptive, and/or particularly challenging where the risk cannot safely be managed on normal location within the Women’s Estate (HMPPS 2020: 1, para.1.1).

But even though the men have been judged to be particularly dangerous, the prison authorities can’t resist the vulnerability trope. The unit will house ‘transgender women [sic—men] who are assessed as presenting a high risk to (*and in some occasions, from*) other [sic] women in women’s prisons’ (HMPPS 2020: 1, para. 1.2—my emphasis). The policy statement doesn’t give any examples of the high risk behaviour the men might be in danger from at the hands of women, but its likelihood is minimal if not non-existent. These transgender men are not ‘wee, sleekit, cowran, tim’rous beasties’, they are adults who have gone through male puberty, some of whom still with their male genitals. They do not need to be protected from women.

E-wing is a less than satisfactory solution to the manufactured problem of where to house male criminals posing as ‘women’. It has a capacity of 16, but it has been housing only between three and five transgender men at any one time. At the time the prison was inspected in 2021, there was only one trans man in the unit, and he had been there alone for six months (HM Chief Inspector of Prisons, 2021: 10, para.1.20; 40, para.4.92). It is therefore a grossly under-used facility at a time when ‘Britain is running out of prison spaces’ (Tingle, 2024). It’s true that putting the 11 to 13 unused spaces to use wouldn’t be much help in addressing prison over-crowding. But it is significant that transgender has once again managed to acquire privileges that cause inconvenience, at the very least, e.g. ‘The wing will provide a higher staff ratio with increased supervision compared to residents in the wider population at Downview’ (HMPPS, 2020: 4, para.5.1). Thus the prison authorities’ embracing of transgender means that they have put themselves to trouble and expense that would be unnecessary if they accepted the reality that men remain men whatever they say or do.

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<sup>2</sup> This article and everything else that has appeared in the *Women Are Human* website are no longer available. It seems as though the site’s been hacked. At one point, any attempt to enter a url was met with a message in the Cyrillic alphabet followed by links to general, non-feminist news sites. Subsequently, the message read ‘Deceptive site ahead. Firefox blocked this page because it may trick you into doing something dangerous like installing software or revealing personal information like passwords or credit cards’.

Moreover, it's not clear that this new unit does protect the women from the high risk of being harmed by male prisoners posing as 'women'. Although the unit is in a separate building with a fence dividing it from the rest of the jail (Gilligan, 2019), during the day the men are allowed access to as much of activities in the main site 'as their individual risk assessment allows for', e.g. 'exercise, library, association [with women], employment, gym' (HMPPS 2020: 1, para.10.1-2). The implication is that, 'when an individual is unable to access a service on the main site' (para.10.1), it's because he's too dangerous and he won't be allowed into the main site with the women. However, these are men who have already been found to be too dangerous to allow them to associate with women. And yet, not only are they allowed to associate with the women in Downview, most of the men originally housed in E-wing are 'progressed to other sites in the women's estate' (HM Chief Inspector of Prisons, 2021: 40, para.4.92) (hence the low numbers at any one time).

It is beyond belief that these men, who are originally judged too dangerous to be housed with women, somehow become less dangerous during their time in prison. Of course they don't. The new MoJ policy might obviate the need for units like E-wing, since only castrated men will be placed in women's prisons. But that rests on the unjustified assumption that castrated men are not prone to male-pattern violence. The only policy that will protect women in prison from men posing as 'women', is to house men, *all* men whatever they call themselves, in men's prisons.

For critical commentaries on the E-wing at Downview, see: FPFW, 2020b, 2021a.

#### *Earlier policy*

The MoJ's earlier policy was wholly trans-compliant. As one critic, Frances Crook, chief executive of the Howard League for Penal Reform, said "I think prisons have probably been influenced by some of the extreme conversations and have been bullied into making some decisions that have harmed women" (Parveen, 2018a). It is to be hoped that prison authorities don't ignore the policy change in practice and revert to their earlier pandering to transgender demands. The 2016 *Review on the Care and Management of Transgender Offenders* (UK MoJ, 2016) stated categorically that 'those people with a GRC must be treated in the acquired gender in every respect' (p.4). 'Those people' were in fact men although, typically, the MoJ couldn't bring themselves to say so. There were no transgender women demanding to be housed with men, although the MoJ pretended that there were, referring to '[d]ecisions to transfer serving prisoners between male or female prisons (*or vice versa*)' (p.5—my emphasis).

The 2016 document did hint that that housing men with women might not be safe for the women, although it had to resort to euphemism to avoid being too explicit: 'There will be circumstances ... indicating they [i.e. transgender men] cannot be safely managed in a prison that does match their self-identified gender' (UK MoJ, 2016: 5). By this, they meant a women's prison, although there's no women's prison on earth that would be a good match for any man's 'self-identified gender' as a 'woman', given that men are not women.

The 2016 document then went on to mention the word 'women' for the first and last time, but only as a 'for instance': 'it will be necessary to factor-in the impact on and risks to those in current or potential establishments especially, for instance, in the women's estate where many prisoners will have been the victims of domestic violence

or sexual abuse and may continue to be exceptionally vulnerable’ (UK MoJ, 2016: 5). So a situation where transgender men need to be ‘safely managed’ differently from other male criminals could arise anywhere for any reason, and housing them in a women’s prison is only one such situation.

The MoJ did admit at that time that there might be a ‘minority of cases’ in decisions ‘assigning someone to a male or female prison’, where it would not be advisable to treat transgender men in their ‘acquired gender’. These cases ‘are likely to concern transgender people [i.e. men] convicted of serious offences’. This way of putting it masks the reality of what it is that is inadvisable, i.e. housing men convicted of serious offences with women. Instead of saying so, the MoJ says, ‘[a]llowing transgender offenders to experience the system in the gender in which they identify ... may not be compatible with ... both public protection and the best interests of the person themselves’ (UK MoJ, 2016: 4). There is no mention of women at this point; and it’s difficult to know what to make of the reference to ‘public protection’. Surely the fact that the serious offenders are imprisoned ensures that the public are protected. Perhaps the word ‘public’ is an undercover way of saying ‘women’. After all, it is only the protection of women that is really at stake.

The 2016 document never actually said that the ‘transgender people’ whose welfare they were so concerned about were men. The word ‘men’ doesn’t appear anywhere in the document, while the word ‘male’ appears only in phrases like ‘male and female prison’. (The document didn’t call them ‘transwomen’ either, which is something of a relief). Neither did it say outright that the MoJ preferred to house male transgender offenders with women. Instead they said ‘[a]llowing transgender offenders to experience the system in the gender in which they identify’. They said that that’s ‘the most humane and safest way to act’ (UK MoJ, 2016: 4). But it isn’t safe and humane for women to be incarcerated with violent men.

The document went on to say that not all of the transgender men convicted of violent offences would need to be ‘safely managed’—‘this will not be true of all transgender serious offenders’—and hence they were not going to make any special policies—‘it is important that policy for the majority should not be founded upon the highly complex considerations raised by a minority’ (UK MoJ, 2016: 4). In other words, conviction for a serious offence, even a sexual offense against women and children, is not a good enough reason to refrain from housing transgender men in women’s prisons. The euphemism, ‘highly complex’, deletes any mention of the consequences for women. It is a grossly inadequate way to describe what is likely to happen when prison authorities house violent transgender men with vulnerable women. Moreover, that ‘minority’ of transgender men who are sexual offenders is a very large proportion, nearly half of them (see below).

The MoJ was still toeing the transgender line in 2020. Its 2020 policy document, ‘The care and management of individuals [sic—men] who are transgender’, continues to euphemistically de-gender its language to disguise the fact that the violent offenders are men and the people at risk are women. Its ‘primary focus’, it says, ‘is on individuals [sic] who express a consistent desire to live permanently in the gender with which they identify, and which is opposite to the biological sex assigned to them at birth’ (UK MoJ, 2020: 4, para.1.3). This document was quoted extensively by the UK High Court in its 2021 judgement that the MoJ’s transgender policies were not unlawful. As the Court pointed out, although this policy document states that

‘transgender women [sic] with GRCs’ (i.e. men) needn’t be ‘placed in the women’s estate’ if there are ‘exceptional circumstances’ (UK MoJ, 2020: para.4.64), nowhere does it say that a history of sexual offences against women might be one of those exceptional circumstances; and, the Court added, ‘there is no requirement for an assessment of exceptional circumstances to be made’ (UK High Court, 2021: para.42).

The MoJ’s 2020 document contains a little more insight than the 2016 document, into what might be at stake in housing men in women’s prisons. It says that ‘there is an emphasis on adopting a balanced approach which considers the safety and needs of those who are transgender [i.e. men], whilst ensuring that decisions do not negatively impact on the well-being and safety of others, particularly in custodial settings such as in women’s prisons’ (UK MoJ, 2020). But there’s still a reluctance to acknowledge the danger to women. In fact, for clarity’s sake (at least), the word ‘women’ should have been used instead of that whole phrase, ‘others, particularly in custodial settings such as in women’s prisons’. And there’s still a reluctance to acknowledge that placing men convicted of violent sexual crimes in women’s prisons just *is* to ‘negatively impact on the well-being and safety of’, not ‘others’ or ‘custodial settings’, but women.

For a scathing criticism from a conservative perspective, of the MoJ’s earlier policy for placing men claiming to be ‘women’ in women’s prisons, see: ffiske, 2020.

#### *The UK High Court*

The UK High Court case mentioned above involved a challenge to the MoJ transgender policy by a woman ex-prisoner (FPFW, 2020a). She brought the test case because she was sexually assaulted in prison in August 2017 by a transgender man with a GRC who already had convictions for serious sexual offences against women. The case was heard in July 2021. The woman made two claims: that the MoJ’s policies indirectly discriminated against women; and that the MoJ had failed to take into account the single-sex exemptions under the *Equality Act* (UK High Court, 2021: para.41).

The Court dismissed both claims, saying that the MoJ’s policies were ‘capable of being operated lawfully, and in a manner which does not involve ... interference with the ... rights of women prisoners’ (UK High Court, 2021: para.89). There might be a problem with individual decisions, the Court said—they ‘may be susceptible to challenge’. But that didn’t mean the policies themselves were unlawful. There was, after all, ‘the necessary balancing of competing rights’. Men claiming to be ‘women’ (‘transgender women’) had the right ‘to live in their chosen gender’, and to argue otherwise ‘would be to ignore, impermissibly,’ that right (para.83). The second claim was dismissed briefly because the MoJ’s policies were not ‘statement[s] of the law’. They were ‘guides to the implementation and operation of policies, not statements of the law relating to transgender prisoners’ (para.93). (I don’t understand the Court’s reasoning here. Why are ‘guides’ exempt from the provisions of the *Equality Act* because they aren’t laws?).

Despite the fact that the Court found against the woman claimant, Fair Play For Women (2021b) saw some positives arising from the case. The Court did expose serious inadequacies in the ways in which the authorities counted transgender men in prison; they showed that transgender ‘rights’ do indeed conflict with women’s rights; and they accepted that transgender men were much more likely to be sex offenders than women were, and hence that women were indeed at risk from them. The judge



also said that the women's concerns were 'fully understand[able]'. Fair Play For Women (2021b) did say that there was still some way to go. There was still a need for adequate research, for the public and politicians to be properly informed about what was happening, and for a guarantee from the government that sex offenders would not be housed with women. But they did feel that the case was a positive step forward.

However, whatever crumbs of enlightenment this court case provided, it remained embedded within the transgender paradigm, and hence it was inevitable that it would fail women. One of those failures was its refusal to consider whether or not the woman's rights had been violated when she was raped, or even if she had been raped at all. Counsel for the MoJ denied that the assault took place. "The facts on which the claimant relies simply do not demonstrate that she was exposed to a risk of sexual assault", she said (Bowcott, 2020). The question was outside the scope of what the Court had to decide, and hence it remained at the usual level of 'she said, he said'. The Court came to its decision that the MoJ's policies were not unlawful because its brief was narrowly focused on 'lawfulness'. 'It is necessary to be clear about what the court is, and is not, called upon to decide', the judge said, '[T]he claim has a comparatively narrow focus: it is a challenge to the lawfulness, not the desirability, of the policies' (UK High Court, 2021: para.72).

But how can policies be lawful if they are undesirable, in this case facilitating violence against women? Or rather, shouldn't such laws be at least criticised, even if they can't be challenged in a court of law? But then, the UK High Court is as oblivious to the needs of women as law courts usually are.

The Court was convinced that it was 'impermissible' to ignore the 'right' of transgender men to be recognised as women, so they had to decide *as if* there were such a right. Why it was impermissible the Court didn't say, but this is the fundamental reason why the Court decided the way it did, i.e. the Court's conviction that there *is* a category of 'transgender women' (in reality, men) who have rights. The Court acted on the (in their view) inalienable belief that there *are* men who can be women. If, however, that premise is false (as it is, i.e. men can't be women), the question of competing rights doesn't arise. Or rather, it shouldn't arise in a court of law supposedly based on rational principles, among which is an accurate perception of reality and an ability to tell truth from falsehood. If there is in reality no category of human beings who were born male but are now female, then there is no such category of person who can claim or be accorded rights on that basis. There is nothing with which to 'balance' the right of women, in this case, to *not* be subjected to the cruel and unusual punishment of being inescapably trapped with violent men.

Housing transgender men with women in prison is a particularly striking example of the impossibility of 'balancing' women's rights with transgender men's putative 'rights'. If male transgender criminals are given the 'right' to be housed with women, women lose any right to freedom from 'cruel, inhuman or degrading treatment' (Article 5 of the Universal Declaration of Human Rights), especially if those men are sex offenders or otherwise violent. The only solution, for every institution in society in thrall to the transgender agenda, not only the prison system, is to abolish the false and absurd notion of 'transgender'. That it could ever have been accepted in the first place is testimony to a male supremacist society's utter indifference to women's safety, dignity and humanity.

For critical commentaries on the High Court's decision, see: Finlay, 2020;<sup>3</sup> FPFW, 2021b;

for an uncritical report on the Court's decision, see: Lawrie, 2021;

for critical commentary on the MoJ's pre-2023 transgender policy and practice in general, plus a number of protests by radical feminists (and others, including men) outside women's prisons and the MoJ, see Maynard, 2022;

for a critical commentary on the 2014 Scottish Prison Service transgender policy and its effect on women, see: Murray et al, 2020;

for the more recent Scottish Prison Service policy, see: SPS, 2023;

for another critical commentary on the 2014 SPS policy, quoting extensively Lucy Hunter Blackburn of the policy analysis collective, MurrayBlackburnMackenzie, see: Walker 2022.

## **US**

It's not possible to give an overview here of transgender prison/jail<sup>4</sup> policies throughout the US because of the enormous number of jurisdictions. The federal government has its own policies, as does each State, some of which are trans-friendly (Democratic States), while others have explicitly resisted the trans mandate (Republican States). Policies can also differ from one county to another, and there are 3,244 counties and county equivalents in the US.

For policy changes in favour of male transgender inmates in two counties in New York, as a result of complaints by transgender men, see: Diaz, 2023; Fitzsimons, 2020; Hodgson, 2023.

What follows is largely focused on the federal jurisdiction and California, with only brief mentions of the situation elsewhere in the country.

### *Federal government*

Long before the transgender agenda appeared on the scene, the US powers-that-be were told, at least as early as the second half of the nineteenth century, that women in prison were at risk of being raped by male staff. '[P]rison rape has been an abiding feature of U.S. prisons almost since their inception', said Brenda V. Smith (Smith, 2006: 1), acknowledged expert on issues affecting women in prison.<sup>5</sup> Her reference for this assertion was a 1985 publication called *Partial Justice: Women in State Prisons, 1800-1935* (p.5n10), hence it was the rape of *women* that was an 'abiding feature of US prisons', although subsequent policy developments have ignored that reality.

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<sup>3</sup> This is another unavailable article from the *Women Are Human* website.

<sup>4</sup> '[P]risons and jails serve distinct purposes. Prisons provide long-term housing, typically for sentenced offenders serving terms of longer than one year, although the precise cut-off can vary by state. Jails only hold sentenced prisoners serving short terms, typically less than one year. In addition, jails house individuals awaiting trial but denied bail, convicted offenders awaiting sentencing, and prisoners sent from state or federal prison to serve as witnesses in trials' (Dolovich, 2011: 4n14).

<sup>5</sup> Professor at the Washington College of Law at American University, Project Director for the National Institute of Corrections Cooperative Agreement on Addressing Prison Rape, and Commissioner on the National Prison Rape Elimination Commission (Smith, B., 2013).

US Congress has shown little interest in legislating against the rape of women in prison. Indeed, when the 1994 *Violence Against Women Act* was reauthorised in 1998, the part relating to the rape and sexual harassment of women in prison by male prison staff, the Custodial Sexual Abuse section, was dropped from the Bill and never reintroduced (Smith, 2013: 1). And yet, the sexual abuse of imprisoned women by male staff continued unabated. Given this complete indifference to women's needs, it is hardly surprising that the US government is susceptible to transgender.

The Bureau of Prisons' *Transgender Offender Manual* (US BoP, 2022) doesn't recommend that all male offenders posing as 'women' be placed in women's prisons, but they do allow for the possibility: 'In situations where the transfer request is related to progressing the individual inmate's transition (i.e., transfer to a different sex facility) the TEC [Transgender Executive Council] will consider the case' (US BoP, 2022: 7, section 6).

Like institutions everywhere, the BoP takes great pains to accommodate itself to transgender demands. There's a special Transgender Executive Council consisting of senior level staff members (among others), wholly devoted to issues arising from the fact that some male offenders are claiming they're 'women'; and this is happening in a prison system that is grossly over-crowded, under-funded and under-staffed. Indeed, California's SB132 (see below) has 'contributed to staffing shortages' in the prison system (The Moss Group, 2022: 8). It's not women causing these workload problems. There is a Women and Special Populations Branch, but it is not focused solely on women, and it contains the TEC:

The Women and Special Populations Branch (WASPB) is the agency's primary source and point of contact on accommodation/transition, classification, management, and intervention/treatment programs and practices for transgender inmates in Bureau custody (US BoP, 2022: 3, para.3.a(1)).

There's also the BoP's indulgence towards what their male transgender prisoners want. Staff are to be 'provided [with] specialized training in working with unique issues when managing transgender inmates as part of annual training' (US BoP, 2022: 5, section 4). As well,

[staff] will consider on a case-by-case basis that the inmate placement does not jeopardize the inmate's wellbeing ... In making housing unit and programming assignments, a transgender or intersex inmate's own views with respect to his/her [sic] own safety must be given serious consideration. Transgender inmates shall be given the opportunity to shower separate from other inmates when individual shower stalls are unavailable (US BoP, 2022: 6, section 6).

It's true that, as well as the transgender inmate's 'wellbeing', staff must consider that any decision about placement 'does not present management or security concerns'. Moreover, the transgender manual says, 'inmates will not be submitted to the TEC for consideration until they have maintained one year clear conduct for 100 and 200 series incident report sanctions' (US BoP, 2022: 7, section 6).<sup>6</sup> However, even these

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<sup>6</sup> Incidents defined as 100 and 200 series are 'prohibited acts' of the 'greatest severity level' (100—e.g. 100 Killing, 101 Assault, 102 Escape from escort, 103 Setting a fire, 114 Sexual assault) and 'high severity level' (200—e.g. Escape from work detail, 201 Fighting, 205 Engaging in sexual acts, 206

men ‘may be considered for submission on a case-by-case basis by the Warden, as appropriate’ (US BoP, 2022: 7, section 6. See also: US BoP, 2024).

Moreover, these prohibited acts are only taken into consideration when they occur while the inmate is incarcerated. So in decisions about whether or not to place transgender men in women’s prisons, there’s no requirement to take into consideration any murders or other acts of violence the men might have committed before they arrived in the prison. And given what has actually happened since male offenders posing as ‘women’ began to demand to be placed in women’s prisons, it is obvious that the safety of women is not a ‘security concern’ for the US Bureau of Prisons.

#### *PREA*

It’s not a security concern for the US government either. Five years after the refusal to legislate against the rape of women in prison in the reauthorisation of the *Violence Against Women Act* in 1998, Congress passed the *Prison Rape Elimination Act (PREA)*, signed into law by the Bush administration on 4 September 2003 (US Congress, 2003). The intention of the Act was, as its Title said, to eliminate rape in prison. But it’s unlikely to be effective in implementing that purpose, not least because the Act and the Bureau of Justice Statistics to which the Act gave responsibility for annual ‘statistical review[s] and analys[es] of the incidence and effects of prison rape’ (US Congress, 2003: Sec.4), display little awareness of the fact that the ‘individuals’ who are raped are mainly women.

PREA has nothing at all to say about women, although the words, ‘the vulva’, do occur twice in the ‘Definitions’ sections of the Act: ‘The term “carnal knowledge” means contact between the penis and the vulva or the penis and the anus, including penetration of any sort, however slight ... The term “oral sodomy” means contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus’ (US Congress, 2003: Sec.10(1), (5)). Presumably the definitions were lifted straight from another source. But there is no mention of pregnancy as one of the consequences of rape, only the consequences relevant to men: ‘HIV transmission due to prison rape ... post-rape prophylactic medical measures for reducing the incidence of transmission of sexual diseases’ (Sec.7, (e)(2)(F), (G)).

But then, this legislation was not motivated by care and concern for the women raped by male prison staff, but by care and concern for men, or more precisely, by racism and homophobia (see below). Its initial version addressed rape only in men’s prisons. Most of the stories about being raped in prison heard during the initial Congressional Hearing in 2002 were by, for and about men only; and at the same Hearing, the Advocacy Director<sup>7</sup> of Human Rights Watch (HRW) made a number of recommendations for changes in the draft legislation, none of which made any reference to the sexual abuse of women prisoners, despite the fact that HRW had produced a number of reports on just that issue (Smith, 2013: 6n26). Its second version did include (de-gendered) staff sexual misconduct against inmates, but its

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Making sexual proposals or threats). There are two other, less severe levels of prohibited acts (300 and 400) (US BoP, 2011: 44-46).

<sup>7</sup> This person has a woman’s name, Wendy, but given the transgender propensity for men to use women’s names, it might not be a woman. Certainly, her recommendations were far from woman-friendly.

main focus continued to be rape amongst male inmates. It was eventually passed unanimously in both houses of Congress (pp.1-2).

Smith gave three reasons why PREA was passed, largely referring to the racism and homophobia in Congress. One reason was a worry about the increase in white men being imprisoned, especially high-profile white criminals (sentenced for financial crimes, institutionalised sexual abuse of children, etc.), and the racist fear that they would be raped by black men. PREA was also motivated by fear of homosexuality, which men raping men clearly exemplified in the right-wing mind. Smith also said that it was the publication in 2001 of *No Escape: Male Prisoner Rape*<sup>8</sup> by Human Rights Watch that contributed most to the passage of the Act (Smith, 2013: 1).

The other reason was an explanation for why the Act was so oblivious to the needs of women, despite the evidence. '[T]he sexual victimization of women in our society', she said, 'is entrenched. While society takes as a given that women will be victimized both in the free world and in custody, the image of male rape was much more disturbing to members of Congress' (Smith, 2013: 1). In other words, homophobia was rife among the US legislators, and society is so habituated to men's sexual abuse of women that not only do the decision-makers not care, they don't even notice.

PREA established a National Prison Rape Elimination Commission (NPREC), with the responsibility

to study the causes and consequences of sexual abuse in confinement and to develop standards for correctional facilities nationwide that would set in motion a process once considered impossible: the elimination of prison rape (US NPREC, 2009: 1).

Its first report (US NPREC, 2009) was based on a series of public hearings with relevant organisations, expert committees and individuals ('survivors'), visits to 11 correctional facilities both women's and men's, and a review of the relevant literature (p.2). The report admitted that previous research into rape in prisons was 'mainly of sexual abuse among incarcerated men' (US NPREC, 2009: 3, 38, 70). However, although it did have a great deal to say about women, unlike the PREA legislation, it was still too caught up in denial of the actual situation, assuming a spurious equality that interpreted women's situation as the same as men's.

Many of its statements about women were accurate enough. It said that '[s]imply being female is a risk factor' for being raped and sexually abused (US NPREC, 2009: 17) (although this was in the context of juvenile facilities, not the correctional system in general, and there was of course no mention of being male as a risk factor for perpetrating rape and sexual abuse). It acknowledged that '[s]exual assaults by men against women prisoners ... carry the risk of pregnancy', and that '[f]ear of retaliation, threats from the perpetrator, and fear of punishment may keep incarcerated women victims from seeking pregnancy testing or medical care once they realize that they are pregnant' (p.46). There was no suggestion that the medical care might include abortion.

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<sup>8</sup> This is the only Human Rights Watch report on rape in US jails/prisons mentioned in a literature review of 'the published research on prison sexual victimization' following on from the passing of PREA (Gaes and Goldberg, 2004). The earlier 1996 HRW report, *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons*, is nowhere mentioned in this report.

It also gave details of a number of incidents where women had been sexually abused by male staff; it noted that more women than men had a history of being sexually abused prior to incarceration (US NPREC, 2009: 71), and that the US Supreme Court had established that deliberate indifference to the health of prisoners is a form of cruel and unusual punishment (p.130); it mentioned lesbians as lesbians, and not just as the 'L' in the trans-dominated acronym (although they did tend to be coupled with 'bisexual women'); and it recommended that Congress include in the *Violence Against Women Act* 'incarcerated victims of sexual abuse as a class served under VAWA notwithstanding the nature of their criminal convictions' (p.238).

The report did also sometimes recognise that there are differences between women and men. For example, at one point it acknowledged that 'acts of sexual abuse' were more likely to be committed by men and more likely to be suffered by women: 'facilities must ... screen men for prior acts of sexual abuse and convictions for violent offenses and women for prior acts of sexual abuse' (US NPREC, 2009: 76).

But most of the time the discussion automatically reverted to the spurious 'equality' of assuming that there was no difference between the sexes in relation to 'acts of sexual abuse and convictions for violent offenses'. For example, in relation to pat-down searches by staff of the opposite sex to the inmate ('cross-gender'), the report said 'The potential for abuse is heightened ... when staff of the opposite gender [sic] conduct them. In the Commission's view, the risks are present whether the officers are female or male' (US NPREC, 2009: 6-7). And again: 'Some of the women who have joined corrections, like some of the men, are willing to cross the line to use their authority in sexually abusive ways' (p.63). The report then quoted a past president of the Association of State Correctional Administrators and the former Louisiana Corrections Secretary, who said at one of the Hearings, "we have to be very careful and very attentive to our female staff who work with male inmates as well as our male staff who work with females" (p.63).

Continuing the spurious 'equality' theme, the report also included a few examples of sexual and other abuse by women: female staff members at a juvenile facility for those with learning disabilities and mental illness, who 'sexually targeted' young male residents (US NPREC, 2009: 71); older 'more aggressive' women inmates who offered protection to young, naive, or scared offenders in return for goods and sexual intimacy, although these tended to be seen by both participants as consensual (p.113); two women officers who had sex with a man on house arrest (p.167); a female staff member who 'sexually abused' a male prisoner (p.120). In this latter case, there is a hint that the supposed 'sexual abuse' was actually consensual. The Commission witness who mentioned this case, the Director of the Michigan Department of Corrections, said that it couldn't possibly be defined as consensual because of the way sexual behaviour was defined in prison terms. "I know that sometimes people feel that parties may be in love or that it is 'consensual'", she said, "There may be things in the world that fit that criteria [sic]. In prison they do not" (p.120). The report also mentioned female staff who had helped male prisoners escape, had brought in dangerous contraband, and had put other prisoners' lives in danger by sharing confidential information (p.120).

But nothing women did was as savagely dangerous as the behaviour of men. To give just a few examples: women being sold as slaves by male staff in a federal prison (US NPREC, 2009: 26); a senior male prison official who took a woman out of her room,

pushed her into a supply room, demanded fellatio, and when she resisted, 'became increasingly brutal, throwing her against the wall and slamming her head against it repeatedly' before violently raping her (p.36); a male staff member at the Tucker Women's Unit in Arkansas who forced the woman he had raped to drink quinine and turpentine in an attempt to induce an abortion when she told him she was pregnant (p.46); a male staff member who raped a woman so brutally she hemorrhaged and had to go to hospital (p.119).

The report includes statements of the Standards PREA mandates for correctional authorities, 'for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Adult Prisons and Jails, including Supplemental Standards for Facilities with Immigration Detainees' (US NPREC, 2009: 215-36, Appendix B). But while these Standards look reasonable, they are completely ineffectual if they are not enforced. Over and over again, the report notes that the authorities 'took no action' when they received complaints about dangerous situations in their prison. And although staff who commit sexual abuse can be fired ('terminated'), it can take the authorities months, if not years, to act, while in the meantime he continues the abuse. If the Standards are ignored and the responsible authorities are not sanctioned for failure to act, those Standards are not going to be much help in preventing sexual abuse in prisons, especially given the obliviousness to women's needs that has led to incarcerating men with women. Transgender-inspired policies, far from preventing sexual abuse, are already increasing it, as men claiming to be 'women' are increasingly being housed in women's prisons.

Nonetheless, because of that aforementioned obliviousness, the National Prison Rape Elimination Commission had the usual soft spot for male inmates posing as 'women'. The report discussed them favourably, often with 'lesbian, gay, bisexual' mindlessly tacked on, as one of the categories of prisoner particularly vulnerable to rape (although 'lesbian-gay-bisexual-intersex' are not a single category at all in reality, only for transgender's piggybacking purposes). 'Their obvious gender nonconformity puts them at extremely high risk for abuse', the report said (NPREC, 2009: 74). There are horrific examples here too, e.g. a man posing as a 'woman' who was deliberately put into a cell with a convicted sex offender. He was raped for over 24 hours and was so badly injured that he was hospitalized (p.73). (The report refers to him as 'she', of course).

The report doesn't say outright that men posing as 'women' ('male-to-female transgender individuals') ought to be housed in women's prisons, but it does say that, '[i]n determining whether to house transgender individuals in men's or women's facilities, the Commission requires individualized determinations based on other factors in addition to the person's current genital status' (US NPREC, 2009: 74). It goes on to say, 'most male-to-female transgender individuals who are incarcerated are placed in men's prisons, even if they have undergone surgery or hormone therapies to develop overtly feminine traits' (p.74).

Clearly in this case, correctional authorities are using a factor other than 'the person's current genital status' to decide where to house men who no longer have male genitals. That factor is that they remain male, whatever their 'genital status'. However, that is not what the Commission meant. Rather, they meant that the fact that an offender has male genitals is not a reason to refrain from housing him in a women's prison. Because he is particularly vulnerable—[m]ale-to-female transgender

individuals are at special risk' (US NPREC, 2009: 73)—the fact that he still has male genitals should not disqualify him from residence among incarcerated women.

This focus on genitals—'Medical practitioners [should] conduct examinations of transgender individuals to determine their genital status only in private settings' (US NPREC, 2009: 215)—which is not confined to correctional contexts but is common throughout the transgender narrative and beyond, is typical phallogocentricity. The genital that is being looked for is, of course, the penis. Its absence is sufficient reason to accept that a man is a 'woman' if he says he is, while its presence is not sufficient reason to disbelieve him. But although sighting genitals is the usual way sex is identified at or before birth, that is not the way people are recognised as female or male in adulthood, or even in later childhood. While some people appear androgynous at first sight, looking at their genitals is not the way to establish what sex they are. There are any number of ways of knowing what sex someone is—voice, height, bodily conformation and movement, behaviour and other more subtle indications. Looking at someone's genitals is not one of them. But then transgender is not concerned about reality, having already violated it by insisting that men can be 'women'. Why so many mainstream institutions have acquiesced in that violation is the crucial question that is not being asked.

The update of the PREA Standards (US DoJ, 2012) prohibited the investigation of the 'genital status' of men posing as 'women'. This update took into account comments on the Standards made by interested parties, and the Department's responses to those comments. The discussion has more detail about transgender (now referred to as 'LGBTI individuals' and 'gender nonconformance') than the original version, including a special section on 'Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI) and Gender Nonconforming Inmates' (pp.37,109-10). This states that staff are required

- to train 'in effective and professional communication with LGBTI and gender nonconforming inmates';
- to find out if the incident of sexual abuse was motivated by prejudice against the 'LGBTI individual';
- not to separate 'LGBTI individuals' out into special units;
- to refrain altogether from investigating the individual's 'genital status' ('[t]he standards impose a complete ban on searching or physically examining a transgender or intersex inmate for the sole purpose of determining the inmate's genital status');
- not to 'simply assign the inmate to a facility based on genital status'; and
- to give 'transgender and intersex inmates the opportunity ... to shower separately from other inmates'.

None of these requirements had been included originally. The definition of 'transgender' adopted by the DoJ, which was also absent from the original, is lifted straight from the transgender playbook—"a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth". It 'reflects the suggestions of numerous advocacy commenters', the standards say (US DoJ, 2012: 37,115).



Again, there *are* mentions of women, and some acknowledgement, at least in part, that the situation of women might be different from that of men. The authors say that '[f]emale inmates are especially vulnerable owing to their disproportionate likelihood of having previously suffered abuse' (US DoJ, 2012: 37,131). (There is of course no acknowledgement of the fact that women in prison wouldn't be 'vulnerable' to rape and sexual abuse if they weren't forced to co-habit with men). The authors do admit that '[m]ost staff sexual abuse of female inmates is committed by male [not female] staff (p.37,132) (but there's no suggestion of returning to the situation prior to the 1980s, when women's prisons were entirely staffed by women) (NPREC, 2009: 37). There's an acknowledgement that 'even a professionally conducted cross-gender pat-down search [i.e. of women by men] may be traumatic and perceived as abusive by [women] inmates who have experienced past sexual abuse' (US DoJ, 2012: 37,131-2); and there's 'a ban on cross-gender pat-down searches of female inmates' (p.37,130). This phrase should read: a ban on male staff doing pat-down searches of women. The Department decided not to ban pat-down searches of men by women: "The final standard prohibits cross-gender pat-down searches of female inmates ... but does not prohibit such searches of male inmates' (p.37,131).

As for pat-down searches of men posing as 'women', the Department's 'final standard' states that it 'does not include a provision allowing individual inmates to state a preference for the gender [sic—they mean 'sex'] of their searcher'. The reason given is that 'such requests have the potential to be arbitrary and disruptive to facility administration'. Such requests shouldn't be necessary anyway, the Department said, because they 'can be addressed by properly assigning (or re-assigning) transgender and intersex inmates to facilities or housing units that correspond to their gender identity, and not making housing determinations based solely on genital status' (US DoJ, 2012: 37,135). In other words, men posing as 'women' would most likely be housed with women, and hence the searches would be performed by women. However, it would seem that not all (male) 'transgender inmates' could be housed with women, so the Bureau of Prisons made provision for them to apply for an exception to being searched by male staff if they are in a men's prison (US BoP, 2015: 3). What the female staff in the men's prison might have to say about this is not recorded, but there is the usual obeisance to the sensibilities of men posing as 'women': 'agencies must train security staff in conducting professional and respectful cross-gender pat-down searches and searches of transgender and intersex inmates' (US DoJ, 2012: 37,110).

So the federal US correctional system's concern for women only goes so far, as is only to be expected. While access to abortion should be immediately available in the case of a pregnancy caused by rape, the Department equivocates. This update of the Standards (US DoJ, 2012) does mention abortion (unlike the earlier statement) (US NPREC, 2009): 'Several commenters requested that the standard be clarified to reflect the fact that female inmates retain the right to an abortion' (US DoJ, 2012: 37,178). The department didn't disagree outright, but when commenters criticised the restriction of pregnancy-related services to those "lawful in the community", the Department only changed it to "'all lawful" pregnancy-related medical services' (p.37,179). If the woman happens to be in a state where abortion is not lawful, this change is no change at all, and she will be forced to carry to term a child conceived by violence, whom she didn't plan to have, and for whose well-being she alone has sole

responsibility for years to come. Or the child is placed in the notorious ‘out-of-home care’ system.

For the investigation into child sexual abuse in out-of-home care in Australia, see: Commonwealth of Australia, 2017.

So while the relevant authorities pay lip service to ‘the elimination of prison rape’, nothing very much is likely to change as long as the main form of rape—of women by men—is not given the central importance it deserves, and as long as the differences between the situation of women and the situation of men is not acknowledged. While there is a problem of the rape of men by men in men’s prisons, that is not the same as the rape of women in prison, either as staff in men’s prisons or as inmates (and as staff faced with men posing as ‘women’) in women’s prisons.

But it would seem that rape is as difficult to identify, much less control or eradicate, in prison as it is in the wider society, even when it’s male-on-male rape. According to Bureau of Justice Statistics figures quoted by the National Prison Rape Elimination Commission, in 2006 just 17% of ‘all allegations of sexual violence, misconduct, and harassment’ were substantiated. An even higher percentage (29%) were deemed not to have occurred at all, and ‘investigators could not determine whether or not the abuse occurred’ in 55% of the allegations. The Commission also heard testimony that only a small fraction of the perpetrators are ever prosecuted, and that most cases are declined by the prosecutors (US NPREC, 2009: 13). By 2020, the situation was even worse. According to a report of the Bureau of Justice Statistics’ 2020 survey of inmates (the Survey of Sexual Victimization—SSV), 36,264 allegations of sexual victimisation in prisons were reported, and only 2,351 (6.5%) were substantiated (Buehler and Kottke-Weaver, 2024: 1).

This inability on the part of the prison authorities to substantiate allegations of sexual abuse is a telling indictment of a system that purports to be trying to eliminate it. That inability may have something to do with the emphasis the Department of Justice places on corroboration. ‘Objective assessments of credibility’, they say, ‘are crucial in investigations of sexual abuse in correctional settings, especially when abuse by staff is alleged’ (US DoJ, 2012: 37,170). They go on to say, however, that when ‘there is no objective evidence that the allegation is false’, it should be investigated through ‘other avenues’, e.g. ‘interview[ing] witnesses, review[ing] the staff member’s disciplinary history, and review[ing] the inmate’s history of lodging complaints’. It should not simply be assumed that the accusations are false because the accuser is a convicted offender. The investigation of other avenues should ask ‘whether the accuser’s status as an inmate compromised the investigation’s objectivity’. Given that the vast majority of allegations are found to be unsubstantiated, it is unlikely that prison authorities are bothering to explore those other avenues of investigation, and hence once again unlikely that rape in prison will be eliminated, or even reduced.

This is especially the case when the staff disbelieve the women who complain. One example concerned a case heard in an Illinois court in 2020. A woman brought a complaint against prison staff and the Illinois Department of Corrections, saying she was sexually assaulted by a male transgender inmate and not only did the staff conduct a sham investigation that was not intended to get at the truth of the matter, she was punished for making a ‘false’ PREA complaint. It wasn’t denied that the incident happened, but it was said to be ‘consensual’. She was deprived of her phone privileges, her commissary purchases were limited, and she was not allowed to attend

the gym or boot camp (Meyer, 2020). This case was widely reported (e.g. Masterson, 2020), but I've been unable to find the outcome of the court case. It's true that this is only one example of a complaint judged to be 'unsubstantiated', but it's not unique. (See the 'Retaliation' section below).

Another reason (apart from finding that the majority of allegations are 'unsubstantiated') why rape might be difficult to identify, much less eradicate, is the strangeness of the information gathered by the Surveys of Sexual Victimization, especially what they say about the sex of the staff perpetrators of 'sexual victimisation'. The total number of allegations of sexual victimisation in prisons reported in the 2019-2020 SSV (36,264 allegations) was not separated by sex, but the 2,351 substantiated ones were, and the majority of staff perpetrators of 'sexual victimisation' (56.2%) were reported to be women (see the table below) (Buehler and Kottke-Weaver, 2024).

**Table: The sex of victims and perpetrators in 2,351 substantiated incidents of sexual victimisation, 2019-2020**

	<b>Male</b>	<b>Female</b>	<b>Trans</b>
Victims of inmate-on-inmate sexual victimisation	69.5%	26.2%	4.3%
Perpetrators of inmate-on-inmate sexual victimisation	76.1%	21.6%	2.2%
Victims of staff-on-inmate sexual victimisation	70.1%	28.7%	1.3%
Perpetrators of staff-on-inmate sexual victimisation	43.8%	56.2%	---

Source: Buehler and Kottke-Weaver, 2024, Tables 8, 9, 14, 15.

Female staff were reported to be an even higher percentage of perpetrators of the subcategory of 'sexual misconduct' (67.3%) (Buehler and Kottke-Weaver, 2024: 21, Table 15). But sex offenders are usually men. For example, the Australian Bureau of Statistics released data in February 2022 showing that 97% of sex offenders recorded by police between 2010-11 and 2019-20 were male.<sup>9</sup> Or to cite 2021 US figures, 93.6% of sex offenders in that year were men.<sup>10</sup>

There is no attempt on the part of the Bureau of Justice Statistics authors to explain this discrepancy. It would seem that they didn't even notice it. But whatever the explanation, it is unlikely that women become sexual predators when they gain employment in prisons; nor is it likely that prison authorities prefer to hire women who are sexual predators. However, it is possible that accusations against women are more likely to be substantiated than accusations against men. Most of the accusations against staff (all staff, not just the women) were not made by the victims—only '38% of staff-on-inmate incidents were reported by the victim'—while 24% were reported by 'correctional officer/front-line staff' (Buehler and Kottke-Weaver, 2024: 19, Table 12). Although the text doesn't say so, it's possible that the accusations in many of the female staff-on-inmate incidents were made by the women's superiors, especially as

<sup>9</sup> <https://www.abs.gov.au/media-centre/media-releases/97-cent-sexual-assault-offenders-are-male>

<sup>10</sup> [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Sexual\\_Abuse\\_FY21.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Sexual_Abuse_FY21.pdf)

‘sexual misconduct’ includes consensual behaviour, ‘including romantic relationships’ (p.3).<sup>11</sup>

Reporting such a disproportionate percentage of female sex offenders among the staff (and remember, the substantiated allegations were a tiny fraction (6%) of all the allegations of sexual abuse), means that Bureau of Justice Statistics is oblivious to women’s reality. They also subscribe to the spurious ‘equality’ that assumes that sex offending by women is the same as sex offending by men. It is therefore highly unlikely that PREA will have any impact at all on the incidence of rape in the US prison system, much less expose the behaviour of men masquerading as ‘women’ when they are placed in women’s prisons. Eliminating rape in prisons is certainly not going to happen as long as the authorities continue to place men in women’s prisons.

### *The States*

A number of States have instituted trans-friendly prison/jail policies.

For an interactive map showing which States have succumbed to the transgender agenda in general (not just in relation to prison policy) and which have resisted, see: Theil, 2024.

Connecticut and Massachusetts, together with New York City, house male prisoners according to gender identity (Women’s Collective, 2021. See also: Olohan, 2021), while in Indiana the District Court ruled in September 2024 that the murderer of an 11-month-old baby girl be given ‘gender-affirming’ surgery paid for by the State (Gluck, 2024a; Guzman, 2024). In Denver Colorado a 2012 county jail policy states that decisions about where to house transgender inmates ‘should not be “solely based on the inmate’s” birth sex, identity documents, or physical anatomy’ (Wilson et al, 2017: 3, quoting the Denver Sheriff Department’s *Transgender and Gender Variant Inmates*), although no male transgender inmates had been housed in a women’s prison by 2017 (p.19n3).

### *California*

California is currently a Democratic stronghold and hence an obvious jurisdiction to welcome trans activism. In this State, the *Transgender Respect, Agency and Dignity Act*, also known as Senate Bill 132, was signed by the governor on 26 September 2020 to go into effect on 1 January 2021 (Finlay, 2020). The Act says

An individual incarcerated by the Department of Corrections and Rehabilitation who is transgender, nonbinary, or intersex, regardless of anatomy, shall: ... [b]e housed at a correctional facility designated for men or women based on the individual’s preference ... The Department ... shall not deny ... a housing placement ... based on ... [t]he anatomy ... the genitalia or other physical characteristics, of the incarcerated person ... [or] a factor present among other people incarcerated at the preferred type of facility (California Senate, 2020).

Nowhere does the Act say that men convicted of sexual or other violent crimes against women would not be placed in a women’s prison (Emmons, 2019). In fact, in

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<sup>11</sup> This contrasts with the situation in the NSW prison system, where consensual sexual activity is allowed: ‘Condoms and dental dams are made available free of charge in each prison’ (Wilson et al, 2017: 7) (<https://legislation.nsw.gov.au/view/pdf/asmade/sl-2014-550>). This is the result of a NSW Supreme Court ruling in 1995 (Butler et al, 2002).

the implementation of SB132, the Department has bent over backwards to accommodate its ‘transgender and gender diverse individuals’. These ‘individuals’ are indulged with

the development of a new questionnaire to allow individuals to specify gender identity, honorific, pronoun, and search preference; a card that allows access to authorized property, canteen, and clothing; and educational materials for the population—informational brochure, handbook updates, video, and a four-week pre-transfer course—as well as training for staff (The Moss Group, 2022: 3).

This non-gendered ‘individual’ is, as usual, male. Rarely do women who claim to be ‘men’ demand to be housed with men.<sup>12</sup> Indeed, in the UK in December 2017, the response to a Freedom of Information request to the MoJ said that there were no women in men’s prisons (“currently there are no prisoners who were assigned female at birth, held in male prisons”, except for the staff of course). The reason given by staff members involved in creating transgender prison policy, was that it would be too dangerous for the women to house them in men’s prisons. An Equality Impact Assessment conducted in March 2019 for E-wing said the same thing: “There are no transgender men [sic—women] in the male estate” (FPFW, 2020b) (except for the staff). And a woman claiming to be ‘male’ in a prison on California said that she refused an offer to be placed in a men’s prison, because she didn’t ‘want to be assaulted, beaten, or raped’. She said that none of the women prisoners claiming to be ‘male’ took up the offer (Sadiq, 2022: 4 of 4, para.13).

There *were* six women who had applied to be transferred to a men’s prison in California in 2021, soon after the passing of SB132. The Deputy Press Secretary of the California Department of Corrections and Rehabilitation said that they were “transgender men [sic—women] and non-binary incarcerated people who are requesting to be housed in a male institution” (Olohan, 2021). I have been unable to find out how they fared.

Nonetheless, the ‘individual’ whose preference must be taken into account, and whose genitalia must *not* be taken into account, in any decision about where to house him in prison, is male. The Department’s failure to say so is only to be expected, given male supremacy’s basic premise that only men count as human. Specifying the sex of the ‘individuals’ would undermine that basic premise. It would mean acknowledging that there exists another category of ‘individuals’ whose experience, needs and interests are in crucial ways different from, and sometimes in conflict with, those of the (male) ‘individuals’ whose sex doesn’t need to be specifically identified.

The wording of SB132 is typical of the tortured prose necessary to maintain the denial of the existence of women and the fiction that only men count as human. The ‘factor present at the preferred type of facility’ (which must not be taken into account) is female sex (unmentioned); and the ‘other people’ among whom the male individual will be housed if he wants to, are women (unmentioned). A de-euphemised version of the policy quoted above would read something like this:

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<sup>12</sup> However, in Scotland at the end of June 2022 there was one woman self-identifying as male who was housed in a men’s prison (Wright and Mair, 2022); and in Canada, there was one woman out of 21 women claiming to be ‘men’, who opted to go to a men’s prison between December 2017 and March 2020 (Phoenix, 2023b: 3 of 10).

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a man claiming to be a 'woman' incarcerated by the Department of Corrections and Rehabilitation, regardless of his male anatomy, shall be housed at a correctional facility designated for women, if he so prefers. The Department shall not deny such a housing placement just because he has male genitals, or because he will be housed with women.

The Californian legislation follows the transgender agenda slavishly. It adopts the endless list of the supposed types of 'gender identity', and allows inmates to choose from a range of them, such as 'two-spirit', 'mahu' or 'nonbinary', which includes, 'but [is] not limited to, gender fluid, agender or without gender, third gender, genderqueer, gender variant, and gender nonconforming' (California Senate, 2020). How that helps in deciding where to house men posing as 'women' is not clear. There are, after all, only two types of prison, men's and women's. However, it would seem that anything 'not male' counts as 'women' and qualifies a man for a placement in a women's prison.

The law also obliges staff (and 'contractors and volunteers') to use 'the gender pronoun and honorific an individual has specified'. The wording is: staff 'shall not consistently fail' to do so; and presumably those who do consistently fail to do so would lose their jobs. This is coerced speech. The Act also coerces female staff to do body searches of male inmates who say they're 'women': 'The Department ... shall not deny ... a search preference ... based on ... [t]he anatomy ... the genitalia or other physical characteristics, of the incarcerated person'. Once again, the fact that 'the incarcerated person' is male is deleted, and as usual, what men want outweighs any respect for the needs, even the safety, of women (California Senate, 2020).

By May 2021, there were 261 requests by transgender men for transfers, all but six of them to a women's prison. These six were the women requesting to be transferred to a men's prison (Olohan, 2021). At that time, the prison system had already transferred four men to the Central California Women's Facility, approved 21 other requests and denied none of them (Miller, 2021).

By July 2021, there were 1,237 incarcerated people in California insisting they were 'trans' or 'non-binary' (thus becoming eligible to request a transfer), from 1,088 when the Act was passed, an increase of 12% in six months (WoLF, 2021b). Some of these might be women (claiming to be 'men'), and some of the men would not want to be housed among women (see the research of Jenness and colleagues, discussed below). But some of them will have committed violent sex offences against women and children, and the authorities refuse to give assurances that these men will not be housed with women.

Bizarrely (because it is so contemptuously misogynist), the Californian prison authorities were well aware of what would happen if they housed men with women. As the men started arriving, the prison's medical clinics were equipped with pregnancy resources, free condoms, and advice on how to obtain an abortion in prison (Ichikawa, 2024; WoLF, 2021b). Clearly, the prison authorities expected heterosexual sex to happen once transgender men were housed with women. Clearly too, the authorities knew quite well that these men were men, since sex between women doesn't lead to pregnancy; and clearly, this very knowledge blatantly violates women's right to prison accommodation separate from men.

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Given that the women were reluctant to share with transgender men, and some of them clearly afraid, it is likely that at least some of that sex would be rape. Here is one woman voicing those fears:

“How do we feel safe in our community? When we reach out for help we get nothing ... There has been an assault on a woman and we still are silenced. We have had our hope taken away once again. Does anyone care that we are being forced to house with 6’2”, 250+ lbs men with penises that are here for brutally raping women? We have been warned by the officials in this prison, more are coming with worse charges. Where is the safety concern for us. If we say we are in fear, we are the ones locked up” (WoLF, 2021b).

She is not alone.

In November 2021, WoLF sued the State of California on behalf of four women incarcerated in California’s prison system (WoLF, 2021c, 2024c). Called *Chandler v CDCR* (the California Department of Corrections and Rehabilitation), the case was aimed at overturning SB132. WoLF argued that the legislation was unconstitutional because it violated women’s rights under the Eighth Amendment to the US Constitution (prohibiting cruel and unusual punishment), the First Amendment (freedom of speech), and the Equal Protection Clause of the Fourteenth Amendment (equal protection under the law). It also appealed to a number of Articles of the California Constitution relating to those same issues.

In August 2023, the Court granted the right to intervene in the case to the ACLU, the ‘Transgender Gender-Variant & Intersex Justice Project’, and four men who wanted to be housed in women’s prisons (WoLF, 2024a). One of those men (Tremaine “Tremayne” Deon Carroll) subsequently raped two women in the Central California Women’s Facility where he was housed (Fain, 2024).

The State of California, aided by the trans-captured ACLU, submitted a Motion to Dismiss *Chandler v CDCR*, and on 31 May 2022, WoLF submitted a brief in opposition to this Motion (WoLF, 2022a), with Declarations from the four women, and from other incarcerated and formerly incarcerated women. There were also two Declarations from experts, one providing evidence of sex differences in crime (Burt, 2022), the other explaining the biology of sex (Wright, 2022). To no avail. In May 2024, the Eastern District Court of California granted that dismissal on procedural grounds, namely that ‘CDCR is immune under the Eleventh Amendment and therefore could not be a defendant in this case’ (WoLF, 2024b). (The Eleventh Amendment to the US Constitution states that federal courts don’t have the authority to hear cases brought by private parties against a State. Originally, that States immunity related only to private parties who were not citizens of that State, but then the Supreme Court ruled that the amendment applied to all federal suits against States brought by private parties). WoLF have every intention of continuing ‘to pursu[e] every legal avenue to justice for Janine, Tomiekia, Krystal, Nadia, and all incarcerated women in California’ (WoLF, 2024b).

For feminist critiques of SB132, see: Emmons, 2019; JL, 2024a, b; Kearns, 2019;

for a critique of SB132 from a right-wing source (“This devastatingly progressive bill only serves as the latest example of the leftism in California that is driving a mass exodus from the state”), see: Harris, 2020;

for a news report of more than 130 former inmates of women's prisons in California, who are suing the CDCR because they were abused by prison staff, see: Juarez, 2024;

for a report on the implementation of SB132, commissioned by CDCR, which displayed the usual scant regard for women's safety, e.g. interpreting as 'bias' the 'worry that SB 132 will result in decreased physical and sexual safety' (p.23) (for women, although the report doesn't say so), see: The Moss Group, 2022;

for WoLF's petition to the Governor of California demanding immediate action to protect incarcerated women in that State, see: WoLF, 2021a;

for WoLF's critique of the Moss Group report, pointing out that 'women's safety and needs were not considered at all' and that the report 'prioritize[s] these men's "gender identities" over the physical and mental safety of incarcerated women', see: WoLF, 2023a;

for another of WoLF's critiques of this report, acknowledging that it does expose some of the worst outcomes of the implementation of SB132 despite its bias, see: WoLF, 2023b;

for a timeline of the *Chandler v CDCR* case, see: WoLF, 2024a;

for case documents and other resources, see: <https://womensliberationfront.org/chandler-v-cdcr-press>

### ***Canada***

Canada's enthusiasm for transgender is unequalled anywhere else in the world. As Julie Bindel said, 'We call this country "Tranada" ... [It] is one of the worst places on the planet for this [men's rights] ideology' (Bindel and Kay, 2023).

For an account of the Trudeau government's connections with a number of wealthy funding organisations with control of trillions of dollars, including but not limited to George Soros' Open Societies Foundation, with links to pharmaceutical companies and that are known to pour millions of dollars into trans organisations, see: Rembrandt, 2021.

In June 2017, the Canadian federal government passed Bill C-16, which involved adding the words 'gender identity or expression' to the Canadian Human Rights Act and the Criminal Code. The addition in the Human Rights Act was the inclusion of 'gender identity or expression' in the list of prohibited grounds of discrimination (along with 'race, national or ethnic origin, colour, religion, age, sex, sexual orientation ... marital status, family status, genetic characteristics, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered').<sup>13</sup> The Act prohibits discrimination by federally-regulated employers or service providers. Local matters and those involving property and civil rights are within the jurisdiction of the provinces according to Canada's Constitution, and most human rights complaints are made under provincial human rights laws. But then most provinces list 'gender identity' and/or 'gender expression' among the prohibited grounds of discrimination in their human rights laws.<sup>14</sup>

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<sup>13</sup> <https://laws-lois.justice.gc.ca/eng/acts/h-6/page-1.html>

<sup>14</sup> [https://lop.parl.ca/sites/PublicWebsite/default/en\\_CA/ResearchPublications/LegislativeSummaries/421C16E](https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/LegislativeSummaries/421C16E)



Bill C-16 also involved two changes to the Criminal Code, one dealing with ‘hate propaganda/promotion’ and the other with sentencing provisions for crimes motivated by hate. The first of these sections ‘makes it an offence to communicate, except in private conversation, statements that wilfully promote hatred against an identifiable group’ (see footnote 13). Given the success of transgender’s re-interpretation of disagreement as ‘hate speech’, this clause mandates censorship of any attempt to counter transgender’s lies. (The Canadian government is not alone, of course, in promulgating the lie that disagreeing with transgender assertions involves ‘hatred’).

The other section of the Criminal Code adds ‘gender identity or expression’ to the list of characteristics that give rise to ‘bias, prejudice or hate’ (namely, ‘race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor’), and which could increase the penalty given to the offender (see footnote 14). Unlike the UK context, Canada doesn’t have category of ‘non-crime hate incident’ (See the ‘Police policy’ section of the ‘More havoc—police’ chapter), but presumably the ‘hate propaganda/promotion’ is the equivalent.

On 7 January 2022, the Canadian government’s Bill C-4, came into effect. This Bill amended the Criminal Code by creating new criminal offenses related to conversion therapy.<sup>15</sup> As I argued elsewhere (see the “‘Conversion therapy’” section of the ‘Piggybacking’ chapter), this kind of legislation does not prohibit conversion practices for lesbians and gays, it makes one form of such practices—transing the gay away—obligatory. Nonetheless, like vaguely left-wing politicians everywhere, the Canadian Lower House passed the Bill unanimously, and it was fast-tracked to the Upper House where it was passed without amendment (see previous footnote).

For an overview of the situation in Canada, see: Phoenix, 2023a.

## **Violence against women**

Incarcerating women with violent men is a particularly striking example of the consequences for women of the transgender agenda. While most of us are not obliged to interact with men claiming to be ‘women’, women in prison have no control over their living conditions. These are often women who have already been abused by men in a society that gives men what they want and ignores women’s needs, even the need to be safe from men’s murderous violence.

There is plenty of evidence that women are at risk when they are imprisoned with men, especially (although not only) with men convicted of violent sexual offences. It is true that the evidence is anecdotal. There is little or no well-designed, replicated research investigating the situation of women housed with men convicted of violent crimes, and there is little information from official sources that could be collected to inform policy makers about the consequences of transgender policies: ‘There are no readily accessible data on the incidence of such violence or the extent to which it is a problem’ (Robinson et al, 2024: 7). As already noted, the US Bureau of Justice Statistics, for example, doesn’t collect the relevant information or ask the right questions.

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<sup>15</sup> <https://www.loc.gov/item/global-legal-monitor/2022-01-19/canada-bill-c-4-banning-conversion-therapy-comes-into-force/>

Anyway, it shouldn't be necessary to do any research because it is surely self-evident that men who have a history of rape and other violent crimes should not be imprisoned with women. As the UK High Court said euphemistically in the decision described above, 'Many people may think it incongruous and inappropriate that a prisoner of masculine physique and with male genitalia should be accommodated in a female prison in any circumstances' (UK High Court, 2021: para.76). In a typical bit of agent deletion, the Court located this insight with 'many people', i.e. not themselves, although they probably did believe it themselves, given that they mentioned it. And yet, while the Court could see the problem, they still found that accommodating men in women's prisons was not unlawful. This is a neat example of the balancing act needed to both acknowledge and deny reality at one and the same time. This is the 'elephant in the room' syndrome, a huge, undeniable problem that is nonetheless ignored.

What evidence there is (absent the above-mentioned well-designed research) shows that housing men with incarcerated women poses a very real threat to the women. Most of that evidence involves the testimony of the women themselves, evidence that mainstream authorities tend to find unbelievable. That doesn't mean however that those reports are false. It is simply a manifestation of the misogynist tendency to disbelieve women.

Another manifestation is the way the authorities and the media treat the issue. The authorities are initially oblivious to the effect on women, not to mention the dangers, of imprisoning them with men, while the media mindlessly subscribe to the fiction that men can be women, referring to even the most repugnant offenders of typically male depravity with feminine pronouns. Transgender prison polices explicitly violate women's right to be imprisoned separately from men, a violation that is dishonestly managed by accepting that some men become 'women' just because they say so. Described below are some consequences of that violation.

There's the notorious 'Karen White', whose behaviour was so extreme that the authorities had to believe the women, although not immediately. One woman said that he had raped her five or six times in 2016 (Parveen, 2018a). However, this is the case that (possibly) influenced the UK government to change its transgender prison policy to prohibit men convicted of sex offences and violent crimes from being placed in women's prisons. 'Karen White' was born Stephen Terence Wood, and also known as David Thompson (Parveen, 2018b). He was placed in a women's prison despite the fact that he was a convicted paedophile on remand for grievous bodily harm, burglary, multiple rapes and other sexual offences against women, and he still had his male genitals. He promptly assaulted two female inmates (FPFW, 2018; Hymas, 2018; Parveen, 2018a, b). Bizarrely, the newspaper reports refer to him with feminine pronouns, e.g. 'A "predatory and controlling" rapist has been jailed for life after she [sic] attacked vulnerable women in female prisons' (Parveen, 2018a) (although perhaps they wouldn't get published if they didn't).

The trans lobby treated the 'Karen White' case as a one-off: 'you can't say the system is wrong when it goes wrong once', said Jenny-Anne Bishop, from the transgender 'rights' group, Transforum (FPFW, 2018; Parveen, 2018b). However, it was not an isolated instance (see the discussion of other instances below). The UK Ministry of Justice publicly apologised (although not to the women) for putting this particular sexual predator in with incarcerated women who couldn't escape from him (Parveen,

2018b) (not that the apology was worded quite so clearly). A spokesperson for the prison service also apologised: “We apologise sincerely for the mistakes which were made in this case” (Parveen, 2018a). But it was no ‘mistake’. It was a deliberate policy directed by the prison service’s acceptance of transgender’s insistence that men who say they’re ‘women’ are women (FPFW, 2018).

In 2018, it was reported in the *Guardian* that White was ‘undergoing gender reassignment surgery’. If this is the case and he successfully applies for a GRC (although he doesn’t need the surgery for that), the law says he should be housed in a women’s prison (Maynard, 2022), despite the fact that castration doesn’t prevent men from being violent or abolish their overweening sense of entitlement.

But Karen White is not the only example of a violent sex offender being housed with women under the transgender mandate. Also in the UK, Martin Ponting (aka ‘Jessica Winfield’—a man posing as a ‘woman’), who had been jailed for life in 1995 for raping two girls, was placed in a women’s prison. There, he made ‘unwanted sexual advances to inmates’. He (referred to in the newspaper article as ‘she’) was put in segregation after his behaviour was reported (Doran, 2017), but by then the damage had been done to the women he had made ‘sexual advances to’, euphemistically speaking. As his ex-wife said, “He is a dangerous man and it beggars belief why he was allowed to mix with women”. And yet, prison bosses were reported to be ‘undecided whether they can put her [sic] back among female prisoners or return her [sic] to [the] male-only [prison,] Whitemoor, in March’ (Doran, 2017. See also: Shaw, 2019).

In Scotland, there was the case of ‘Isla Bryson’ (Adam Graham), convicted of raping two women, who was placed in a women’s prison while he was awaiting sentencing, a decision the Scottish Prison Service made while he was in transit. Thankfully, he was only in the women’s prison for two days. Management decided to transfer him to a men’s prison “due to the level of risk and remaining uncertainties” (Bews, 2023; Brooks and Carrell, 2023; Campbell, 2023). It might also have been due to the outcry over the initial decision, with First Minister Nicole Sturgeon faced with questions in parliament, media interviews, and the difficult juggling act of defending ‘transgender people’ while not seen to be defending a rapist (Jackson, 2023). She solved that problem, presumably to her own satisfaction, with a version of the ‘not-all-men’ trope. She was reported to have said that it was important “that we do not even inadvertently suggest that somehow trans women pose an inherent threat to women” (Campbell, 2023). It was reported that this case led to a change in policy, from automatically placing men claiming to be ‘women’ in women’s prisons, to initially placing them in men’s prisons (Bews, 2023).

Nowhere was it suggested that men shouldn’t be placed in women’s prisons at all. Indeed, despite the new policy, the Scottish Prison Service had placed three male murderers in the women’s estate a month after the new policy came into effect in February 2024. The rationale was that these men had murdered men not women (Edkins, 2024), and the policy states that ‘[a] transgender woman [sic—a man claiming to be a ‘woman’] **will not** be eligible to be considered for admission or transfer to a women’s prison, where they are: convicted ... of ... [a]ny offences that perpetrate violence against a female that results in physical, sexual, or psychological harm or suffering to a female’ (SPS, 2023: 6—original emphasis).

For a detailed discussion of the earlier transgender policy of the Scottish Prison Service, see: Murray and Blackburn, 2019.

In Ireland, one man ‘currently undergoing a male to female transition’ was remanded in a women’s prison in Dublin in July 2019, despite the fact that he had been charged with ten counts of sexual assault and one count of cruelty against a child (Lynskey, 2019). He was supposedly strictly monitored, being accompanied by two officers at all times while he was in the prison’s common areas (Gazette Desk, 2019). But while this might be the stated policy, what underfunded prison service is going to allocate the time of two staff members to minding one person? And what about the other areas? Sexual abusers operate in secret. That’s what makes it so hard to prove. The policy admitted that the man posed a danger to women, and yet the authorities housed him with already terrorised women who couldn’t escape from him.

Another violent male, this time an 18-year-old boy, was being held in the women’s section of Limerick prison in September 2020. Although still a teenager, he had a life-long history of abusing women, including his mother. He had learned brutality from his father who had abused him until he was eight years old, at which point his mother managed to flee, taking the boy with her. After a particularly brutal attack on her at age 10, he was taken into care, where he assaulted a female care-worker so savagely that she had to be hospitalised. Despite this history of brutal aggression against women, officialdom expected vulnerable women to manage life with this young male, although the authorities themselves were unable to manage him (Shaw, Diana, 2020).<sup>16</sup>

And it’s not just happening in the UK: ‘In the US. In the UK. In Europe. In Australia. In Canada. Rape, sexual assault, and an atmosphere of fear are now standard-fare psychological torture for incarcerated women’ (Hummel, 2022). In Australia, a man who was given a 22-year sentence in 1989 for his murder of a male hitchhiker in 1987, Noel Crompton Hall (aka ‘Maddison’ Hall), spent eight months in Mulawa women’s prison in Sydney in 1999-2000 because he claimed to be a ‘woman’. In 2006, it was alleged in NSW parliament by the Leader of the Liberal Party Opposition that “he/she attacked a number of women” while he was in Mulawa and that “one of them ended up pregnant” (AAP, 2006a, b).

The issue had been raised in the Upper House by the Reverend Fred Nile, member of the right-wing Christian Democratic Party. There was some doubt about whether or not Hall was responsible for the pregnancy. According to the newspaper article, ‘it was not known whether Hall was responsible for the alleged pregnancy or whether the father was another man awaiting gender reassignment surgery in the same wing’. Leaving aside the idiocy of referring to a pregnancy as ‘alleged’, who the ‘alleged’ abuser was is irrelevant. The important issue is that imprisoning women with violent men leads to the sexual abuse of women. Denying that requires lying, e.g. the Justice Minister’s reported statement that ‘the alleged assault had not been proven’ (AAP, 2006a, b), not because it didn’t happen, but because the woman who made the complaint ‘was released from prison and ... travelled to New Zealand. There being no evidence, the matters were “no billed”’ (NSW Supreme Court, 2001: para.12). Nonetheless, because of the allegation of sexual assault, Hall was moved into the men’s prison at Bathurst where “[i]t seems she [sic] has responded to a more stable

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<sup>16</sup> Women Are Human site.

placement and an opportunity to work, study and form relationships with staff’ (according to forensic psychiatrist, Dr William Lucas) (para.19).

In Canada, men posing as ‘women’ and convicted of violent offences have been housed with women. Helen Joyce (2021: chapter 8) gave a number of examples. There was Richard Chaperon (aka ‘Synthia Kavanagh’) who, in 1985, had stabbed his roommate to death and bashed him with a hammer. The roommate (Leo James Black aka ‘Lisa Janet’ Black) was also a transgender man and both were working as prostitutes. Kavanagh said he had killed Black because someone had threatened him with a gun demanding that he either get back the cocaine and jewellery Black had stolen or kill him, and killing him was ‘easier’. Kavanagh filed a human rights complaint, arguing that the Canadian government had a responsibility to provide him with transgender medical ‘care’. He won the case, and prison authorities in Canada are now obliged to provide such ‘care’ paid for with public money. In 2000 he was placed in a women’s prison after surgery to remove his genitals. Castration did not turn him into a peaceable soul, however. In 2005, he was moved to a maximum security facility, also for women, after he had smashed up a room and assaulted prison staff.<sup>17</sup>

Joyce also mentioned information received by April Halley, reluctantly and tardily provided by the Correctional Service of Canada in 2019 (Halley, 2019). Of eight men transferred from federal Canadian men’s prisons to women’s prisons from 1 June 2017 to 3 December 2018, five had murder convictions and two others had been convicted of other serious violent offences. Despite the fact that Halley had asked for figures on the number of men in women’s prisons, the Department only gave her figures on the number of men *transferred* from men’s prisons to women’s prisons. That figure didn’t include the men directly admitted to women’s prisons as soon as they were convicted; nor did it include men who had had their genitals removed, who are classed as female by the authorities and automatically placed with women; nor did it include figures for provincial prisons, since the data related only to federal prisons.

Neither did it include Patrick (‘Tara’) Pearsall, who was transferred to a women’s prison in 2015 (i.e. outside the time frame of Halley’s request) when he said he was a ‘woman’, despite the fact that he was known to be a pathological liar—he kept claiming to have a series of illnesses that he didn’t have—and he was officially a ‘dangerous offender’. His convictions involved offences against young vulnerable women whom he sexually assaulted while posing as a paramedic. Two of his wives had actively (and separately) aided him in seducing and assaulting the young women. He said that he wanted to be incarcerated in a women’s prison because he was afraid of being raped in a men’s prison, and because it was easier serving time with women (DiManno, 2018).

That figure of eight supplied to Halley by Canada’s Correctional Service didn’t include Matthew (‘Madilyn’) Harks or Adam Laboucan (aka ‘Tara Desousa’) either, both of whom had been castrated and hence were placed in a women’s prison directly without going to a men’s prison first. Hence, they didn’t count as ‘transferred’. Harks had been convicted of three sexual assaults of girls under the age of eight, and despite his castration, he assaulted two young women while in custody. Laboucan, also castrated, had been convicted of assaulting a three-month-old baby. He was characterised as a

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<sup>17</sup> There are a number of stories about Kavanagh on the internet, e.g. <https://murdervillage.com/1987/03/02/spontaneous-confession/>

dangerous offender, yet he was housed in a women's prison with a mother-and-baby unit. He had also confessed to murdering a three-year-old child when he was only 11 years old himself. Whether or not he had actually done this, his saying so indicates the kind of person he is; and while in prison he had threatened to kill a female guard (Halley, 2019; Hunter, 2019; Joyce, 2021: chapter 8).

In Connecticut, a Juvenile Court judge ruled that a 16-year-old boy posing as a 'girl' (and reported as such in the court and the media) was to be transferred from a juvenile detention centre to a women's prison. According to a Commissioner from the Department of Children and Families, the transfer was necessary because the boy ('she') "has repeatedly, and over an extended period, assaulted girls and female staff members" in the juvenile centre. One of his assaults on a female staff member had resulted in concussion and an eye injury along with bites and bruises. The decision to house him with women caused 'a heated debate', not because of the danger he posed to women, but because a minor was being placed in an adult prison. (AAP, 2019).

In New Jersey, a 27-year-old man posing as a 'woman' ('Demi Minor') and serving a 30-year sentence for manslaughter was moved out of the Edna Mahan women's prison in June 2022 and into a prison for vulnerable young male adults aged 18 to 30, because he had got two women pregnant. He was one of 27 men posing as 'women' who had been transferred to Edna Mahan after the passing of the ACLU-sponsored 'gender self-id' legislation in that State in 2021 (Bellamy-Walker, 2022). Minor is a great favourite of the trans lobby (aka 'the LGBTQ community'). His former foster mother, however, the widow of the man he killed, believed he was 'a manipulative "psychopath"' who was just using transgenderism as a way of getting special treatment. She also said she was worried about what he would do to the women if he was returned to the women's prison. One of the relationships was consensual and the woman decided to keep the baby. The other relationship was not, but according to the man's lawyer, it was Minor who was coerced, not the woman. She had demanded he have sex with her and threatened to beat up his girlfriend if he did not. This woman terminated the pregnancy (Kennedy, 2022).

It would seem that there was no violence involved here, at least not according to the newspaper reports. But incarcerating women with men, including male staff, is going to lead to some women getting pregnant, whether voluntarily or coercively. The solution to the problem of women getting pregnant while in prison is to keep men out. California's alternative solution—supplying condoms—is not adequate. There is not way of ensuring that rapists will wear them and being raped by a condom-wearing penis is still rape. The only reliable solution is to keep prisons single-sex.

A particularly heinous decision by the Californian prison authorities empowered by SB132 is the housing of David Warfield (aka 'Dana Rivers') in a women's prison (Kennedy, 2023; Murphy, 2023; Wikipedia, 'Dana rivers'; WoLF, 2023c). This man murdered a lesbian family—the two lesbian parents and their adopted adult son—just after midnight on 11 November 2016. He was charged with the murders on 14 November—there can be no doubt that he was guilty since he was caught by the police when he was running from the house—although his trial for the murders didn't start until October 2022. Rivers, who was called a 'pioneering transgender activist' in one newspaper report, which also referred to him with feminine pronouns, had had surgery in 2001, but castration obviously did nothing to tone down his sense of male entitlement or his murderous rage at women.

Feminists have said that Rivers' crime is a hate crime, and there is provision in the US legal system for hate crimes against women, unlike the situation in the UK (see the 'More havoc—the law' chapter). Although the category is called 'gender' not 'sex' (along with race, colour, religion, national origin, sexual orientation, gender identity and disability), the example given is the Ecole Polytechnique massacre in Montreal in 1989, where Marc Lépine killed 14 women and wounded others because they were women.<sup>18</sup> However, although Rivers' crime certainly qualifies as a hate crime, given that he was sentenced to life without parole there is nothing further that could be added to his sentence. (California began to abolish the death sentence in 2019).<sup>19</sup> Indeed, by placing him in a women's prison the State is rewarding rather than punishing him.

There is very little, if any, research that investigates the views of the women incarcerated with men posing as 'women'. One researcher who did interview some women said that previously there had been none (Maycock, 2021). Unfortunately, this researcher interviewed only 15 women. Moreover, he was an employee of the Scottish Prison Service at the time he did the research, and the prison service's transgender bias skewed the way he wrote up his findings. He self-identified as 'a white, middle-class heterosexual cis-man' (p.4), and constantly referred to the women as 'cis-women', for example. He was therefore concerned to downplay any objections the women had. But a careful reading of his report suggests that the women were not quite as supportive of his 'transgender women' (i.e. men) as he would have liked.

He quoted at some length the women who were supportive of the men posing as 'women', and included one of their positive responses—"She was just like a lassie"—in the title of his essay. But only three of the 15 women were supportive. Over half said they felt uncomfortable, at the very least, at having to share with men. 'Just over half of the participants', he said, 'discussed their experiences of different transgender women [sic] who [sic] they viewed as men and consequently as a threat due to previous experiences of violence and abuse' (p.10). The way this is written up here muddies the meaning so that the reader is so bamboozled it's not clear what is being said. The sentence should read, 'Just over half the participants knew that the men masquerading as "women" were men, and they felt threatened because of their previous experiences of violence and abuse at the hands of men'.

The way Maycock tells it, it would seem that there was no consensus among the women. 'Ultimately', he said, 'the participants in this study feel simultaneously intrigued by, warm towards, supportive of, vulnerable around, threatened by and intimidated by living with transgender people in custody' (Maycock, 2021: 17). But this seeming lack of consensus is a function of the way the findings are expressed. Note that he lists the positive reactions first as though they were more prevalent than the negative reactions, and also gives three of each kind of reaction, as though they were at least evenly balanced.

Moreover, as Maycock himself admitted, the women were apprehensive about expressing gender critical views and hence they may have told him what he wanted to hear, given his transgender sympathies. He attributed this view to one woman, but also acknowledged that it might have influenced other women as well (Maycock,

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<sup>18</sup> <https://www.justice.gov/hatecrimes/learn-about-hate-crimes>

<sup>19</sup> <https://www.cdcr.ca.gov/capital-punishment/>

2021: 15). Hence, the findings of one of the very few examples of research that actually asked women about their experiences (if not the only one) were distorted to reinforce the transgender agenda. In fact, the most obvious finding is that most of the women interviewed were unhappy about having to share living quarters with men.

For a response to a Freedom of Information request to the egregiously misnamed Department of Justice and Community Safety in Victoria, Australia, a response that unashamedly asserted that there was no information about ‘transgender women’ (sic—men) in prison in that state because the ‘documents’ didn’t exist, see: AWF, 2022: Annex 2;

for an argument that, behind the policy of placing transgender men in women’s prisons (with its ‘gradual erasure of sex in the prison system in England and Wales’), lies a legal ruling that men wanting genital surgery should be placed in women’s prisons in order to qualify for the surgery and hence before having it, along with queer theory with its destabilizing of the category of ‘sex’, see: Biggs, 2020;

for another detailed account of the danger of placing men in women’s prisons, see: Dansereau, 2024;

for the situation in New Zealand, where men who’ve had their birth certificates changed to say they’re ‘female’ are automatically entitled to be housed in women’s prisons, whether or not they have committed sexual offenses, see: Gerlich, 2018;

for an account of the transfer to a women’s prison in New Jersey of a man claiming to be a ‘woman’ who had been convicted of beating woman to death with a hammer, see: Gluck, 2024b;

for the Independent Women’s Forum’s collection of stories by women who have been forced to share their imprisonment with men claiming to be ‘women’, see IWF, 2024;

for an answer to the author of SB132, San Francisco’s Senator Scott Wiener (who asserted that evidence of violence by men posing as ‘women’ was ‘a false narrative’), listing 13 violent male offenders posing as ‘women’, with links to a report on each one, see: JL, 2020;

for a brief account in the Irish press of an unnamed man posing as a ‘woman’, who was the first man in the prison’s history to be remanded to the Dochas Centre Women’s prison in Dublin, and who had been ‘convicted of 10 counts of sexual assault and one count of cruelty against a child’, see: Lynskey, 2019;

for an open letter to the Canadian Association of Elizabeth Fry Societies, protesting that Association’s ‘lack of concern around transferring male-bodied individuals to women’s prisons’ and the fact that they ‘repeatedly silenced criminalized women’s reports, questions and input’, see: Mason et al, 2021;

for an article about a woman who pleaded guilty, in order to be released on bail rather than take a chance that she would be imprisoned with two men claiming to be ‘women’ whom she had already encountered while on remand (murderer Alex Stewart, 34, and sexual assaulter ‘Laura’ Miller, 30), see: Matthews, 2024;

for further accounts of the violent man (Tremaine “Tremayne” Deon Carroll) whom the court allowed to intervene in the *Chandler v CDCR* case, and who subsequently raped two women who were imprisoned with him, see: Reinl, 2024; Slatz, 2024b;



for an overview by a group of psychiatrists of federal and state guidelines for ‘the medical care and housing of the TGD population’ in the US, that addresses the topic of ‘physical and sexual violence perpetuated [sic—perpetrated?] by the TGD individual ... especially in the case of male to female facility transfers’, but euphemises it by calling it ‘controversial’, see: Robinson et al, 2024;

for an account of a woman who was sexually assaulted in the Women’s Correctional Center in Washington by a male inmate posing as a ‘woman’ (Christopher Williams), who had been permitted to move into and share her cell even though he was a violent sex offender, see: Slatz, 2024a;

for an article in *The Economist* warning that California’s transgender prisoner policy ‘will be tested at the expense of an unusually vulnerable and voiceless population’, namely incarcerated women, while still asserting that ‘putting transgender women [sic—men] in men’s prisons can be cruel’, see: The Economist, 2021;

for Fair Play for Women’s research into the numbers of male offenders posing as ‘women’ in prisons in the UK, comparing their own 2018 figures with those belatedly released by the MoJ, see: Williams, 2018;

for one woman’s experience of being housed with transgender men in prison in Canada, see the YouTube video, ‘Heather Mason on the transferring of males to women’s prisons in Canada’;

for five violent male offenders claiming to be ‘women’, who were housed in women’s prisons in the UK, see: <https://kpssinfo.org/males-in-womens-prisons/>.

#### *Female staff*

It is not just female inmates who are at risk from men incarcerated with them. Female staff are too, in both women’s and men’s prisons. As an Australian submission to the UN pointed out, ‘two different groups of women face risk if TIMs [trans-identified males] are incarcerated in female detention facilities like prisons and watch houses. First, incarcerated women, and, second, female corrections-sector workers’ (AWF, 2022). Early in 2020, the former Tory Cabinet Minister who oversaw prisons in the UK in 2018 and 2019 said that he knew of female prison officers who had been raped by male-bodied inmates posing as ‘women’ (Burton, 2020; ffiske, 2020; Owen, 2020). A Ministry of Justice spokesman in the House of Lords was reported to say that there were “no reported incidents” of female staff being raped by trans inmates (Brown, 2020), although no ‘reported’ incidents is not the same as no incidents.

But the risk of being assaulted is not the only risk for female correctional staff having to deal with men posing as ‘women’. They are also obliged to do the intimate strip and body searching of these men. Lisa Townsend, the Police and Crime Commissioner overseeing Surrey police, was quoted saying that

“I heard from a prison officer recently from outside Surrey. She was asked to search a transwoman [sic] in custody. It was the first time she had been asked to conduct a search in a custody suite, and as a young officer she didn’t feel she could refuse. She had never before been obliged to see male genitals in a professional situation” (Bartosch, 2021).

Nonetheless, as the NSW policy says: ‘the strip and pat searching of a recognised transgender inmate is to be conducted by an officer of the same sex as the recognised sex of the inmate’ (NSW Corrective Services, 2023: 6 of 10, para.1.6). At the time the

NSW policy was written, ‘a recognised transgender person’ was a man who had undergone ‘sexual reassignment surgery [which] means a surgical procedure involving the alteration of a person’s reproductive organs’ (NSW Government, 1996: Part 5A 32B, 32A). But on 17 October 2024, the NSW parliament abolished that requirement for a man to have had surgery to be recognised as a ‘woman’ (Dole, 2024) (by instituting self-id as the only criterion necessary, thus abolishing any rights women might have had to gather together without men). This brought NSW into line with other Australian jurisdictions. What it means for female prison officers is that they are now obliged to do the bodily searches of men with fully intact genitals (as has long been the case in other jurisdictions).

The policy does state that ‘where an officer is not comfortable with this directive, another officer ... should be assigned the task’. But that other officer also has to be ‘of the same sex as the recognised transgender inmate’ (NSW Corrective Services, 2023: 6 of 10, para.1.6). In practice this still means a woman, despite the fact that the *sex* of ‘the recognised transgender inmate’ is male, whatever he calls himself. The policy has nothing to say about what happens if none of the female officers are prepared to do intimate searches of male bodies, whether or not they’re called ‘female’.

At least they’re not expected to do body cavity searches, i.e. ‘Any search involving the physical or visual examination of a person’s internal, genital, or anal cavities. It may, in some instances, include internal organs, such as the stomach cavity’ (IACP, 2019: 2). The international standard for such searches is that they can only be conducted by ‘a medical professional’ (p.3).

One way, perhaps the best way, to protect female staff from male violence in the correctional system, is to make sex a *bona fide* occupational qualification for prison guards, and in fact the US Supreme Court has set a precedent for that. In 1977, the Court ruled that the District Court erred when it found that Alabama’s weight and height restrictions for employment as a prison guard (120-pound weight and height minimum of 5 feet 2 inches) were discriminatory, and that ‘being male was not such a qualification for the job of correctional counselor in a “contact” position in an Alabama male maximum security penitentiary’. Instead, the Supreme Court ruled that being male *was* a necessary qualification for employment in a male maximum security prison because

Alabama maintains a prison system where violence is the order of the day, inmate access to guards is facilitated by dormitory living arrangements, every correctional institution is understaffed, and a substantial portion of the inmate population is composed of sex offenders mixed at random with other prisoners, and that therefore the use of women guards in “contact” positions in the maximum security male penitentiaries would pose a substantial security problem, directly linked to the sex of the prison guard.<sup>20</sup>

Of course, the Court had nothing to say about *female* sex as a *bona fide* occupational qualification for employment in women’s prisons. That was not the matter they were asked to decide.

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<sup>20</sup> <https://supreme.justia.com/cases/federal/us/433/321/>

For women's complaints of sexual abuse by male staff in women's correctional facilities, see: Bozelko, 2020;

for two accounts, seven years apart, of female prison officers in Scotland refusing to strip-search the same dangerous man posing as a 'woman', see: Hamilton, 2016; McGivern, 2023;

for complaints by two female prison officers in California, who were required to strip-search men claiming to be 'women', despite the fact that one of the women had earlier received the "highest possible level of disciplinary action from her superiors" for having searched a male inmate, see: Schrupp, 2024;

for a research study interviewing six female staff members working in a men's prison specifically for sex offenders, who reported no problems with the 'transgendered (male) sex offenders', apart from one interviewee who was uncertain how to react when one of the men was "coming in a little bit close [laughs]" supposedly to examine her make-up, see: Marlow et al, 2015.

### **Other detriments**

Outright male violence is not the only problem incarcerated women face when men are permitted to serve their sentences in women's prisons. Maya Forstater was quoted saying: "The presence of men in women's prisons immediately makes every female inmate feel unsafe. Even if men do not commit actual violence, they may threaten, bully and sexually harass women. Their very presence is intimidating" (Rayment, 2024). The National Prison Rape Elimination Commission noted that "[s]everal courts have recognized that prolonged and direct viewing by male staff violates an incarcerated woman's right to privacy" (US NPREC, 2009: 63). And as Raquel Rosario-Sanchez said, 'men do not stop being male simply because they lack a penis' (Sanchez, 2024).

In the court case mentioned by Rosenblum (2000: 531) (see below), the fact that the man had 'lost penile function' was irrelevant to the woman's case. The complaint was that the transgender man had violated a woman's civil rights by invading her privacy when she was on the toilet or showering, not that he had raped or sexually assaulted her. This man still had his male gaze and sense of entitlement to go wherever he pleased, even if his penis didn't work. Even men who have had their genitals removed can harass and threaten women. Adam Laboucan and Matthew ('Madilyn') Harks had both been castrated, yet Laboucan threatened to kill a female staff member and Harks did sexually assault two young women who were 'child-like in appearance' while he was incarcerated with them (Halley, 2019).

Heather Mason, a woman who has personally experienced the Canadian incarceration system, gave a number of examples of behaviours by men posing as 'women' towards the women they were imprisoned with. These stopped short of actual physical violence but they were nonetheless harassing, threatening and predatory. There were men who peered through the windows of women's cells, men who wandered around with their penises on display, and men who said they could have sex with any woman they wanted (as well as sexually assaulting women in bathrooms) (Mason, 2019).<sup>21</sup>

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<sup>21</sup> This is another article that's unavailable because of the hacking of the *Women Are Human* website.

One woman was incarcerated with Matthew Harks. Because the women had been told to ignore any feelings of danger they might have had about the crimes of the men posing as ‘women’, this woman was friendly towards Harks. His response was to stalk her, following her around, telling her she had a “young spirit” and that he was “horny”, standing outside the toilet listening to her, and asking if she had her period. He was able to do this with impunity because the staff did nothing to stop him. When her increasing distress at this behaviour became too obvious to ignore, all the authorities offered her was segregation from the rest of the prison population. When she lodged a complaint with Correctional Services Canada, they cited Bill C-16 as justification for rejecting her grievance and refusing her request for a review of its ‘gender identity’ policy and its impact on women prisoners (Mason, 2019).

In Scotland, a report by a feminist campaigning group, Women and Girls in Scotland, also discussed behaviours on the part of men posing as ‘women’ who had been incarcerated in women’s prisons. The women who had responded to their survey had told them that the aggression displayed by these men, even if it didn’t involve actual physical contact (e.g. punching the wall), had a worse effect on women than aggression by other women because it was like the male violence they had already experienced. The women also talked about the men walking through the prison with visible erections, just like the men in the Canadian prisons (Women and Girls in Scotland, 2019: 17). Clearly, male obsession with their penises crosses national boundaries. The women interviewees also spoke about men having loud explicitly sexual conversations on the telephone, men threatening to rape female inmates and staff, and men watching women while they were showering. Altogether, the men behaved like predatory men everywhere, frightening women with words and looks and gestures even while they refrained from physical attacks. (Murray et al, 2020).

As one commentator said,

These males [men posing as ‘women’ in prison] were on female hormones, wore female attire, and put on makeup. But they were still male and they were still capable of being violent rapists as they had many times in their past. To think of putting them in female prisons or shelters or homes was so outrageous to me that I couldn’t imagine anyone would ever even suggest something so absurd (Gender Heretic, 2020).<sup>22</sup>

But the transgender agenda is quite comfortable with absurdity, as long as it is misogynist. Concern is shown only for the supposed need for ‘safety’ of transgender men, and not the safety of incarcerated women. One commentator expressed this partiality quite clearly.<sup>23</sup> ‘It appears hypocritical’, she said,

that prison systems prohibit housing a transgender inmate with other [sic] female prisoners out of concern for the female prisoner’s [sic—

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<sup>22</sup> The ‘Gender heretics’ website where this article appeared is also unavailable. Instead, entering the phrase ‘gender heretics’ into a search engine brings up numerous references to a 2023 publication, *Gender Heretics: Evangelicals, Feminists, and the Alliance against Trans Liberation*, by a certain Rebecca Jane Morgan, that ‘[e]xposes and explains the unlikely alliance between Evangelical Christians and anti-transgender feminists’. Here, the ‘gender heretics’ are the transgender lobby, whereas in the case of the article cited above, they are the feminist resistance to that lobby. (For another article that uses the term ‘gender heretics’ in the feminist sense, see: Bartosch, 2020).

<sup>23</sup> This person has a feminine name (Rebecca) but that is no guarantee these days that the author is female.

prisoners'] safety and well-being, but seem to have no concern for the safety and well-being of the transgender prisoner (Mann, 2006: 106).

This assertion that prison systems prohibit housing transgender inmates with women is another transgender lie, as shown by the examples discussed throughout this present work. The relevant legislative changes happened after Mann was writing, but the speed with which they happened indicates that there was no prohibition beforehand either. Compare that alacrity with the history of the Equal Rights Amendment in the US, introduced in Congress in 1923, revived in 1972, and still not law nearly a century after its introduction. Mann's reference to 'other' female prisoners is also a lie, because transgender men are not women, so they can't be an 'other' kind of woman.

Concern for the safety and well-being of incarcerated women forced to share living quarters with men posing as 'women' is justified by the fact that men remain men, whatever they say they are and however they dress. As the US Women's Liberation Front said (in their statement of complaint to the District Court in California on behalf of four incarcerated women):

Male patterns of violence and sexual offending are not lower in the subset of men who claim a "gender identity of female" than in the overall population of men. Regardless of a man's declared "gender identity," men remain more likely to intimidate, overpower, harass, abuse, and violate women's safety and dignity than any such risk posed by women toward men (WoLF, 2021c: para.8).

As Janice Raymond said so many years ago, 'loss or debilitation of a penis does not mean the loss of an ability to penetrate women—women's identities, women's spirits, women's sexuality'. She went on to cite Mary Daly saying that 'their whole presence becomes a "member" invading women's presence to each other', and reminded readers of the eunuchs, who were men used by more powerful men to oversee and control women. The problem with placing men in women's prisons is, certainly, that men are more violent than women, but also because they feel more entitled to get what they want, whoever gets hurt in the process. Raymond wondered, presciently, whether what she called 'transsexually constructed lesbian feminists' (i.e. trans men calling themselves 'lesbians', i.e. heterosexual men) would 'be used to keep lesbian-feminists in place' (Raymond, 1980: xix-xx, 104).

## **Retaliation**

The US Department of Justice has acknowledged the problem of retaliation. The update of the PREA Standards (US DoJ, 2012) said that 'the final standard requires training on inmates' right to be free from retaliation for reporting sexual harassment [as well as sexual abuse]' (p.37,146). Section §115.67 of the US Bureau of Prisons Statement about the 'Sexually Abusive Behavior Prevention and Intervention Program' is devoted to 'Agency protection against retaliation' (US BoP, 2024: 42). Each prison, jail, lock-up, etc., 'shall establish a policy', it says, 'to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff'. In pursuit of this aim, agencies are required to 'designate which staff members or departments are charged with monitoring retaliation', and monitor the situation for at least three months, or longer if necessary. Although this policy, which was first

adopted in 2015, is admirable, it is also ignored, as shown by the incidents described below.

For example, a woman who is a former inmate in the Californian prison system and currently runs a support group for female prisoners and ex-prisoners, was quoted in a newspaper describing what happened when she complained to staff about the violence of the transgender man housed in her cell with her. “I got my ass whupped by my bunkie for three months”, she said. But when the woman (who has a Japanese surname) asked the housing officer if she could be transferred to another unit, the officer, also a woman, “just looked at” her and said insultingly, “What kind of Asian are you Chinese, Japanese or on your knees?” (Kennedy, 2023). This is the hyper-masculinity of prison culture—racist, misogynist and pornographic (the ‘on your knees’ comment referring to the position women are forced into when men demand fellatio).

Another example concerns another woman in the Californian system (who refers to herself as a ‘Muslim transgender man’), who said, in her contribution to WoLF’s submission protesting the Motion to Dismiss the *Chandler v CDCR* case, that prison officials retaliated against her and other women when they made official complaints about the behaviour of a male inmate posing as a ‘woman’. She had caught him twice standing outside the women’s toilet while a woman was in there (probably Cathleen Quinn—see below), and he wouldn’t go away when he was asked to. She reported it because she believed his behaviour would escalate.

In retaliation, the man lurched into her when he caught her in the kitchen, nearly knocking her over. When she asked a senior staff member to check the cameras as proof of the incident, he lied and said that it couldn’t be seen from that angle. Shortly afterwards, she, Quinn and Tomiekia Johnson, one of the plaintiffs in the *Chandler v CDCR* case (who was serving a prison sentence because she had managed to kill the man who was abusing her, before *he* killed *her*) (Slatz, 2022), were placed in solitary, supposedly for their ‘protection’. Once the period in solitary ended, she learned that she would not be sent back to her own yard, which meant that she would not be reunited with the women she already knew nor the job she had been doing. So she went on a hunger strike that lasted 28 days, ending up in hospital. When she recovered she was returned to her previous accommodation. She also learned that, while they were away, staff had destroyed some of the documentation the women had got together (Sadiq, 2022. See also: WoLF, 2022b).

The woman mentioned above, Cathleen Quinn, who joined WoLF’s *Chandler v CDCR* case after the other four women, had her parole revoked and an extra *five years* added to her already nearly 20-year-long sentence, because she lodged a formal complaint about the man who had lurked outside the toilet door while she was in there. This woman, should not have been imprisoned at all because, like Tomiekia Johnson, she had killed the man who had enslaved and abused her for years. She was asked if she feared for her safety, but she said ‘No’, that she had filed the grievance because she believed that SB132 was bad policy and she wanted an official record of the man’s behaviour in case he did it again, or worse.

A few months after she had lodged her complaint, prison officials issued her a disciplinary write-up alleging that she her grievance involved “false reports of criminal conduct” and harassment based on the man’s “transgender status”. Because her parole depended on her being free of write-ups, the parole board revoked it; and even

though she was later found not guilty of those charges, it was not reinstated. Instead, the parole board invented another spurious reason to keep her in prison, “institutional misconduct”. That this was obviously because of her complaint was made clear when she was told that she “should have been quiet”, that she would have been able to go home if she had (Mew, 2024; WoLF, 2024d).<sup>24</sup>

With the arrival of men posing as ‘women’ in women’s prisons, female inmates don’t even have to complain about the men’s behaviour to find themselves penalised. In the UK, an article in the *National Newspaper for Prisoners & Detainees* (Inside Time, 2021) reported the then Justice Minister’s warning at some length:

“Incidents where a prisoner uses incorrect pronouns for another prisoner will be considered ... in line with the Prisoner Discipline Procedures policy and the Prison Rules ... [I]f an officer deems it appropriate to place a prisoner on report, the rule against ‘using threatening, abusive or insulting words or behaviour’ ... may apply ... The policy stipulates that an offence motivated by another person’s protected characteristic(s) under the Equality Act 2010 is an aggravating factor and may merit referral to an Independent Adjudicator” (Inside Time, 2021).<sup>25</sup>

A referral to an Independent Adjudicator is only made when there is a possibility that an inmate’s sentence will have time added onto it. What that says, once the bureaucratic bumf is unpacked, is that women prisoners who use male pronouns to refer to male prisoners posing as ‘women’ could have their sentences extended.

Whether or not this has actually happened, the fact that a government minister could even say it with a (presumably) straight face is evidence of the power and influence of the transgender agenda. It’s also evidence of the irrationality of public institutions that they could so easily succumb to something so egregiously stupid, the UK House of Lords being just one of many such institutions. When stupidity holds sway over an institution, someone always gets hurt, in this case some of the most powerless members of society, incarcerated women.

## **Trans criminals**

Concern for the women incarcerated with men posing as ‘women’ is even more pressing given the evidence that a high proportion of those men are sex offenders. Using figures released by the Ministry of Justice in the UK, Fair Play for Women found that around half of the male prisoners posing as ‘women’ in the UK in 2019 (81 of 163) had at least one conviction for a sexual offence. Five of these men had been housed with women, while the other 76 had been kept in men’s prisons (FPFW, 2020b).

A submission to the UK Women and Equalities Committee’s ‘Transgender Equality Inquiry’ (Freedman et al, 2021) provided similar information from official MoJ statistics for March/April 2019 (most recent official count of male transgender prisoners at the time): 58.9% of male prisoners posing as ‘women’ were sex offenders

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<sup>24</sup> <https://x.com/WomenAreReals/status/1839042545231479211>

<sup>25</sup> This was Wolfson’s written response to a written question in the Lords by Labour peer, Lord Hunt of King’s Heath, about ‘whether there would be any consequences for [female prisoners for] failing to use female pronouns ... to refer to prisoners who identify as female but were assigned male at birth’ (<https://questions-statements.parliament.uk/written-questions/detail/2021-09-13/HL2647>).

(76 sex offenders out of 129 men claiming to be ‘women’), while of the general male prison population, only 16.8% were sex offenders (13234 sex offenders out of 78781 men in prison).

In Canada, the former Canadian Deputy Commissioner for Women was quoted saying at a meeting on 23 May 2019 that 50% of requests from men requesting transfers to a women’s prison came from sex offenders. In contrast, sex offenders comprised only 20% of the general male population, while only 2% of women were sex offenders, often convicted for ‘facilitating men’s access to victims’. Mason commented, ‘Kind of like the Canadian Government...’ (Mason, 2019—unavailable).

Information from a study by Correctional Services Canada of ‘the transgender and gender diverse prisoner population in Canada’s federal prison system from December 27, 2017 thru March 13, 2020’ (N=99) (CSC, 2022),<sup>26</sup> found that more than 90% of the ‘transwomen’ (sic—men, 55 of 61) were in prison because they had committed violent offences. Nearly half (25) had committed or attempted homicide, and a third (18) had committed sexual offences (Phoenix, 2023b: 4 of 10). Nearly all of the male ‘gender diverse’ men who had committed sexual offences (31 of 33) had committed them before they identified as ‘trans or non-binary’ (p.6 of 10); and there were 20 ‘transwomen’ (sic) housed in one or more of the six women’s prisons in Canada.

The US branch of Keep Prisons Single Sex obtained information in December 2021 from the Bureau of Prisons, which again showed that almost half of male transgender inmates were in custody for sex offences, compared with 11% of the general male prison population (Slatz, 2022). Using the information from a 19 August 2023 Freedom of Information request by Keep Prisons Single Sex, Sue Donym reported that 47.62% of prisoners identifying as male-to-female were sex offenders, compared with 12.9% of the general male prison population (Donym, 2024a).<sup>27</sup>

The UK submission also mentioned that only a small percentage of the women in prison were sex offenders (3.3%, 125 sex offenders out of 3812 women in prison) (Freedman et al, 2021: 3 of 6). They didn’t note, though, that sex offending by women might be quite different from sex offending by men. A proportion of women convicted of sex offences will have been working for men. For example, one commentator described the case of a female childcare worker who took indecent photographs of children and distributed them to a men’s paedophile network. Another case involved a woman who took five young children to sex parties and raffled them off to the men there. Unlike men, women’s sex offending tends not to be motivated by sexual gratification, but by male coercion or financial greed, or characterised less by domination and more by the need for intimacy (Mallett, 2017). It is also the case that women lack the sexual entitlement of men. However vile their voluntary collusion with men might be, the sexual desire itself is male not female.

But to return to the demography of male transgender prisoners convicted of sex offences: FPFW warned that, reforming the Gender Recognition Act to allow men to obtain a Gender Recognition Certificate on demand, would mean allowing all men

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<sup>26</sup> Men posing as ‘women’ (‘transwomen’) numbered 61, the rest were ‘transmen [sic—women] or other (gender fluid, gender non-conforming/non-binary, intersex, two-spirited or unspecified)’ (Phoenix, 2023b: 2 of 10).

<sup>27</sup> [https://xcancel.com/NoXY\\_USA/status/1695205078376845782](https://xcancel.com/NoXY_USA/status/1695205078376845782)



self-identifying as ‘women’ to transfer to women’s prisons because they would be legally recognised as ‘women’. E-Wing at Downview provides a (semi-)alternative for high-risk men with GRCs, but it’s located in a women’s prison, the men are allowed to participate in activities with women, and it only has 16 beds. The policy says the men must be supervised in communal activities with women (FPFW, 2020b), but understaffing makes it unlikely that that supervision will be adequate.

A MoJ spokesman was quoted saying that

“Well over 90 per cent of transgender women [sic—men] in custody are held in the men’s estate. We changed the rules last year so transgender women [sic—men] who’ve been convicted of sexual or violent offences—or who retain male genitalia—cannot be held in a women’s prison unless in truly exceptional circumstances” (Rayment, 2024).

What the MoJ spokesman didn’t say was that only men convicted of offences against *women* would be prevented from being housed in a women’s prison. If they’ve committed violent, even murderous, attacks on men, they can still be placed with women, as the Scottish Prison Service did with three murderers claiming to be ‘women’.

In California, the wording of SB132 is so (deliberately?) vague that it can provide no specific advice about whether or not to transfer men claiming to be ‘women’ to women’s prisons. The Moss Group’s 2022 report states the problem thus:

“If a person with a history of raping women requests to transfer to a women’s prison, this language [of SB132] may prohibit the department from denying the person’s transfer request based solely on the prospective transferee’s history of raping women.” (pg. 19) (WoLF, 2023b).

In other words, nothing in the wording of SB132 prohibits correctional authorities from transferring rapists to women’s prisons.

Helen Joyce (2021) suggested two possible explanations for this preponderance of sexual offenders among transgender men in prison. ‘[E]ither transwomen [i.e. men posing as ‘women’] are more likely than other males to be sexual predators’, she said, ‘or ... gender self-identification provides sexual predators with a marvellous loophole’ (chapter 8). She believed that the latter was more likely, and there is some anecdotal evidence to support that view (see the ‘Gaming the system’ section below). She pointed out that men convicted of child abuse or rape are often mistreated by other men in prison. They can escape this mistreatment in a women’s prison. But to the extent that officialdom allows this, it means that ‘[t]ransfers to women’s prisons are ... skewed towards precisely those males who are most dangerous to women and children’ (Joyce, 2021: chapter 8).

The British Psychological Society also held this view. In their submission to the Women and Equalities Committee’s inquiry into ‘transgender equality’, they were undoubtedly in favour of ‘transgender equality’, but they were also concerned that the assistance given to ‘transgender people’ by the criminal justice system be ‘appropriate’ and not increase ‘risk’. They said that psychologists working with sex offenders had come across a number of cases where the men had falsely claimed to be women, because they thought they might get parole as a ‘woman’, as a way of explaining away

their sex offending (often successfully, it would seem),<sup>28</sup> as a way of claiming they were no longer sex offenders (because they were now women), and as a way of getting access to women and children. The BPS concluded their section on ‘Issues affecting trans people in the criminal justice system’ by recommending that the government be ‘extremely cautious of setting law and policy such that some of the most dangerous people [sic—men] in society have greater latitude to offend’ (The British Psychological Society, 2015: para.8). The Women and Equalities Committee ignored this advice (Biggs, 2020).

Jo Phoenix has pointed out that, allowing men with a male-pattern of offending into women’s prisons, even if they do call themselves ‘women’ and the authorities agree with them, introduces into women’s prisons at least three problems that wouldn’t exist otherwise:

the need for increased security to deal with higher risk prisoners; the increased risk of sexual violence against female inmates; and the de-prioritisation of biologically female prisoners’ needs with respect to safety, security and possible re-traumatization—particularly among those who have previously experienced domestic or sexual violence (Phoenix, 2023b: 4 of 10).

All of these problems mostly affect women, which is possibly why the authorities haven’t taken them consideration, or only pay them lip service.

But as Sue Donym has pointed out (Donym, 2024b), what these figures suggest is not so much that male criminals posing as ‘women’ have a male pattern of criminality. Given that they are more likely than other male prisoners to have committed violent and sexual offences, they ‘are [an] *even bigger danger* to women than other male prisoners’ (Donym, 2024b—original emphasis). Whether the reason for that danger lies in something intrinsic to transgender, or whether sexual predators are taking advantage of the opportunity transgender offers them, the authorities’ obliviousness to this fact is yet another example of the disregard for the needs of women typical of the transgender project (as the latest backlash of the male supremacist culture).

For a submission to the Federal District Court in the *Chandler v CDCR* case, in support of the four imprisoned women, detailing sex differences in crime, see: Burt, 2022;

for earlier published accounts of information about the rate of sex offending by men posing as ‘women’, see: FPFW, 2017 (‘Half of all transgender prisoners are sex offenders or dangerous category A inmates’);

for a summary of the findings of the Dhejne et al, 2011 study on male ‘transsexualism’ and criminal convictions, which found that ‘male-to-females ... retained a male pattern regarding criminality ... [and] [t]he same was true regarding violent crime’, see: Freedman et al, 2021—the same study (Dhejne et al, 2011) also found that ‘sex reassignment’ procedures resulted in ‘considerably higher risks for mortality, suicidal behaviour, and psychiatric morbidity than the general population’ (see the ‘Research’ section of the ‘Where’s the evidence?’ chapter);

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<sup>28</sup> For a number of examples of judicial leniency in courts in the UK, Australia, Argentina, Ireland and Spain, in the sentencing of male offenders claiming to be ‘women’ (and one woman claiming to be a ‘man’), together with pleas for mitigation on the grounds of ‘transgender’ that had yet to be decided, see: Shaw, 2021 (another unavailable article unfortunately).

## **What male transgender prisoners want**

There is general agreement among the transgender lobby that male criminals posing as ‘women’ are particularly vulnerable in men’s prisons (e.g. Gordon et al, 2017; Rodgers et al, 2017; Stohr, 2015; Story and Carrick, 2016; Winter, 2023). WPATH can’t resist the ‘vulnerability’ trope. It plays such an important a role in the transgender narrative and prison is an appropriate context within which to employ it. Hence, Version 8 is objects to placing transgender men in men’s prisons, although that’s not how it’s worded. Rather, WPATH refers to this placement as ‘[t]he separation of people based on sex assigned at birth’ (Coleman et al, 2022: S108).

Avoiding acknowledging that they’re only talking about men, is a common transgender ploy. Other phrases include, ‘fail[ing] to give *any* weight to a prisoner’s subjective gender identity’ (Tarzwell, 2006: 209—original emphasis), and ‘The placement of transgender persons in institutions is ... usually based on anatomy’ (Brown, 2009: 136). Whatever the terminology, putting men posing as ‘women’ into men’s prisons, WPATH said, ‘can create an inherently dangerous environment’: ‘Gender diverse people are extremely vulnerable to stigmatization, victimization, neglect, violence, and sexual abuse’ (Coleman et al, 2022: S108), except that they’re not.

Given that that supposed ‘stigmatization’, etc., largely consists only of ‘misgendering’, ‘not allowing for gender appropriate clothing, shower facilities, or housing, and not using chosen names’, and failing to demonstrate ‘correct pronoun usage’ (Coleman et al, 2022: S105, S107), it’s difficult to discern the danger. There’s the sexual abuse, but even that is not experienced as dangerous by some transgender men, who regard it instead as confirmation of their identity as ‘women’ (since they regard being raped as what defines a woman). (See the discussion below of the research by Jenness and her colleagues).

The obvious solution (in the transgender mind) to the supposed problem of the ‘inherently dangerous environment’ of men’s prisons is to house these men claiming to be ‘women’ with women, even when the men are sex offenders and no matter how violent they have been proved to be. Of course, this ‘solution’ is only obvious if concern about the safety of *women* is ignored. And that is exactly what prison authorities do, when they house men claiming to be ‘women’ with women.

But despite the alacrity with which correctional authorities everywhere have implemented what they perceive as the transgender requirement that male criminals claiming to be ‘women’ be housed in women’s prisons, there is by no means general agreement among the transgender crowd themselves. WPATH, for example, doesn’t make an unequivocal recommendation that male trans criminals be housed in women’s prisons in order to escape the dangerous environment of men’s prisons, although not because they’re concerned about the consequences for women. The reason for the hesitation is that ‘[s]ome transgender women [sic—men] prefer to reside in a male facility while others feel safer in a female facility’ (Coleman et al, 2022: 108). Of course WPATH does not consider that, while the men might feel safer, the women won’t.

Other pro-trans commentators (Ledesma and Ford, 2020) also expressed some hesitation about housing ‘transgender women’ (i.e. men) in women’s prisons, although once again, not for the women’s sake. They mentioned ‘hous[ing]

transgender women [sic—men] in female jails or prisons’ as one suggested solution to the men’s ‘vulnerability’ in men’s prisons. But they rejected that solution for the bizarre reason that the men could get sexually assaulted there too, by women. ‘[S]tudies have shown’, they said, ‘female incarcerated persons as having perpetrated half of all incidents of sexual abuse upon other female incarcerated persons’. In other words, the men are just as likely to get sexually assaulted by women as by men. Not surprisingly, they cite none of these ‘studies’, since it’s highly unlikely that any such ‘studies’ exist.

The authors also give another reason against housing men claiming to be ‘women’ in women’s prisons:

In addition, the inaccurate, stigmatizing, and transphobic trope of transgender women as “predators” exists behind bars as it does in society; therefore, prison staff and other incarcerated persons may continue to perceive transgender women housed on the basis of their gender identity as threats to the safety of female incarcerated persons (Ledesma and Ford, 2020).

In other words, the notion that transgender male criminals would sexually assault the women if they were housed with them is just that, a notion, and a false one at that (‘inaccurate, stigmatizing, and transphobic’).

Not only are these assertions false to point of gobbledegook, the reference the authors cite (Stroumsa, 2014) as evidence that women in prison rape other women says no such thing, no matter how euphemistically worded. It’s the usual extended complaint about the inadequacy of ‘transgender people’s access to health care in the United States’. It mentions the prison system, but only in the context of ‘the most serious limitations on transgender people’s access to health care’. There is no mention of ‘female incarcerated persons’, much less any mention of women sexually abusing other women. The only mentions of ‘women’ are always preceded by ‘transgender’ (i.e. men), and ‘female’ only occurs in the phrase, ‘male-to-female’ (i.e. men again) (and once, ‘female-to-male’). This article (Ledesma and Ford, 2020), which was published in the *American Journal of Public Health*, a peer-reviewed academic journal that has been in existence since 1911, is yet another example of the scandalous lack of standards of the academic, ‘peer-reviewed’ publishing industry.

Leaving aside the iniquities of the academic publishing industry (for a longer discussion, see the ‘Journals’ section of the ‘Where’s the evidence?’ chapter), there is some evidence that some of the men themselves don’t want to be placed in women’s prisons. As Australian researchers commented, ‘the dominant narrative of prison rape is misleading and incomplete’ (Wilson et al, 2017: 17). They found that six of the seven men posing as ‘women’ they interviewed (‘trans women’) preferred sex with men. (The other was bisexual). These six men ‘identified as heterosexual [sic] (interested in male partners only)’, the authors said (p.8). Hence they had no desire to be housed with women.

Another reason why these men didn’t want to be housed in a women’s prison was misogyny. One research participant said that he ‘believed women were “rougher” and that she [sic—this is a man] would actually be at more risk of sexual violence in this context’. He was quoted saying, “It’s scary, they [i.e. women] would stand over me and they would get me in a cell and try and make me do what I don’t want to do”

(Wilson et al, 2017: 15). Since he had never served time in a women's prison, it's unclear why he believed this. It is in fact a description of what men do to women.

Again, an Australian Indigenous man posing as a 'woman', who had spent time in jails in both NSW and Queensland for drug and prostitution offences (neither of which should arguably be criminal offences), was quoted saying in an *ABC News* report that not all transgender men wanted to be in a women's prison. "It's fairly mixed; it's 50-50", he said (referred to as 'she' in the transcript). "Some people I've spoken to", he said, "have [said] they want to be in a men's prison, but other people I've spoken to want that option of going to a female prison" (Story and Carrick, 2016).

Research by Valerie Jenness, Professor of Criminology at the University of California, Irvine, and her colleagues,<sup>29</sup> also found that some of the incarcerated transgender men they interviewed had no desire to be transferred to a women's prison. In 2004, Jenness was commissioned by the California Department of Corrections and Rehabilitation (CDCR) to do research on sexual assault in men's prisons in California. The funding was provided under the aegis of PREA and of California's 2005 *Sexual Abuse in Detention Elimination Act*. "[T]he overall purpose of the [legislation]", Jenness said, 'is provide funding to protect inmates from being sexually assaulted' (Jenness, 2008: 7), as long as they're men, although that wasn't mentioned.

The research, which ran from April to October 2006, involved interviews with a random sampling of all the inmates in six of California's 30 state prisons for men, plus all the men posing as 'women' in a seventh prison which 'house[d] a concentrated population of transgender inmates' (Jenness et al, 2007a: 15). There were two reasons for this latter focus on the transgender inmates: it was requested by the funding body, the CDCR; and there was 'anecdotal information', the researchers said, 'that indicates [male] transgender inmates are particularly vulnerable to inmate-on-inmate sexual assault in prison'. The evidence cited for this 'anecdotal information' was 'testimony delivered on behalf of the Transgender Law Center by Christopher Daley', in a 2005 publication called *At Risk: Sex Abuse and Vulnerable Groups Behind Bars*<sup>30</sup> (Jenness et al, 2007a: 13, 60).

At the time the research was carried out, California also had three women's prisons (Jenness et al, 2007: 14). In a brief footnote, these researchers said that they 'also identified four transgender inmates in a prison for women', three of whom they interviewed. "These interviews were exceptionally illuminating", they said, 'both in and of themselves and in light of interviews conducted in men's prisons' (Jenness, 2010: 550n15). But they didn't say what was so 'illuminating' about these interviews, nor whether these four people were men posing as 'women' or women posing as 'men' (although they were most likely men); and they didn't ask the women how they felt about being housed with these men.

In contrast to most of the literature on transgender men in prison, Jenness and her colleagues didn't argue in favour of housing transgender men in women's prisons.

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<sup>29</sup> Jenness, 2008, 2010, 2014; Jenness and Fenstermaker, 2014, 2016; Jenness et al, 2007a, b; Sumner and Sexton, 2016.

<sup>30</sup> This publication is the report of a hearing on the 19 August before the National Prison Rape Elimination Commission, and contains other anecdotal evidence from men posing as 'women' who were raped in prison (Rothstein and Stannow, 2009). I have been unable to find a copy of this report, but its author was Brenda V. Smith (<https://www.american.edu/profiles/faculty/bvsmith.cfm>).

Like the Australian research, their research also found that, while it might protect the men from violence, it also deprived them of the recognition they craved. The men themselves, or at least an unspecified proportion of those interviewed in this research, didn't want to be housed with women. Safety was not their main concern when they were asked about their preferred housing arrangements. They would rather be in a men's prison than a women's prison.

The researchers came to that conclusion as a result of strong correlations between being sexually assaulted and the answers to two questions—"Have you ever been in a marriage-like relationship with another inmate?" and "Have you been in a sexual relationship with another inmate?" Transgender prisoners who had been in sexual relationships were more likely to be assaulted than those who had not. The researchers concluded from that, that separating transgender prisoners out from the other men might protect them from sexual assault, but it would also deprive them of the possibility of intimate relationships. Keeping the transgender men away from the other men, was also keeping them away from what they wanted—recognition as 'real girls' by 'real men' (Jenness and Fenstermaker, 2014; Jenness, 2014: 19).

In the hyper-masculinised environment of the prison 'real men' are violent. That's the way they display their masculinity. Recognition from the masculinity of 'real men' reinforced the femininity of the transgender men. Where the violence is, is also where the recognition is: 'Nontransgender prisoners bestow both recognition and the frequent violence that comes with it', and hence 'the recognition transgender prisoners seek often comes at a violent cost' (Jenness, 2014: 16). The connection between sexual relationships and assault was described by one of the interviewees talking about being routinely raped by his 'husband' in prison: "It was awful, but when he did it, I did feel like his wife" (Jenness and Fenstermaker, 2016: 24).

The transgender men interviewed in another research study by the same team (Sumner and Sexton, 2016), this time in four prisons in Pennsylvania, had similar stories. One man told a story about being attacked with a metal bar by his ex-boyfriend after he had ended their relationship. "When you tell someone no, there is violence", he said. Another said his 'husband' attacked him in the yard, both because he (the man being interviewed) no longer wanted to be with him, and because he was flirting with other prisoners. Yet another had been stabbed by his ex-boyfriend after he broke up with him because the relationship wasn't working. He said:

"and his thing was that, '[If] I can't have you, can't nobody else have you. I'll kill you.' And, my thing was this, 'You're gonna have to kill me 'cause I'm not gonna stay where I'm not happy.' So ... one day he stabbed me ... a couple times" (Sumner and Sexton, 2016: 632).

The policy issue, then, is not only about how to protect transgender men from bodily harm in the form of sexual assault. According to Jenness and her colleagues, it should also be about their right to a reasonable life in prison (Jenness, 2014: 19). While separating them from other men might keep them safe, it also separates them from the possibility of relationships with others. Of course, no one is permitted to be sexually active in prison, but prison authorities are unable, or unwilling, to prevent it, and transgender men get other forms of recognition from the 'real men' in a hyper-masculinised environment: "What are, after all, "real girls" without "real men"?" (Jenness and Fenstermaker, 2014: 28).

This is rape culture. In the hyper-masculinised ethos of the prison, to be female is to be raped. (This is one of the main reasons for the sex segregation of the prison system. Women imprisoned with men, including male staff, are even more vulnerable to rape than women in general, because they can't escape or because their livelihood depends on acquiescence). Men who want to be treated as 'women' are happy to be raped because this reinforces their femininity (although not their femaleness, because they're not female).

This complacency of transgender men about being raped was referred to obliquely by Jenness and her colleagues in the reports of their research. '[T]he exceptionally high rate of the rape of transgender women [i.e. men]', they said, was 'part of the routine practice of "the rape of the feminine"' (Jenness and Fenstermaker, 2016: 22), which they attributed to 'the tyranny of the sex categorical binary' (p.23). This is typical euphemistic transgender gobbledegook that denies the reality of the situation by neatly deleting both the perpetrators and the victims. It isn't 'the feminine' that gets raped, it's women; rape doesn't just happen, it's perpetrated by men; and the 'sex binary' wouldn't be a problem if it weren't for male supremacy and the male entitlement that obliterates any concern for others. In the case of transgender men in prison (and of other men less masculinised than the 'real men'—young, gay, etc.), their presentation as feminine is seen by the 'real men' as an invitation to rape them.

So despite the transgender agenda's protestations about the violence transgender men are subjected to in prison—'physical and sexual assault in jail/prison is a serious problem' (Grant et al, 2011: 6)—the prisoners' own reactions are more ambivalent. Being assaulted is unpleasant, but given rape culture's equating of femininity with being raped, to be raped is to have one's femininity recognised, as the prisoner who 'felt like his wife' acknowledged. It is not the case that the hyper-masculinised ethos of men's prisons is 'inappropriate for transgender individuals', as one commentator alleged ('Men's prisons are hyper-masculinized in a way that is ... inappropriate for transgender individuals'—Tarzwell, 2006: 178). While transgender men are not hyper-masculinised themselves, a men's prison provides an environment where their feminine posturing can be responded to in ways that would be unavailable in a women's prison.

Some transgender men told Jenness' research team that they felt more feminine in prison than before they were incarcerated, 'despite not having access to many of the accoutrements of femininity while in prison (e.g., cosmetics, clothing, etc.)'. This suggests, the researchers said, 'that prisons for men provide an environment whereby, in seeking out expressions of femininity to be a "girl among men," they experience enhanced feelings of femininity' (Jenness and Fenstermaker, 2016: 24).

As already mentioned, another reason why trans male criminals don't want to be housed in women's prisons is misogyny. It would seem that the desire of these men to be 'women' did not immunise them against disparaging women. In explaining why he preferred to be housed in a men's prison, one man said: "It's easier. Women are more complicated. They like to fight and prove themselves. Too much drama". Another said: "It'd be too much with too many women—too much drama/gossip". Another agreed: "When girls get together, there is too much bickering—too much drama" (Jenness, 2014: 12).

When a man who had legal documentation identifying him as 'female' was asked whether he would prefer to be housed in a men's prison or a women's prison, he said,

“Men’s”, and added, “That’s a hard one. I don’t want to be with women because they are vicious. They are worse than men. Their hormones are going all the time. Imagine being around 60 women and two are on their period at the same time! God. Imagine how bad that would be?” (Jenness and Fenstermaker, 2014: 16-17).

Another man expressed what would seem on the surface to be the opposite view: “I would give my soul to be a woman. Who wouldn’t want to be nurturant, to be loving, to be kind? Women bring peace to the world. They unite people. A mother is everything” (p.17). But this idolisation of ‘Woman’ is simply misogyny’s twin. Neither glorification nor dehumanisation allows women to be just human.

It’s true that the numbers involved in this research were small—39 transgender inmates in the research funded by the California Department of Corrections and Rehabilitation (Jenness et al, 2007), 10 in the Pennsylvania study (Sumner and Sexton, 2016)—and hence is it not possible to generalise to all male transgender prisoners. According to the UK Ministry of Justice, though, ‘more than 90% of transgender women [sic] are housed in men’s prisons [in the UK] and most do not request a move to the women’s estate’ (UK MoJ, 2023). But these findings have no implications for changing policies anyway. The men who want to remain among the ‘real men’ will always be able to do so, since that is where they have traditionally been placed anyway; and the policies already allow for the men to be housed with women if they prefer.

These findings were echoed in the UK by Britain’s longest-standing transgender prisoner, ‘Sarah Jane’ Baker, he of the public recommendation to punch ‘terfs’ (see the ‘Another strategy—violence’ chapter). In response to a question asking if he wanted to be housed in a women’s prison, he was reported saying, “Why would I want to go to a women’s prison? ... I like men! I’d never get a shag!” (Abraham 2019).<sup>31</sup> A Dr Sarah Lambie was quoted saying that this disinclination was not particularly rare. This criminology academic and co-founder of a pen pal scheme for LGBTQ+ [sic] prisoners in Britain, was referred to in true transgender fashion as ‘they’. However, because of the feminine given-name, I shall refer to her with feminine pronouns. She said it was ‘a public myth’ that there were “all these trans women [i.e. men]... trying to get into the women’s estate”, and that there were reasons why transgender men might not want to serve time in a women’s prison. One reason was that there are fewer women’s prisons, and so moving to one could mean moving too far away for people to come and visit. Besides, moving to another prison means moving into an unfamiliar environment, as well as leaving behind friends and support networks. Having dismissed as ‘myth’ a well-established fact about transgender men in prison, mirrored in prison system policies and practices, this person, again in true transgender fashion, lied outright. She said that there were ‘more non-trans women [i.e. women] in prison for sex offences than there are trans-women [i.e. men] in prison for sex offences’. This is so grossly untrue that it is not worth expending the time and energy to find the figures demonstrating its falsity.

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<sup>31</sup> The original of this article is also unavailable, although not because it appeared on the *Women Are Human* site. The url supplied in the References list below belongs to an article with the same title but with a completely different content. Fortunately, Michael Biggs read the same article I read, and quotes the same comment by Baker, i.e. “I like men! I’d never get a shag!” (Biggs, 2020: 13n13). This comment doesn’t appear in the re-vamped article that currently appears on the website.



The findings described above suggest a more nuanced picture of what happens to transgender men in prison than that portrayed in most of the transgender literature. This tends to focus solely on the violence they supposedly experience, with no acknowledgement of the fact that the violence is often inextricably entwined with recognition, or that some of these men can defend themselves quite adequately. In such cases, housing transgender men in women's prisons is not a solution for anyone.

### **'Evidence' of the 'vulnerability'**

As is the case with all the 'evidence' transgender cites to support its case (see the 'Where's the evidence?' chapter), the evidence that men posing as 'women' are vulnerable in men's prisons, is suspect. It is, as an Australian lawyer said, 'impoverished' (Edney, 2004), and yet over and over again, the trans lobby and the trans-captured assert categorically that 'transgender people' (men) are at risk of being sexually assaulted or otherwise harmed if they are placed in men's prisons, and officialdom has listened to them.

Part of the problem is the (deliberately?) confusing way the evidence is written up. For example, the report of research into the Los Angeles' segregated correctional unit, K6G, said in a footnote that '[t]hose sexual minorities housed in women's prisons also face a heightened risk of sexual abuse in custody' (as well as those sexual minorities housed in men's prisons) (Dolovich, 2011: 4n16). Since the 'sexual minorities' discussed throughout the article are gay men and men posing as 'women' ('trans women'), this implies that it is men posing as 'women' who have 'a heightened risk of sexual abuse' in women's prisons (although not gay men since they're not housed in women's prisons). It also implies that the abusers in women's prisons are women since the abusers in men's prisons are men. However, the 'sexual minorities' in the source cited (US NPREC, 2009) were 'lesbian and bisexual women' most of whom had not been abused by other women but by male staff: 'The majority of the abuse of lesbian women was perpetuated [sic—perpetrated?] by male corrections officers' (p.74).

The use of the term 'bisexual' is also confusing, since it is the lesbian who is a 'sexual minority', not the heterosexual. It is highly unlikely that rapists sexually abuse women because they (the women) are 'bisexual', and highly *likely* that they abuse women because they are lesbians. As one woman told Human Rights Watch, the male staff member who assaulted her said, "You need a good man" before he raped her (US NPREC, 2009: 74). The use of the term 'bisexual' plays a euphemistic role. It implies that 'it's not just lesbians' and diverts attention from the crucial part lesbians play in the male hive-mind as women who deserve to be raped because they are sexually unavailable to men.

A large part of the problem with the evidence cited in support of transgender assertions is that it is anecdotal. For example, the *ABC News* report mentioned above (where the Australian Indigenous man was quoted saying that not all men posing as 'women' wanted to be housed in a women's prison) (Story and Carrick, 2016) included the "absolutely terrifying" experiences in prison of three transgender men. One was said to have been 'raped, beaten and abused in an all-male prison in the US state of Georgia'; the situation of another ('a sex worker ... detained on allegations she [sic] transmitted HIV to a person') was described by a sympathiser as "uniquely horrendous"; and the third was the Australian Indigenous man mentioned above, who said he was raped in prison and sexually assaulted by a staff member.

The Australian author mentioned above (Edney, 2004) cited just three examples of male prison inmates who had been victimised supposedly because they were ‘transgender’: a case in the US where a man posing as a ‘woman’ was placed in the general male prisoner population and was raped by his cell-mate (Edney, 2004: 330-1); and two transgender inmates in Australian prisons, one of whom committed suicide as a result of being raped while in the protection unit, the other of whom became suicidal as a result of being isolated (pp.333-4). This author was convinced that housing men posing as ‘women’ in women’s prisons was the best, if not the only, solution. ‘[S]elf identification’, he said, ‘must be the key for the classification process as to whether or not a transgender prisoner is placed in a male or female prison or remand centre’ (p.137). He even had the effrontery to argue that male criminals posing as ‘women’ should be judged more leniently than other offenders by the courts in sentencing decisions: ‘Arguably the “threshold” requirement as to when a transsexual prisoner should receive a term of imprisonment should be higher than for a non-transsexual prisoner given the high probability of risk of harm they may suffer if incarcerated’ (p. 337n43).

For an account of the sentence of a “recidivist pedophile” from Quebec being reduced from 32 months to 18 months, served in a women’s jail (where else?), followed by three years probation, because the conditions under which he was detained as “a trans woman” (sic—a man posing as a ‘woman’) were “extremely difficult”, see: Gluck, 2024c.

The anecdotes do indicate that some ‘transgender’ men have suffered violence in men’s prisons. These anecdotes usually appear at the beginning of the piece of special pleading to set the scene and appeal to the reader’s compassion (see, for example, Mann, 2006: 93-4; Peek 2004: 1211-12; Rosenblum 2000: 500-1). But while anecdotes constitute a kind of evidence, assertions do not. As is typical of transgender discourse, the transgender-prisoner narrative tends to proceed by way of bald assertions unsupported by any relevant evidence. Edney (2004), for example, said that ‘transgender prisoners ... encounter a significantly higher risk of sexual assault [than other male prisoners] while in prison’ (p.329). But the sources he cited in support of this assertion said no such thing.

One of those sources (Petersen et al, 1996), a survey of the policies of correctional institutions in a number of countries, said quite clearly that ‘[t]here was no consensus [among the various prison authorities] on the risk of either physical or sexual assault of transsexual inmates’. Another source was the Human Rights Watch 2001 report, *No Escape: Male Rape in United States Prisons*. But it investigated male rape in general, not just of transgender prisoners. The report contained no evidence that transgender men were more vulnerable than other not-very-masculine men. Indeed, transgender men (“transwomen”) weren’t even mentioned in the passage from the report quoted by Edney. The report showed that men’s prisons in the US were violent places, but it didn’t show that the trans prisoners were more at risk than other men who didn’t conform to masculine norms.

This is a typical transgender ploy to give the impression that there is evidence for their bald assertions when there is none. The studies referenced do not say what they are alleged to say. To give another example of this practice: a pro-trans commentary on a bill intended ‘to improve housing assignments for transgender, gender non-conforming, non-binary, and intersex people in New York City jails’ (Donaldson,

2022), cited a supposedly systematic review of 11 studies (Brömdal et al, 2019) as evidence for its assertion that '[t]he dangers that transgender people face in jail are well documented in national studies'. This review concluded:

The experiences of transgender prisoners as reported in this review are almost uniformly more difficult than other prisoners. Their "otherness" is used as a weapon against them by fellow prisoners through intimidation and violence (including sexual) and by prison officers through neglect and ignorance (Brömdal et al, 2019: 4).

But that is not what the 11 studies reviewed documented.<sup>32</sup> Only one found that transgender men ('trans feminine individuals') in prison 'endure[d] unduly harsh conditions of confinement' (Rosenberg and Oswin, 2015), although their main complaint was that they were not allowed to express their feminine selves in prison. The clarity of expression in this article leaves much to be desired, though, marred as it is by being couched in queer gobbledegook, e.g. 'Queer geography's preoccupation with interrogating and denaturalizing hegemonic heterosexualities has prioritized interrogation of the policing of the heterosexual-homosexual binary' (p.2).

Another of the studies cited was not about male transgender prisoners at all, but took place in a women's prison (Sumner and Sexton, 2016), while five of the others were devoted to 'health care' (as transgender sees it) among male transgender prisoners: two of them focused on HIV-infected individuals (Beckwith et al, 2017; Culbert, 2014); another reviewed letters to prison authorities from 'transgender inmates ... claiming inadequate access to transgender health care' (Brown, 2014); another investigated ways of improving 'transgender health care in the New York City correctional system' (Jaffer et al, 2016); while another investigated reasons for non-use of condoms among 101 residents in Men's Central Jail, one of six Los Angeles jails (Harawa et al, 2010). None of these had anything to say about intimidation and violence, or danger.

Another of the cited studies discussed the pros and cons of the segregation unit in the Los Angeles County jail system. The unit was designed 'to increase the personal security of gay men and trans women [sic—men] detainees' (Dolovich, 2011: 4). Although the existence of the unit implied that these men needed to be protected from the general prison population, they weren't all trans.

Another study found that there was a decline in sexual and physical violence in general, not just in relation to transgender inmates, in men's prisons in NSW, both because of more efficient surveillance, and because of changed attitudes among prisoners (Yap et al, 2011). Another two of the studies found that sexual activity by transgender men in prison is often less about rape, sexual abuse and violence, and more about 'how gender is accomplished by transgender prisoners in prisons for men' (Jenness and Fenstermaker, 2014; Wilson et al, 2017). (For further discussion, see below).

Again, as is often the case with transgender 'evidence', in most of the studies most of the research subjects were *not* transgender. The Table below shows the numbers of male transgender individuals in comparison with the total number of participants in each study. In the first study, transgender men comprised just 20 of 110 participants;

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<sup>32</sup> Full citations for these 11 references can be found in Brömdal et al, 2019.

in the third study, they were four out of 42; 10 out of 37 in the seventh study; seven out of 59 in the eighth; seven out of 40 in the ninth; and 19 of 101 in the eleventh.

**Table: Research participants, total, number of trans, studies**

Participants	Trans men	Study
110	20	1.Beckwith et al, 2017
129	125	2.Brown, 2014
42	4	3.Culbert, 2014
32	? + gay	4.Dolovich, 2011
315	315	5.Jenness and Fenstermaker, 2014
23	23	6.Rosenberg and Oswin, 2015
37	10	7.Sumner and Sexton, 2016
59	7	8.Wilson et al, 2017
40	7	9.Yap et al, 2011
27	25+2 trans women	10.Jaffer et al, 2016
101	19	11.Harawa et al, 2010

Source: Brömdal et al, 2019: 9-13, Table 1

This is the piggybacking strategy—include a few transgender men in a research sample of mostly gay men (usually), and then generalise as though the whole sample were transgender.

For more heart-wrenching bald assertions that transgender men are peculiarly vulnerable in men’s prisons, see: Hodgson, 2023 (ACLU—‘daily humiliation including harassment, misgendering, transphobic comments, horrific physical and sexual abuse, and assaults by both staff and other incarcerated people’); and Justice Road Map New York, 2021 (‘jails and prisons are dehumanizing places for anyone, but incarcerated transgender, gender-nonconforming, nonbinary and intersex people are more likely to experience harassment, degradation and violence’).

There *is* research that, at first sight, would seem to provide evidence that men posing as ‘women’ are exposed to a high risk of violence in men’s prisons. The US National Inmate Survey 2011-2012 (Beck, 2014), for example, found that 39.9% of transgender inmates reported instances of sexual victimisation, either by other inmates or by staff. In contrast, the same survey found much lower proportions for the prison population overall: 4% of state and federal prison inmates and 3.2% of jail inmates (Beck et al, 2013). Again, the report of the earlier US transgender survey (Grant et al, 2011: 6) said that 16% of transgender men who had been in prison had been physically assaulted and 15% sexually assaulted; and the report of the later US survey (James et al, 2015: 190) said that nearly a third (30%) had been physically and/or sexually assaulted, either by another inmate or by staff. And Jenness found that ‘the prevalence of sexual assault in prison [was] 4.4 percent for the random sample of [the general population of] inmates and 59 percent for the transgender inmates’ (Jenness, 2008: 8; Jenness et al, 2007: slide 30).

But the relevant comparison is not between transgender men and male prisoners in general, but between transgender men and the other categories of vulnerable male prisoners. The Human Rights Watch report said that the men who were likely to be

raped in prison were those who were “young, small in size, physically weak, white,<sup>33</sup> gay, first offender, possessing ‘feminine’ characteristics such as long hair or a high voice; being unassertive, unaggressive, shy, intellectual, not street-smart, or ‘passive’” (Edney, 2004: 332).

And the US Bureau of Prisons said:

Some inmates are “at risk” for victimization due to one or a combination of factors such as physical appearance (small in stature, effeminate, etc.); demeanor (weak/nonassertive, anxious, depressed); special situations (e.g., high-profile, sexual activity with a child, first-time offender); or special needs (cognitive limitations, social inadequacy, developmental disability, etc.) (US BoP, 2023: 31, §115.41(d)).

As WoLF pointed out in their lawsuit against SB132, the legislation

singles out men with self-declared identities of “transgender, nonbinary, or intersex” for the special right to be housed in women’s facilities, while not granting that same right to other men who are “sexual minorities” under the PREA definition (such as, gay or bisexual men) nor to other men who are also at high risk of sexual victimization (for instance, inmates convicted of sexual offenses against minors) (WoLF, 2021c: 15, para.57).

Moreover, it would seem that that at least some of the men posing as ‘women’ are sufficiently well-socialised into masculinity that they are well able to defend themselves. Jenness and her colleagues said that their interviewees had told them that sometimes they ‘had to “man up,” “put on my shoes,” and “put down my purse and fight”’. One interviewee said:

“People do what they have to do to take care of themselves. The difference with us is, well, violence is ugly. We don’t want to be violent. We want to be beautiful. We’re on hormones, girl. But hit me or disrespect me and I’ll knock you out. I will” (Jenness and Fenstermaker, 2016: 24, 26n8).

Another trans inmate said:

“And sometimes I got to remind them [other men], ‘Like, don’t forget, we in a man’s prison.’ (Points down toward her [sic] lap and laughs). ‘Don’t get it twisted. I am a man. If you put your hands on me, I’m gonna remind you.’” (laughter) (Sumner and Sexton, 2016: 632).

The same researchers also quoted another two interviewees, one of whom said that he had had “a few scuffles (and) broke a few nails. People think if you’re transgender you have no testosterone. They see you as a girl”. The other said that he was usually left alone now because he had shown a willingness to fight and had been fairly

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<sup>33</sup> This is not what the research by Jenness et al found. On the contrary, they found that the African American inmates in their random sample of inmates in California state prisons were more vulnerable to sexual assault than other ‘race’ or ethnicity. Of the non-heterosexual inmates assaulted, 50% were African American, while African Americans comprised 83% of the heterosexual inmates assaulted (Jenness et al, 2007: slide 42). The explanation for the discrepancy might lie in the fact that the vast majority of complaints of rape are found to be ‘unsubstantiated’ and hence not counted in the official figures (see the ‘PREA’ section above). Given the racism of the system, the complaints by African-Americans and other ethnic minorities are probably more often found to be unsubstantiated than those of ‘white’ men.

successful (Sumner and Sexton, 2016: 632). These responses are yet another indication that transgender men remain men, whatever they say and however well they adorn themselves with the trappings of femininity.

For another account of a ‘common strategy for keeping safe and upholding dignity’ on the part of transgender men in men’s jails, namely standing up and fighting (‘employing either physical violence or “shaming” of the perpetrator’), see: Wilson et al, 2017: 12.

Anecdotal information is not necessarily untrue or unbelievable. But there’s other anecdotal evidence that runs counter to the transgender ‘vulnerability’ trope. There are the stories discussed above of the men who preferred a men’s prison to a women’s prison, despite (or because of?) the likelihood of sexual abuse; there’s the possibility that, because these men are men, at least some of them are capable of defending themselves; and there is the well-established fact that men posing as ‘women’ are not the only vulnerable male prisoners. The transgender narrative rarely, if ever, mentions these other vulnerable men (except, now and again, for gay men, who then serve as a kind of proxy for the transgender men). But without any comparisons, there is no way of telling whether any violence transgender men suffer in prison is because they are transgender, or whether it’s because they are just another kind of feminised man in a hyper-masculinised environment.

For an argument that separating out gay and transgender men from the general prison population would simply mean that the weakest of the remaining individuals would be targeted because of the ‘hypermasculinity imperative’ in men’s prisons, see: Dolovich, 2011.

#### *Deliberately withheld*

While correctional authorities accept the existence of a category of persons called ‘trans people’ in prisons, they are reluctant to provide information about that category, or even keep the information at all.

In Scotland there are no statistics on the number of transgender prisoners, nor on how many prisoners transition before or after reception into prison. There is no information on how the accommodation policy operates, nor on whether there have been any incidents of violence, nor on the effect on female staff. As Murray and Blackburn commented:

The general impact on female prisoners of introducing into the women’s estate prisoners who would previously have been held in the male estate, does not appear to have been systematically monitored in any way, despite potentially significant impacts not only on women’s physical safety, but also on their sense of safety, both physical and psychological (Murray and Blackburn, 2019. See also: Murray et al, 2020).

In response to a FOI request in 2017, asking whether ‘some prisoners named as male on their birth certs might be self-identifying as woman and seeking transfer to a women’s facility in pursuit of an easier life’, the Scottish Prison Service refused to provide the information on the grounds that it was ‘not held’ and that the *Freedom of Information (Scotland) Act 2002* only requires them to provide information that is held. There was no suggestion that the Prison Service might collect that information in the future (SPS, 2017).

Neither was there any suggestion that the Service might collect information in future on ‘incidents of transgender prisoners who have transferred to woman’s prison facilities going on to commit violence against female inmates’. Not only was that information ‘not held’, the Prison Service denied having responsibility for collecting it: ‘this is a matter for the Procurator Fiscal’ (SPS, 2017). Nonetheless, there was a report in *The Scotsman* about ‘revelations’ that there had been at least 12 male prisoners placed in Scottish women’s jails in the 18 months prior to January 2022 (Wright, 2022).

Libby Emmons (2021) has suggested that this is a deliberate refusal on the authorities’ part to provide information. ‘What [does] ... the state have to hide?’ she asked. She was referring to the case of a woman who requested information from the Washington State Department of Corrections on the number of inmates who identified as transgender and the number of male inmates housed in women’s prisons. Instead of the information, the woman found that she was personally named in a lawsuit filed by the ACLU, who were suing the Department to prevent the information being released. ‘This emergency lawsuit’, said, the ACLU, ‘was necessary to protect [the] safety and privacy ... [of] people whom DOC has identified as transgender, non-binary, and intersex’. They said that the department collected ‘this extremely sensitive’ information but that disclosing it ‘would create a terrible precedent for the safety and privacy of all people who have been in or will be in DOC custody, including all victims of sexual abuse’. It would ‘create a target list of some of the most vulnerable people who are or have been in the care of the DOC ... [and] place these community members at grave risk of harm, and violate state and federal law’ (ACLU, no date).

All this special pleading is based on the lie that men posing as ‘women’ are particularly vulnerable. Since they are not, and incarcerated women are, and the information asked for is necessary to protect women, the ACLU’s case is without merit. Not that the Department is likely to see it that way, especially as someone must have informed the ACLU about the FOI request. The lawsuit also violates the ACLU’s founding principle of ‘free speech’, which they even extended to defending the right of racists and Nazis to publicly voice their vile ideologies (see ‘The trans lobby’s appeal to rights’ chapter). But principles, founding or otherwise, are discarded when they conflict with something men want.

The court case was still active at the time of writing, over three years later, while the Department was still refusing to release the information.

In Australia there is little or no information about the numbers of transgender men in prison. The regular collection of information on prisoners in custody by the Australian Bureau of Statistics doesn’t mention transgender (or LGBT etc.).<sup>34</sup> According to two pro-trans lawyers, ‘It is unclear how many transgender people there are in Australian prisons—or, for that matter, in the broader Australian community—as data on this issue are not routinely collected’ (Lynch and Bartels, 2017: 187). Seven years later there were still ‘no firm numbers on how many trans people are in Australian prisons’ (Winter, 2024: 144). Another source guessed there might be ‘up to 400 trans and gender-diverse people in prison cells around Australia right now’ (Bali, 2020), although as Kirralie Smith of Binary (the organisation campaigning ‘to

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<sup>34</sup> <https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release>

challenge the aggressive agenda to remove sex from our society’) pointed out, ‘The article reads more like an opinion piece in defence of radical gender ideology than a factual report’ (Smith, 2020).

For the Victorian Department of Justice and Community Safety’s response to a FOI request asking how many ‘transgender women’ (sic—men) were in women’s prisons in that state and what was the nature of their crimes, saying that the information was not collected, see: WFA, 2022.

### *Numbers*

Nonetheless, there is some information from overseas about the numbers of men in prison claiming to be ‘women’. *BBC News* reported that, according to figures collected during April and May 2019, there were 163 such men incarcerated in England and Wales, 129 of them in men’s prisons and 34 in women’s prisons. This was an increase of 30 on 2018. The figure of 163 didn’t include those with a GRC, who are automatically placed in women’s prisons because their ‘legal sex’ is ‘female’ (Shaw, Danny, 2020).

For another mention of this figure of 163 ‘transgender inmates’, 130 of whom were said ‘to identify as female’, see: Brown, 2020.

Lily Maynard said that there were 22 men claiming to be ‘women’ in women’s prisons in England and Wales at the time of the Karen White scandal in September and October 2018, but by 2022 there were just half as many. However, although there were fewer men housed in women’s prisons, the number of male inmates identifying as ‘women’ was continuing to increase (Maynard, 2022).

This increase was reported in the UK MoJ’s *Prison and Probation Service Offender Equalities Annual Report* for 2021/22. ‘There were 230 transgender prisoners in the 2022 data collection’ the report said. This was an increase of 33 (16.7%) on the 2021 figure of 197. Of the 230, 187 ‘reported their legal gender as male’, while 43 reported as female. ‘Legal gender’ (as the report said) ‘is the gender recorded on a person’s birth certificate, or on their Gender Recognition Certificate where they have acquired one’ (UK MoJ, 2022: 7n6). The sex on birth certificates can only be changed if the person has a GRC, and the 230 didn’t include anyone with a GRC: ‘from 10 on 31st March 2021 ... [t]here were an additional 11 prisoners known to have a Gender Recognition Certificate’. The report went on to say that the 230 was likely to be an underestimate because there might be some who didn’t acknowledge that they were transgender, and because prison populations are constantly changing. Most of the 230 (181) were in men’s prisons, while there were 49 in women’s prisons (UK MoJ, 2022: 7).

### **Gaming the system**

It has been pointed out that correctional authorities’ acceptance of men self-identifying as ‘women’ is open to abuse, with men declaring themselves ‘women’ in order to get access to women, or simply to have an easier time in prison.

Some of the men in prison claiming to be ‘women’ have no history of such claims until they find themselves incarcerated. A former prison governor in the UK, Rhona Hotchkiss, said that, in her experience, this was the case with “[t]he vast majority of men who identify as transgender in prison” (Rayment, 2024. See also: FPFW, 2020b; WoLF, 2024c). Hotchkiss was also quoted saying that “We had three or four trans



women in at once. It was a horrific situation. None of them had identified as trans before they came into prison” (Matthews, 2024).

The former Justice Secretary for the Scottish National Party was quoted in a Scottish newspaper saying that men claiming to be ‘women’ after they had been convicted was “extremely worrying” (Wright and Mair, 2022). He went on to say that

[t]he statistics confirm the anecdotal evidence that some male prisoners are opting to self ID as females not through any desire to transgender but to avoid being imprisoned in the male estate. That is an abuse of the system and a threat to vulnerable women. It’s one thing protecting the rights of transgender prisoners but quite another to be facilitating what’s a fraud and extremely harmful. Current SPS policy seems to be failing and this abuse and injustice must end (Wright and Mair, 2022).

One of the Scottish Prison Service executives was unimpressed with that argument. He admitted that ‘people [sic—men] trying to use a GRC ... for nefarious purposes was “one possibility”, but that he “would be confident that our current approach... [was] able to respond to that” (Wright and Mair, 2022).

The current approach didn’t work very well in the case of ‘Isla’ Bryson, who decided he was a ‘woman’ while awaiting trial. His ex-wife was quoted saying, “You can’t do a crime as a man then want to transition once you’ve been charged with it. That’s how you know it’s all a big joke to him” (Bews, 2023). His claiming to be a ‘woman’ was “sham for attention”, she said, and “Never once did he say anything to me about feeling he was in the wrong body or anything”. She also said that he had abused her when they were together (Campbell, 2023).

A newspaper report said that, according to information from the Scottish Prison Service, half of the 16 transgender inmates in Scottish prisons claimed to be ‘women’ only after they were convicted (Wright and Mair, 2022). The numbers are small, but they do suggest that the current approach is grossly inadequate, since correctional authorities do not have a responsibility to act on this information, preferably by prohibiting these men at least from transferring to women’s prisons.

The President of the transgender organisation, the British Association of Gender Identity Specialists (BAGIS), Dr. James Barrett, said that it was highly likely that there were men who were taking advantage of the opportunity to claim they were ‘women’. It was naïve, he said, to think that men ‘would seek to pretend transsexual status in prison if this were not actually the case’ (Barrett, 2015: 5 of 10). He said that interviews with prisoners had identified any number of reasons why men might do this: to get trips out of prison; to share quarters with a female co-defendant; to appear less dangerous to the parole board; falsely believing that hormone treatment would make him less dangerous; ‘wanting a special or protected status within the prison system’; and ‘a desire to make subsequent sexual offending very much easier’ (Barrett, 2015: 5 of 10. See also: Halley, 2019; Williams, 2018).

The President of BAGIS, an organisation devoted to promoting transgender ‘healthcare’,<sup>35</sup> is a surprising source for this kind of information, because it implies that men claiming to be ‘women’ (‘transsexual’) can be a pretence, and hence bring all such claims into question. But of course, as a staunch upholder of the transgender

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<sup>35</sup> <https://bagis.co.uk/>

faith, Barrett can allow that some men might falsely claim to be ‘transsexual’, especially in prison, while still clinging to his belief that there are ‘real’ transsexuals. Above, I re-worded some of what he said, both in order to make it clearer—the word ‘man’/‘men’ was not used once, for example—and in order to avoid transgender jargon.

WoLF quoted a report from the California Office of the Inspector General (OIG)<sup>36</sup> that also made a distinction between men pretending to be ‘women’ and ‘real’ transsexuals. It noted that SB132 made it difficult to know when a male prisoner’s claim to be a ‘woman’ was genuine (i.e. not that he really *was* a ‘woman’, but that he really *thought* he was) and when it was not. It was difficult, the report was quoted saying, to “accurately assess a [male] prospective transferee’s sincerity in self-identifying their [i.e. his] gender identit[y as a ‘woman’] or their [i.e. his] true intentions in requesting a transfer under the Act” (WoLF, 2023b). (Once again, transgender muddles the syntax).

It would seem though, that some of the male prisoners posing as ‘women’ could tell the difference. WoLF quoted the report saying:

“Some [of these men] believed [other] prospective [male] transferees were seeking to transfer to have sexual relations with incarcerated people who were designated female at birth [sic—women]. Some [male] transferees suggested the department should better screen [male] prospective transferees and deny transfer to those with histories of abuse to increase safety at women’s prisons... One [male] prospective transferee made the following observation: “There are a lot of wolves in sheep’s clothing. There are a lot of men who are now all of a sudden transgender”” (pg. 26) (WoLF, 2023b—ellipsis in the original).

Clearly, this report was still caught up in the transgender narrative, despite its glimmers of reality. The use of the phrase ‘incarcerated people who were designated female at birth’ is absurd when the word ‘women’ is both more accurate and a more efficient use of language (why eight words when one will do?); and once again, the word ‘man’/‘men’ is not used either. But then, the trans narrative prohibits the use of the words ‘woman’ and ‘man’ (unless they are preceded by ‘trans’ or ‘transgender’) because the stark, unadorned, ordinary usage entails the existence of two, and only two, sexes, and transgender denies that reality.

There’s also the problem that it’s not the sincerity with which men claim to be ‘women’ that is at issue. After all, *no* man’s claim to be a ‘woman’ is genuine, however sincere. The difference alluded to in the report appears to be between those who clearly want sexual access to women and those who don’t, or say they don’t, with the latter singling out the former for opprobrium in order to make themselves look less threatening. Nonetheless, there are male prisoners who claim to be ‘women’ in order to get sexual access to women. As WoLF said, they themselves had ‘predicted and warned against this outcome from the beginning’ (WoLF, 2023b).

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<sup>36</sup> This report, called ‘Special Review of the California Department of Corrections and Rehabilitation’s (CDCR) implementation of the Transgender Respect, Agency, and Dignity Act’ isn’t available on the internet, and neither is the OIG. The link to the report given in the WoLF article is broken, and so are all the links that come up in an internet search for the OIG.

The authorities stubbornly refuse to acknowledge the problem, much less prevent these men getting into women's prisons. When a prisons spokeswoman was asked whether male inmates manipulating the system was an important issue, she used the usual bureaucratic waffle to avoid answering the question: "a person's gender identity is self-reported and CDCR will evaluate any request submitted by an incarcerated person for gender-based housing", she said (Miller, 2021), having said nothing very much at all. This source also quoted transgender men who also used the 'real' versus 'pretend' trope. One of these men, referred to as a 'transgender woman' with feminine pronouns, said that he himself knew of five men ('inmates') who had applied to transfer to a women's prison 'under false pretenses'. He had been asked by the staff, he said, "to tell them who is transgender and who is not, so they can block some of these guys from going to the women's prison". His own claim to be a 'woman' was not a false pretence of course, but there is no information about whether or not he was applying to be transferred to a women's prison. He was in a men's prison at the time he was interviewed.

The problem of incarcerated sexual predators claiming to be 'women' is not confined to SB132 and California. One of the Scottish women Maycock interviewed, for example, said of one transgender man she was imprisoned with that "[h]e wanted to be in this [women's] hall because he wanted to have sex with loads of lassies" (Maycock, 2021: 11). Again, an article in *The Sunday Times* cited 'prison governors and doctors' in the UK saying that 'some sex criminals transition to get access to women' (Gilligan, 2019).

That some of these men are indeed gaming the system is indicated by the fact that they stop claiming to be 'women' once they leave prison. (Remember, they do not have to have had any medical procedures at all, to be officially accepted as 'women'). One of the women Maycock interviewed said, "The last one to get out, back living as a man. The one before that got out, back living as a man" (Maycock, 2021: 14). Nonetheless, on Christmas Eve 2020, all 12 male prisoners posing as 'women' were housed in a women's prison, along with three women posing as 'men' ('as previous experience of trans men [sic—women] in the male estate had caused tensions') (Mega and Boothman, 2021. See also: Walker, 2022).

Another problem with the leniency being shown to transgender men by the correctional system involves a special privacy provision set up for them alone by the Disclosure and Barring Service (DBS) (KPSS, 2022). This Service checks the criminal records of anyone who applies for employment 'where safeguarding considerations apply', namely, working with children and vulnerable adults. Called the Sensitive Applications Route, this special provision is a confidential checking service for men posing as 'women' that allows them not to disclose their previous names in the interests of 'privacy'. To quote the DBS itself,

If an applicant doesn't want their previous gender identity disclosed to their employer, and/or on their DBS certificate ... the applicant is exempt from answering the question, "Have you been known by any other name? ... If you do have a conviction which may reveal your previous name/gender, it would be useful if you told us as soon as possible. You may be able to avoid previous identity details being disclosed" (KPSS, 2022: 19).

A man posing as a 'woman' is not obliged to tell the Sensitive Applications team about previous convictions, and even when the team is told, they can't tell employers about those convictions because that would violate the man's privacy if the conviction was recorded under his previous name.

Keep Prisons Single Sex asked the team whether an employer would be told that 'an applicant of the male sex, using a female name', with documents all saying he was female, had used the Sensitive Applications Route. 'The answer we received', they said, 'clearly stated that a prospective employer was not entitled to this information' (KPSS, 2022: 20). It would seem that the privacy of men claiming to be 'women' overrides the primary function of the DBS and the very reason it exists, namely, processing criminal record checks for people applying to work where there are safeguarding concerns and informing employers so that they can take appropriate action. As KPSS said, 'we find this extremely concerning because it indicates that individual privacy protections are potentially undermining the operation of the DBS disclosure system' (p.20).

KPSS also asked the team if anyone else could take advantage of the Sensitive Applications Route, e.g. a survivor of domestic violence who had changed her name for reasons of safety. They were told that the Route can only be used by 'transgender applicants' (KPSS, 2022: 21). This is the logic of male supremacy. Women don't need to be considered because they don't exist in the minds of the policy makers, whereas 'transgender applicants' are men and they must be given what they want (as long as what they want doesn't interfere with what more powerful men want), because they are the only human beings around.

But the logic of male supremacy doesn't only adversely affect women. It has ramifications throughout society, distorting, falsifying and perverting social relations everywhere. KPSS sums up the DBS situation thus:

where an individual changes their gender as part of changing their identity, the DBS grants them an extraordinary level of privacy, wholly unlike that granted to any other individual. This has created loopholes whereby an individual is able to conceal their past identities for the purpose of the checking process and request that past names they have used are not displayed on the DBS certificate issued to them. The loopholes mean that organisations have no way of knowing whether or not the information displayed on any DBS certificate presented to them is an accurate and complete record concerning that individual. The loopholes mean that current faith in the rigour and utility of DBS checks is, regrettably, misplaced. These are serious risks to safeguarding and compromise the DBS system in its entirety (KPSS, 2022: 27).

For a sympathetic commentary on the KPSS report, see: Dixon, 2022.

### **Arguing away women's concerns**

Many women have voiced their concerns about the policy of housing men claiming to be 'women' in women's prisons. One way of dealing with those concerns is to argue them away by asserting that men taking female hormones are impotent and hence incapable of 'having sex'. Once again, this involves a series of citations consisting only of assertions with no empirical evidence. For example, Mann (2006: 106) said, 'If prison authorities administered appropriate hormone therapy to transgender inmates a preoperative male-to-female transgender's penis would be neither a functional

sexual organ nor a threat to female prisoners'. In support of this assertion she cited Peek (2004: 1242-3), who simply made the same assertion citing Rosenblum (2000: 531).

Rosenblum (2000: 510n51) cited three sources in support of the assertion: a court case (*Phillips v. Michigan Dep't of Corrections*); *Gender Outlaw* by male transgender activist Kate Bornstein; and a telephone conversation with the Director of Corrections Health Programs in New York City. None of these was a definitive statement about the functionality of penises post-estrogen ingestion. The court case he cited (which was also mentioned by Peek) involved a six-foot 'pre-operative transsexual who had undergone estrogen treatments, developed breasts, and lost penile function' (Rosenblum, 2000: 531). But this is only one person. Rosenblum himself said that '[t]he extent to which a transgendered woman's [sic!] penis is nonfunctioning varies', and hence could indeed be 'a threat to female prisoners' if the penis-possessor was so inclined. As a staunch defender of the transgender agenda, Rosenblum was undaunted by the idiocy of calling a person with a penis 'a woman'.

As for the *Gender Outlaw* citation, Bornstein said nothing in general about the functionality of penises after taking female hormones. He simply said that his own 'penis started shrinking incredibly while [he] was taking hormones', and that his doctor recommended having the surgery before it got too small to give him anything to work with (p.18). Again this is one man and hardly sufficient evidence to justify making the claim of non-functioning penises about transgender men in general. Rosenblum's third source, the telephone conversation, cannot be checked.

He also cited Tedeschi (1995), who also made the general statement that 'through the use of estrogen, a biological male becomes chemically castrated and therefore would pose less threat of sexual assault' (Tedeschi, 1995: 45). In support of this assertion, Tedeschi quoted the judge's summing up in another court case (*Crosby v. Reynolds et al.*), noting that 'the transsexual, because of hormone treatments, had "virtually no capacity to function sexually as a male"' (Tedeschi, 1995: 45n130). In support of this statement the judge cited the 'expert medical opinion' of a Dr. Sagall, the jail's contract physician.<sup>37</sup> This case, and the expert opinion of Dr. Sagall (which is uncheckable), appears to be the primary source for the transgender assertion that men who have taken female hormones are impotent. But again, this is only one man. The judge's 'Statement of facts' didn't quote Dr Sagall citing any research in the area, it simply stated his own opinion.

Incidentally, the case (*Crosby v. Reynolds et al.*) was brought by a female prisoner, Juanita Crosby, who claimed her rights were violated because she was housed with a transgender man ('a male-to-female transsexual'). Five or six other women had also filed complaints with the prison authorities about being housed with this man. The judge ruled that the defendants—the prison staff—had 'qualified immunity', i.e. they couldn't be said to have violated the woman's civil rights because there was no official solution to the problem of where to house transgender men in prison. As the judge put it, 'well thought out and articulated policies were ... not available [and] jail officials here were confronted with a situation that had no perfect answer'. He said that he had 'found no decision setting forth the privacy rights of prisoners vis-à-vis other prisoners who are transsexual', and concluded '[s]uch a constitutional right was

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<sup>37</sup> <https://law.justia.com/cases/federal/district-courts/FSupp/763/666/1586075/>

not “clearly established in its more particularized sense” under these circumstances’ (see previous footnote). In other words, whatever the US Constitution had to say about the right to privacy, it didn’t apply to any right women might have not to be forcibly housed with transgender men. This decision, like that of the UK High Court, is typical of a male supremacist legal system oblivious to the needs and interests of women.

But while the man in this particular case may not have been capable of sexual activity, it’s not at all certain that men taking female hormones cannot commit rape. The authorities cited by Rosenblum could only say that the likelihood ‘varied’; and Rosenblum himself cited one case where ‘a pre-operative transgendered [man] was having sex with [sic] ... women inmates’ (2000: 532). It could be that this reference to ‘having sex with’ is a euphemism for rape, but the reference is to the telephone conversation, so it’s not possible to check.

### **Reform of the prison system**

Whether or not male transgender prisoners are more at risk of violence than other non-masculine male prisoners, most commentators agree that the violence is due to the hyper-masculinised nature of prison culture. Edney (2004) referred to ‘the excessively masculine nature of the prison environment’ where ‘acts and threats of rape become forms of intimidation and domination as well as strategies by certain prisoners to control other prisoners’ (Edney, 2004: 331. See also: Dolovich, 2011: chapter 1).

Jenness and Fenstermaker (2014: 13) referred to prison as ‘a hegemonically defined hypermasculine and heteronormative environment with an abundance of alpha males, sexism, and violence’. Jenness quoted one of her transgender interviewees saying:

“Prison is an alpha male community. It’s run by alpha males. So, we’re perceived as punks—just women. No one is going to come up to me and give me the respect they give my old man. They set me up as his property. And I guess I am. We’re seen as weak—a lower species. In a sense, we are. But people should not be taken in by the illusion. Don’t forget: We’re men. We’re just trying to get by in an alpha male community. [To the interviewer:] You women—you are a woman—you have it easy. I don’t have it easy” (Jenness, 2014: 10.).

An alternative solution to housing men claiming to be ‘women’ in women’s prisons is to house them in separate units, e.g. E-Wing in the UK system. A researcher who spent seven weeks in 2007 observing jail operations and interviewing staff and inmates in the K6G unit in the Los Angeles jail system (Dolovich, 2011: 92-110), found that the unit lacked the hyper-masculinity usual in carceral systems. This was a separate unit for housing gay men and men claiming to be ‘women’. There was ‘no pressure on residents to prove their masculinity’, this researcher said, ‘and thus no risk that those who display “feminine” qualities will be targets of sexual assault’ (p.53). She<sup>38</sup> argued that it was not an ideal solution to the problem of prison rape. It did not, for example, cater for other vulnerable males, e.g. “mental or physical disability, young age, slight build, first incarceration”, etc.) (pp.3n8, 54-86), and it was only

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<sup>38</sup> From the photos on the internet, this person *is* a woman. She is referred to as ‘Ms’ in online mentions, but in itself this is no guarantee that she’s a woman, given the transgender co-optation of feminine forms of address.

available in the jail system not in the prison system. There was also the possibility that it wouldn't solve the problem at all, that removing the most obviously vulnerable men from the general prison population might just mean that predators found someone else to victimise (pp.65n309, 77n352, 79-80).

But at least in K6G there was 'no premium on seeming hard or tough, suppressing emotion, or instilling fear in others ... [no] pressures to perform a hypermasculine identity, the rigid, irrational, racist, stressful, and scary rule structure that governs (gang) life elsewhere in the Jail' (Dolovich, 2011: 53-4). She concluded that a better solution was to humanise the prisons overall, or at least make them less dehumanised. '[T]he problem of sexual victimization behind bars', she said, 'will not be fully resolved unless the carceral experience can be reengineered in a more humane direction, not just for the especially vulnerable, but for everyone' (p.80). She seemed to think that this involved 'the provision of more personally healthy and socially constructive ways for all men in custody to assure themselves—and others—of their own manhood' (p.80), although this would involve extricating 'manhood' from hyper-masculinity. Perhaps what is required is recognition of their humanity, no easy matter given that they are already deprived of certain human rights by being locked up, given, too, that men made powerless by being locked up tend to resort to the only kind of power they have left—violence, and given the horrendous offences some of these men would have committed.

Another commentator in the US context (Tarzwell, 2006: 212-13) suggested that humanising the carceral system would require society-wide changes, such as repealing 'irrational drug and prostitution laws', and tackling the worst forms of poverty by improving the system of public benefits. She<sup>39</sup> also suggested that what was needed was 'a complete overhaul of the prison-industrial complex' by abolishing prisons, introducing more rehabilitative programs, and giving prisoners more autonomy. This would both reduce sexual violence in prison and encourage law breakers to participate productively in society, she said.

This is of course somewhat unrealistic. Not only are prisons necessary to keep evil men away from the rest of society, there are powerful vested interests keeping prisons as places of degradation, not the least of which is racism. The US prison population is disproportionately black. In 2017, blacks were 12% of the US adult population but 33% of the prison population with sentences longer than a year.<sup>40</sup> In Australia in 2016, Aboriginal and Torres Strait Islander adults constituted 27% of the prison population although they were only around 2% of the population.<sup>41</sup> As the Jesuit Social Services submission to the 2017 inquiry into the incarceration rate of ATSI people said: "The over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system is a national disgrace" (see footnote 40). This

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<sup>39</sup> This person is referred to with the third person plural pronoun ('they'), and refers to the 'LGBTQQ) community' as 'my own', but the photo looks like a woman (<https://narf.org/profiles/sydney-tarzwell/>).

<sup>40</sup> <https://www.pewresearch.org/fact-tank/2019/04/30/shrinking-gap-between-number-of-blacks-and-whites-in-prison/>

<sup>41</sup> <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/executive-summary-15/disproportionate-incarceration-rate/>

disgraceful state of affairs did not improve after the release of the report of the Royal Commission into Aboriginal Deaths in Custody in 1991. In fact, between 2006 and 2016, Indigenous imprisonment rates increased 41%, and the gap between Indigenous and non-Indigenous rates widened (see footnote 41).

The 1991 Royal Commission report on the 99 deaths of Aboriginal people between 1 January 1980 and 31 May 1989 said that '[o]ne cannot point to a common thread of abuse, neglect or racism that is common to these deaths'. However, it did give a number of reasons why the imprisonment rate of Aboriginal people was so high, all of them pointing to the wider society:

“Aboriginal people were dispossessed of their land without benefit of treaty, agreement or compensation ... [and] the economic position of Aboriginal people, the health situation, their housing requirements, their access or non-access to an economic base including land and employment, their situation in relation to education; the part played by alcohol and other drugs—and its effects” (See footnote 41).

The situation is even worse for Aboriginal women, who are 34% of the female prison population. Their rate of incarceration was not only massively higher than that of non-Indigenous women (464.8 per 100,000 compared with 21.9 per 100,000), it was also higher than that of non-Indigenous men (291.1 per 100,000). (See footnote 41).

For a detailed account of the situation of Aboriginal and Torres Strait Islander women in the criminal justice system, along with recommendations for improvement, see: ALRC, 2017: Chapter 11, pp.347-79.

There are also financial interests involved. Incarceration is an industry—prisons are fruitful sources of slave labour, i.e. labour that is both coerced and unpaid, especially in the US. Loïc Wacquant (2002: 41-2) drew a parallel between slavery and the high level of imprisonment in the US. '[S]lavery and mass imprisonment are genealogically linked', he said, 'and ... one cannot understand the latter—its timing, composition, and smooth onset as well as the quiet ignorance or acceptance of its deleterious effects on those it affects—without returning to the former as historic starting point and functional analogue'.<sup>42</sup>

But there needs to be somewhere where violent, out-of-control men are locked up away from the rest of the population. And there are signs of common humanity even under present conditions. It's not all bleak, some prisons are better run than others. There's the example of K6G, and there have been improvements in some US prisons as a result of prison reform movement of the late 1960s and 1970s led by the federal district courts (Dolovich, 2011: 11n48).

One researcher (Dervan, 2011) found quite marked differences between federal and state prisons in the US. In federal prisons, prisoners tended to be treated with human decency. They were provided with reasonable living conditions, and there were opportunities to spend time in meaningful ways studying or working. As a consequence, the prison environment was relatively calm and rates of violence were low. In contrast, prisoners in state prisons were warehoused under horrible living conditions. No effort was made to treat them with respect or provide them with any

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<sup>42</sup> See also: <https://www.endslaverynow.org/blog/articles/state-imposed-forced-labor-history-of-prison-labor-in-the-us>



meaningful stimulation during the day, which they could only spend lying on their bunks watching television. In these cases, the prison environment was poisoned and violence was rampant. The difference, the author said, was ‘between treating inmates like human beings and treating prisoners as mere objects for confinement’ (Dervan, 2011: 426).

So if prisons were less dehumanised places overall, they would be safer places for transgender men, along with other vulnerable men in prison. However, that is unlikely to happen soon, given the functions imprisonment serves for a culture of male supremacy.

*No men in women’s housing units*

One policy that *will* reduce the incidence of rape in prisons is to keep men out of women’s prisons, both staff and men posing as ‘women’. This is unlikely to happen, if the situation in the US is any guide, although it’s not a new idea. In the US, it was normal to staff women’s prisons only with women until as recently as the second half of the twentieth century. As the US District Court for the Eastern District of Michigan noted in their comments in *Everson v. Michigan Dept. of Corrections*, female corrections officers began working in male prisons only in 1985, and male corrections officers began working in the housing units in female prisons at around the same time (US District Court, 2002: 896).

According to the National Prison Rape Elimination Commission, the opportunity for men to enter women’s institutions as staff was the result of women’s successful challenges to being excluded from staff positions in men’s prisons (US NPREC, 2009: 37). Because there are more prisons for men than for women, female correctional officers would have fewer opportunities for employment and promotion if they were restricted to working only in women’s prisons. And if women are allowed to work in men’s prisons, then men should be allowed to work in women’s prisons—according to the logic of the spurious equality of ‘equal opportunity’.

The question of whether or not sex is a bona-fide occupational qualification (BFOQ) for staff in prisons has received some attention in US courts, and in *Everson v. Michigan Dept. of Corrections*, the US District Court ruled that the attempt by the Michigan Department of Corrections to make female sex (‘gender’) a BFOQ for the positions of Correctional Officer and Resident Unit Officer in the housing units in the female prisons in that state was ‘contrary to ... the equal employment opportunity requirement of the law’ (US District Court, 2002: 899). Prison authorities could reserve certain *tasks* in female prisons for female corrections officers only, e.g. pat-down, strip and body-cavity searches, and wherever women require privacy (p.893); and make necessary modifications to the physical structure of the prison, e.g. ‘privacy screens, shower curtains, narrowing of windows, partial doors on toilets’ (p.881). However, the Court said,

there is nothing unique about the operation of the female prisons in Michigan which suggests that the BFOQ is necessary for the [Department] to perform its mission[,] or [that] the essence of the business of running a female prison requires a BFOQ (US District Court, 2002: 893).

‘Moreover’, the Court went on to say, ‘the standards set by the [American Correctional Association] do not exclude male corrections officers from the housing units in female prisons’.

But the fact that there are no formal standards excluding men from staffing positions in women’s prisons doesn’t mean that there’s no need for such standards. It simply means that the American Correctional Association is as oblivious to the needs of women as any other mainstream institution. Moreover, even the Court acknowledged that there *is* something about women’s prisons that, if not unique, is certainly different from men’s prisons. There is far less violence and far, far less sexual harassment. ‘The female inmates<sup>43</sup> are correct’, the Court said, ‘when they say: “Male and female prisoners handle situations quite differently. There are security concerns with males that are not present with females”’. But although this has meant that ‘corrections officer positions in the housing units are limited to female corrections officers’ in four States, the Court said, ‘[it has] not resulted in any effort nationally to take male corrections officers out of female prisons’ (US District Court, 2002: 896-7).

This is not surprising, given that the problem is seen only as one relating to ‘privacy’ and ‘equal employment opportunity’ (Ingram, 2000),<sup>44</sup> and not male violence and sexual entitlement (of course); and not just women’s privacy and employment either, given the requirements of spurious equality. Those requirements also demand that the employment rights of male staff be considered too. As the Michigan Department of Corrections’ Gender Specific Assignment Committee put it: ‘Numerous [court] cases have pitted inmates’ right to privacy against the right of female and male correctional officers to equal employment opportunity’ (quoted in US District Court, 2002: 873).

But employment for women and men in a prison environment is not equal, given that the prevalence of women’s violent sexual behaviour is not the same as men’s. The National Prison Rape Elimination Commission noted that both human rights organisations and the US Department of Justice had ‘alleged extensive sexual assaults by [male] corrections staff over a period of years in several women’s prisons in Michigan’; and a DoJ investigation in 1997 found ‘found evidence of criminal behavior [on the part of male staff] ranging from sexual assault to officers exposing their genitals to prisoners’<sup>45</sup> (US NPREC, 2009: 51-2).

But despite the evidence, it is unlikely that the US correctional system is genuinely concerned about eliminating rape in the nation’s prisons. By ignoring the fact that men rape and otherwise sexually harass women while women do not behave the same way towards men, prison authorities ignore the main occasion for rape. Even were they to succeed in eliminating rape in men’s prisons (although continuing to find the

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<sup>43</sup> These were ‘intervening defendants’ in this case (the main defendant being the Michigan Department of Corrections), who had brought a case against the Department in 1996 ‘claiming sexual misconduct and sexual harassment in the female prisons’. They had won this case in part, their money claims being ‘settled for \$3,787,000.00 with \$2,390,700.00 being distributed among 31 named female inmates’, and a qualified guarantee by the Department ‘to limit the assignment of staff in facility housing units to female officers’ (US District Court, 2002: 872).

<sup>44</sup> This author displays a high degree of obliviousness to the actual state of affairs: ‘Our goal should be to allow guards of either gender to perform *any* duties in *any* prison ... if a search of a male inmate by a female guard causes no real harm, why is there harm to a female searched by a male?’ (Ingram, 2000: 26, 15—original emphasis).

<sup>45</sup> <https://law.justia.com/cases/federal/district-courts/FSupp2/222/864/2305557/>

vast majority of allegations ‘unsubstantiated’ makes that wildly improbable), the main occasion for rape—men’s access to women—would remain.

Of course, not *all* men ... (etc., etc.). A male employee of the Washington State Department of Corrections and PREA investigator for the Department, writing in the journal *Corrections.com*, gave an account of the way male prison staff *should* treat women as human beings. ‘The role of the male correctional worker in a woman’s prison,’ he said, ‘is to be a positive role model for the offenders and the alternative example for them in regard to how a man should conduct themselves and treat them’ (Claggion, 2015). He didn’t mention rape though, just that ‘[f]emale offenders have unique treatment needs and a different set of problems than men’. Another male prison officer resigned rather than implement what he regarded as the ‘immoral, dangerous trans policies’ introduced into the Californian system by SB132 (Bolar, 2023). Again, a study investigating the employment of male correction officers in prisons for women found that ‘women inmates respond positively to the presence of male officers and actually favor male to female officers’ (Zupan, 1992). Nonetheless, a bipartisan investigation by the US Senate 30 years later discovered that there had been widespread sexual abuse of female inmates by male staff and volunteers in at least two-thirds of federal prisons over the preceding decade (Johnson, 2022).

## **Conclusion**

Claims that ‘trans people’ are particularly vulnerable in men’s prisons and that therefore they should be housed in women’s prisons, are wholly about men, their ‘gender identity’, their ‘self-identification’, their ‘genitalia-based placement’. There is no official acknowledgement of any concerns that women might have about being imprisoned with men, especially with men convicted of violent sexual offences. The transgender prison narrative shows no more concern for the rights of women than the transgender agenda more generally.

But the transgender claims about ‘vulnerability’ are false. Transgender men are no more vulnerable than other non-masculine men and, as men, they are often quite capable of defending themselves. Many of them don’t want to go to a women’s prison anyway, preferring instead to bolster their ‘femininity’ by providing sexual and other services for hyper-masculinised ‘real men’ in a prison that houses only men.

Moreover, there is some evidence, anecdotal though it is, that the men who are claiming they are ‘women’ and demanding accommodation in women’s prisons are using the transgender narrative for purposes other than simply dressing themselves in femininity. There are child abusers and rapists who either want to escape the mistreatment meted out to them by the other male prisoners, or to get access to defenceless women and sometimes children (in mother-and-baby units), or even just to get an easier time in prison. This means that the transgender narrative can be easily used for nefarious purposes.

This should come as no surprise. Operating from an absurdly false premise leads to all kinds of bad outcomes. What could be more absurd than believing that men can be women just because they say so (or for any other reason). Sacrificing women to the demands of men so entitled that they can claim to be women and get what they want from a prison system not normally so considerate of the criminal fraternity, is also absurd. So are the trans-speak neologisms—‘genitalia-based placement’, ‘heteronormativity’, ‘the tyranny of the sex categorical binary’, ‘the dominant binary

understanding of gender’—used in the institution’s justifications for denying women’s reality.

The women aren’t laughing though. Penned up with men, being ogled at the very least, being raped at worst, women in prison with transgender men are doubly punished. There are very good reasons why prison systems are segregated by sex. Policy capture of that system by the transgender agenda means that those reasons are being ignored. What women desperately need—safety from male violence—is judged less important than the whims of entitled men.

As evidenced by the examples discussed above (‘Examples of violence’), the problem of rape in prisons can only get worse with the placing of men posing as ‘women’ in women’s prisons. The authorities, however, are oblivious, just as they have been oblivious all along to the fact that rape is something that men do to women. This obliviousness stems from the male-supremacist conviction that being raped by men is part of what it means to be a woman. It is a natural feature of her being. It not only requires no policy initiatives to prevent it, as part of the natural taken-for-granted world it doesn’t even come into awareness. Men being raped, on the other hand, is not natural. It raises the spectre of male homosexuality in the male-supremacist mind, a spectre made even more horrific by the belief on the part of the US legislators that white men are being raped by black men (a variant of the over-sexed black man trope behind the castration and lynching of so many African-American men in US history).

Housing male criminals claiming to be ‘women’ with women is an example of that misogynist indifference to women characteristic of a male-supremacist society. No one in power has ever cared about women in prison (or about women at all). The transgender complaint fitted neatly into the misogynist and homophobic status quo. The fact that the transgender men were calling themselves women didn’t change their sex in the mind of officialdom—except as a solution to this particular instance of male-on-male rape: ‘If they say they’re women, house them with women. They won’t get raped then’. But transgender men are still men in the male-supremacist hive-mind. Clearly they are very important men too, since officialdom has rushed to accommodate them while ignoring the plight of other vulnerable imprisoned men.

The Secretary of the California Department of Corrections and Rehabilitation was reported to have said, “[n]o one deserves to be treated disrespectfully because of their gender identity or expression”. “It is our sworn duty”, he added, “to protect people from sexual assault and violence” (Harris, 2020). But given that the Department is committed to housing violent male offenders with women, or at least refuses to say they won’t, it is certain that women *will* be ‘treated disrespectfully’, not because of their ‘gender identity or expression’ but because they are women. Far from protecting the women from sexual assault, violence and harassment by men, housing men with them will guarantee it.

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