Transgender Survivors in Detention
July 11, 2013

Working with transgender survivors of sexual abuse in detention

Who’s who?

Chris Daley
Valerie Spencer
Bamby Salcedo

Welcome & Housekeeping

- Take care of yourself
- Power Points
- Archived Recording
- Interacting

Navigation tool: Questions

What we can offer you

- Training and technical assistance
  - 1-on-1 support
  - Webinars
  - Training
  - Publications
- Support for transgender survivors
  - Listservs
  - Referrals
  - Writing to Heal
  - Espavo Project

Thank you

This project was supported by Grant No. 2011-TA-AX-K121 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication / program / exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.
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Agenda
- Setting the Stage (Valerie)
- Statistical Overview (FORGE)
- Advice to Advocates (Bamby)
- PREA – Background and key provisions (Chris Daley)
- Resources (FORGE)
- Questions

Statistical Overview of Trans People in Detention

General rates of incarceration

US Population Transgender

0% 2% 4% 6% 8% 10% 12% 14% 16% 18%

2.7% 5.1% 16%

US Population Transgender

Trans detention by race

0% 5% 10% 15% 20% 25% 30% 35% 40% 45% 50%

Overall sample Black American Indian Latino/a Multiracial Asian White

16% 47% 30% 25% 21% 13% 12%
Detention by gender vector

- MTF: 21%
- FTM: 10%
- GNC: 12%

Length of incarceration

- < 6 mo: 75%
- 6-12 mo: 10%
- > 12 mo: 15%

Factors → higher incarceration

- bullying
- dropping out of school
- childhood abuse/neglect
- family or community rejection
- employment discrimination
- widespread harassment and discrimination
- underground economy

Why detained

- prostitution+: 42%
- systems infractions: 25%
- violent offences: 20%
- drug offenses: 17%
- minor infractions: 10%
- sex offenses (rape): 7%
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**Held due to gender**

- Overall sample: 7%
- Latino/a: 21%
- African-American: 41%

“Although guards were aware of abuse they often refused to intervene”

~This is a Prison: Glitter is Not Allowed respondent

**Sexual assault in detention**

- All Respondents: 16% of the 15% incarcerated
- Black: 34% of the 47% incarcerated

“I was naked in a shared open shower, this guy ... punched me, threw me over the shower wall and raped me in front of everyone, I was so numb I felt I deserved it, no one helped me.” ~ a genderqueer person in a men’s state prison

**Systems-based Inequity**

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<th>Criminalization of poor and homeless people</th>
<th>Criminalization trans people</th>
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<td>Trans people suffer additional gender-related harm in custody</td>
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From Sylvia Rivera Law Project
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Systems-based Inequity

1. Profiling and harassment
2. Lack of access to gainful employment or education
3. “Quality of Life” crimes

Criminalization of poor and homeless people

From Sylvia Rivera Law Project

Systems-based Inequity

1. “Wrong” bathroom
2. Lack of proper identity documents
3. Falsely arrested for soliciting

Criminalization trans people

From Sylvia Rivera Law Project

Systems-based Inequity

1. Gender-segregated arrest procedures
2. Denied access to hormones and other trans-specific health care
3. Increased sexual violence, harassment, and abuse

Trans people suffer additional gender-related harm in custody

From Sylvia Rivera Law Project

PreA of 2003

The Prison Rape Elimination Act of 2003 was passed unanimously by Congress and signed by President George W. Bush. It required:

- Comprehensive study of the ways to prevent sexual abuse in detention.
- Federal research into rates of abuse.
- Development of regulations for implementing PreA.
- Penalties for state agencies who do not comply with the regulations.

From: justdetention.org

Bamby Salcedo

Photo by Mia Nakano

www.forge-forward.org

Background on PreA

The National Prison Rape Elimination Commission spent about four years studying the issue through hearings across the country. The Department of Justice took the Commission’s findings and, over a period of three years, turned them into groundbreaking regulations.

The regulations were finalized on August 20, 2012.

The final regulations include provisions to prevent, detect, and respond to sexual abuse in detention and require:

- That the federal Bureau of Prisons complies immediately.
- That all other prisons, jails, police lockups, community confinement, and juvenile justice facilities comply by August 20, 2013.

The final regulations seek to provide detained persons with services from trained rape crisis advocates and trauma related services, including:

- Mental health services for any detained person who had been subjected to abuse or who committed abuse prior to being detained.
- As confidential as possible support services.
- An advocate during a medical exam or investigation following an incident of abuse.
- Immediate and long-term trauma care for survivors of abuse in detention.

Transgender detainees can NOT be segregated based solely on their gender identity in most cases.

The agency must conduct an individualized assessment of whether a transgender detainee should be housed in a men’s or women’s facility.

The agency can NOT abuse solitary confinement as a means of keeping a transgender person “safe.”

An agency must train its staff to speak professionally and respectfully to transgender detainees. The regulations strictly prohibit staff from sexually harassing detainees, including by using: “demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.”
An agency must train staff to search transgender detainees in a professional manner and can NOT search any detainee simply to check a person's genitalia.

Agencies have to establish a protocol for how to respond to reports of abuse. The protocol must include:
- A forensic medical exam
- A criminal and administrative investigation
- Immediate medical services
- Long-term medical services

Agencies have to inform a survivor about the progress of an internal investigation and report back some aspects of a criminal proceeding. For instance, survivors have to be told:
- Whether the allegation of abuse was substantiated, unsubstantiated, or unfounded.
- The employment status of any staff member accused of abuse.
- Anything the agency learns about whether criminal charges are being filed against the accused perpetrator.

Fear of retaliation is one of the most consistent barriers to effective reporting that survivors face. Agencies are required to monitor survivors for 90 days to detect any signs of retaliation from staff or other detainees.

Resources

www.justdetention.org

RAPE IS NOT PART OF THE PENALTY
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www.forge-forward.org
PO Box 1272 | Milwaukee, WI 53201