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## Criminal Law

# Transgender inmates and their safety



THE CANADIAN PRESS



OTTAWA — The federal prison system is changing the way it treats transgender inmates, who will now be placed in a men's or women's facility based on how they self-identify.

Correctional staff must also address transgender inmates by their

preferred name and pronoun and offenders will be allowed to shop for both men's or women's items from the correctional service's approved catalogue, regardless of their anatomy or the gender on their identification documents.

These changes come after the federal government added ``gender identity and expression'' to the list of prohibited grounds for discrimination in the *Canadian Human Rights Act* last June.

“We are overjoyed that (Correctional Service Canada) is making so many positive changes that recognize the human rights of trans people in the correctional system,” said Jennifer Metcalfe, executive director of Prisoners' Legal Services.

“These changes will improve the safety and dignity of transgender federal offenders in Canada, affecting every aspect of their daily lives.”

Helen Kennedy, executive director of advocacy group Egale Canada, called the reforms a step in the right direction but warned that correctional staff are not properly equipped to accommodate transgender prisoners.

“Unless it's implemented with the training that's required for all of those front-line workers, then we could potentially be putting people in harm's way,” she said.

Jeremy Dias of the Canadian Centre for Gender and Sexual Diversity applauded the government for following through on its earlier commitments but he said he too would like to see more done to keep transgender prisoners safe.

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“This is only halfway there,” he said. “In 2018, we have to start thinking of trans and non-binary specific correctional facilities.”

While more needs to be done, it is worth celebrating the progress made in advocating for the rights of transgender people in general in recent history, Dias said.

“There was a time not so long ago where we didn't think that these sorts of policies and initiatives were even possible.”

A joint statement from Prisoners' Legal Services, the Correctional Service of Canada (CSC) and the Canadian Human Rights Commission said the reforms are the result of years of collaboration.

The head of the human rights commission, Marie-Claude Landry, said the reforms are about respect and human dignity, which every person is entitled to, including those in the prison system.

The changes also emphasize the privacy and confidentiality of an inmate's gender identity, which will be shared only if relevant and only with those directly involved in a prisoner's care.

Individualized protocols will also be offered to transgender inmates, which include accommodations when accessing shower and toilet facilities and the choice of male or female officers to conduct frisk and strip searches, urine testing and camera surveillance.

CSC commissioner Don Head said the service is committed to building a safe, inclusive and respectful environment for everyone, including transgender staff, offenders, volunteers and visitors.

In an interview with [AdvocateDaily.com](http://AdvocateDaily.com), Toronto criminal lawyer [Jordana Goldlist](#) agrees with two of the three changes the prison system is introducing, but has some serious concerns about housing trans inmates according to the gender they most identify with.

“The reality is that homophobia is rampant in the prisons,” she says. “I think that if we start housing people according to the gender they identify with, instead of their actual anatomy, we are really putting their safety at risk. Unless trans inmates are going to be kept in separate ranges and guarded by specially trained staff, they will have a horrific time in what is already a violent atmosphere.”

How do you keep a person with female anatomy safe in a men's prison, for example, asks Goldlist, principal of [JHG Criminal Law](#).

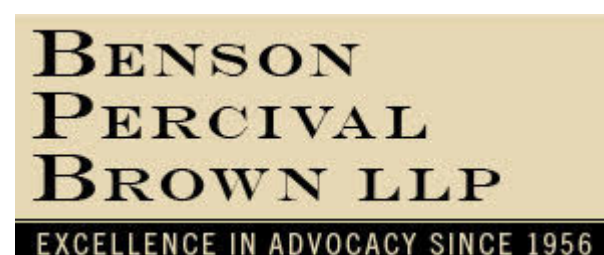
“Is there going to be a separate washroom area? Separate showers? Where do they change? Will they have their own cells? I don't think the prisons are set up for this,” she says.

“And is that what trans people want — to be housed separately? Or does true equality mean that they are treated in the exact same fashion as the gender they want to be — kept on the same ranges, sharing cells, showering together, and using the bathroom in front of the other inmates? Because that is the reality of prison life.”

Goldlist says the prison system doesn't have the infrastructure to make this kind of change.

“I don't think the staff has sufficient sensitivity training,” she says.

“I don't think the physical setup of the prisons can safely accommodate trans people in this manner at this time. And I think that many of the other inmates will not be receptive to this change if they are going to mix the ranges.”



"It is not just about infrastructure and staff training but also ensuring that the other inmates treat trans people with dignity and respect."

— *With files from AdvocateDaily.com*


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