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‘It’s Complicated’: Canadian Correctional Officer Recruits’ Interpretations of Issues Relating to the Presence of Transgender Prisoner

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Abstract: Drawing upon semi-structured interviews with correctional officer recruits in training (n = 55), we reflect on recruit interpretations of transgender (trans) prisoner placement within federal prisons in light of recent changes instigated by Canadian Prime Minister Trudeau. Recognising that prison is a carceral and gender binary space, we assert that trans prisoner lives and experiences cannot easily be appropriately recognised or included in prison policy and prisoner management procedures. Our findings reveal that most recruits are supportive and appreciative of the complexities of trans experiences, yet some, especially those with prior experience working in prisons, describe occupational strains tied to accommodating trans prisoners.

Keywords: Canada; carceral geography; correctional officers; correctional work; prison studies; transgender (trans)

In an effort to recognise ‘trans rights are human rights’ (Harris 2017a, no page number) Canadian Prime Minister Justin Trudeau, in January 2017 at a town hall meeting in Kingston, Ontario, pledged to look into if transgender prisoners could be housed on the basis of their gender identity. His commitment, a response to a trans advocate seemingly surprising Trudeau with the information that trans prisoners were housed in accordance to their current anatomy (that is, genitalia) (Wherry 2017), came only days after Correctional Service Canada (CSC) released a policy directive that confirmed the continued practice of prisoner placement based on current anatomy rather than gender self-identification. Eventually electing that the presumption of penitentiary placement should be...
based upon gender identity, rather than anatomy, the Trudeau government committed to looking into current policies around trans prisoners. The commitment was politically timely, as anti-trans ‘bathroom bills’ were sweeping across the United States (National Conference of State Legislatures 2017), and interest in trans rights in Canada had been mobilised through, for instance, the proposal to amend federal legislation to include anti-discriminatory protections for gender diversity (Laidlaw 2018, p.352). Meanwhile in England, public discussion about transgender people and prisons was also gaining ground, albeit discussions marked by vociferous disagreements about the efficacy of Ministry of Justice placement policy. The change in CSC trans-prisoner policy took place in a context where little research exists, from the perspective of those working or living within the prison, about accommodating prisoners on the basis of gender identification.

In this article, we offer insight into the perceptions of correctional officer recruits, actively training to be federal correctional officers, in Canada, about the issues involved in working with, and accommodating, prisoners who identify as trans. We acknowledge that there is a growing literature that traces, describes, and analyses the discriminations and experiences of people in the prison system who identify as trans in the UK, Canada, and the USA (Rosenberg and Oswin 2015; Stryker 2008; Sumner and Sexton 2015, 2016; Vitulli 2013), but in this article, we are not focused on those experiences and do not explore issues from the perspective of individuals who identify as trans. Instead, our intention is to provide an empirical analysis of what recruits undertaking the Correctional Training Program at the National Training Academy (NTA) say about the presence of trans prisoners in the Canadian prison space. Our main argument is: from the perspective of recruits, the presence of people who defy the binary sex segregation that characterises prison space presents an organisational issue for prisons (and thereby the people working (and by extension living) within them). The argument is not that trans individuals per se are ‘problems’ that must be resolved, rather that the way prisons are organised creates, for correctional officer recruits, ‘problems’ and issues over which they puzzle. Our argument in this article is concerned with how recruits perceive and discuss the contradictions that they anticipate emerging when they are presented with the lived realities of working with, and caring for, individuals who, in many ways, represent the antithesis of the ‘notional’ prisoner (for example, able bodied, male or female). As we will show, our interviewees offer subtle and nuanced accounts that demonstrate both their desire to recognise and meet the needs of trans prisoners and the limits placed on their capacity to do that by the very histories, rationalities, and continuing existence of sex-segregated prisons in the first place. Our analysis is shaped by theories that conceptualise prisons as carceral spaces. Yet, we do not bracket off the everyday material realities of dealing with people in prisons.

We structure this article as follows. First, we unpack trans prisoner policy developments in Canada. Second, we demonstrate how carceral scholarship helps to frame our empirical analysis of recruits’ perceptions of trans
prisoners and correctional work. Here, we also introduce a few cautionary notes about the effect of discourses about ‘safety’, ‘security’, and ‘biology’, the range of everyday realities that accompany said discourses and how these are both shaped and continue to justify sex-segregated carceral spaces. In the third section, we present our method and data analysis; we show where, how, and what is anticipated to happen for correctional officer recruits when trans lives, correctional work, and the sex binary prison environment in Canada come together. In the final section, we bring together our analysis and offer some thoughts about what Canadian correctional officer recruits tell us about contemporary trans politics in the context of prisons more widely.

Prisoner Placement Policy Change in Canada

On 18 November 2016, Bill C-16, entitled: An Act to Amend the Canadian Human Rights Act and the Criminal Code, was passed (receiving Royal Assent in 2017); making ‘gender identity and gender expression’ prohibited grounds for discrimination (Bill C-16, 2016). In late 2016, the outgoing Correctional Investigator, Howard Sapers, called for CSC to consider that trans and intersex prisoners not by default be refused placement in identity-concordant institutions (for example, to consider prisoner placement based on their gender identity rather than current anatomy and to review their policies tied to trans prisoners; Sapers (2016); Correctional Service Canada (2017b)). In responding to Sapers’s 2015–16 annual report, CSC committed to (and then upheld that commitment) reviewing their policies on gender dysphoria. The responding policy revisions, put forth on 9 January 2017, confirmed that prisoner placement was to be based on current anatomy, not gender self-identification, stating that: ‘pre-operative male to female offenders with gender dysphoria will be held in men’s institutions and pre-operative female to male offenders with gender dysphoria will be held in women’s institutions’ (Harris 2017b, no page number; see also Correctional Service Canada 2017b). Concern around the policy implications were vast, including cases where trans prisoners shared cells with other prisoners, were subjected to strip searches and other gender-sensitive processes by officers of their opposite sex, and felt a need to hide their identity fearing exploitation, harassment, intimidation, and sexual violence (Harris 2017a; see also Resolution 16-07-M 2017; Sapers 2016, 2017). In addition, safety concerns for trans prisoners, alleged or real, left some trans prisoners housed in segregation units or with limited mobility within and between prisons (Harris 2017a). As happened, however, events overtook such concerns, as directly following Trudeau’s aforementioned town hall meeting, CSC reversed their policy. By 14 January 2017, Harris reported, CSC was preparing to house prisoners on the basis of their gender identity (with consideration on a case-by-case bases).

The new policy, which came into effect on 27 December 2017, ensured that federal prisoners identifying as trans are afforded the same protections, dignity, and treatment as their non-trans counterparts in prison (Correctional Service Canada 2017a). Correctional Service Canada (2017a, no
page number) acknowledged its ‘duty to accommodate based on gender identity or expression’ and in response, put forth new guidelines that: ensure communications reflect gender-inclusive language; prisoners’ gender identity remains private and confidential (stipulating that it will be shared only with those directly involved with the prisoner’s care, and when relevant); and individualised protocols are delivered for prisoners who seek to be accommodated on the basis of gender identity or expression, including spiritual ceremonies, showers and toilets, frisk and strip searches, urinalysis, decontamination showers, and monitoring under camera surveillance (Harris 2018, no page number; see also Correctional Service Canada 2017a). Additionally, prisoners’ ‘preferred clothing and personal effects will be accommodated “to the greatest extent possible”’ (Correctional Service Canada 2017a; Harris 2018, no page number). It should be noted in regards to sex reassignment surgery, that, as stated in the 9 January 2017 announcement, prisoners were no longer required to live in an identity-congruent gender role in the community for twelve months prior to their incarceration. Now, prisoners become eligible for sex reassignment surgery ‘if they have lived in ... an identity-congruent gender role for 12 continuous months and it is recommended by a specialist physician’ (Harris 2017a, no page number). Thus, a prisoner could express a new gender identity in prison, live gender identity-congruently, and then have sex reassignment surgery all while incarcerated and with CSC paying for the surgery and proceeding without delay to determine the timing of the surgery in light of CSC and medical operational procedures, as well as the prisoner’s release date (Harris 2017a, no page number).

Arguably, these legislative and prison administrative measures are an attempt to adapt a traditionally sex-segregated prison space to better meet the highly variable, variegated and mutable gender identities of its prisoner populations. With that, it might appear that the structures and processes based on sex segregation are being, at least to some degree, challenged. As we will see in the analysis of the interviews though, the mere application of the policy of housing prisoners according to their gender identity does little to resolve the complexities and contradictions that exist within a prison space.

**Gender Binaries, Carceral Spaces, Boundaries and Dealing with ‘Anatomical Sex’**

In a sex-segregated prison system that is based on the idea that sex and gender are interrelated and indistinguishable (Sumner and Sexton 2016), the housing of trans prisoners in any part of the system presents challenges for prisons (as organisations), prison staff, and prisoners (trans and non-trans, alike). As Sumner and Sexton (2016, p.617) suggest, trying to understand the issues involved ‘is more than tracing or describing how a particular demographic within prisons is further stigmatized (or not)’. Instead, the presence of trans prisoners calls into question some of the ‘foundational tenets of the carceral system: sex segregation and the insurance of safety and security’. With that, Sumner and Sexton (2016) opened
the space for questions to be asked about how, if at all possible, individuals in a prison accommodate ‘the problem’ of those foundational tenets being called into question. As we later show, understandings of sex, sex segregation and gendered identities are inextricably tied up with notions of safety and security (or more specifically, risk and insecurity).

One way to understand how correctional officers think about the presence of trans people in the prison is through an analysis of how boundaries, physical, emotional, or virtual, become a constitutive element in the establishment of a carceral space and the perpetuation of particular norms within those bounds (Vitulli 2013; see also Sumner and Sexton (2016) regarding the challenges of constructing ‘difference’ for trans prisoners in prison; Emerton 2018; Jenness and Fenstermaker 2014; Kirkup 2018a; Mann 2006; Smith 2014). The challenge is to do this while also recognising some of the lived everyday material realities that correctional officers, prisoners (trans or otherwise), prisons (as organisations), and governments, have to contend with and that have been used to justify sex segregation.

The activity of drawing personal, social, and physical boundaries, which together can also constitute carceral boundaries, is central to how self and one’s associated relationships to others coalesce and conflict at different moments (for example, see Peters and Turner 2015). At times, boundaries may be implicit or explicit, visible or invisible, static or dynamic, and carceral or societal. Carceral spaces, with their boundaries, are spaces ‘set aside for “securing” – detaining, locking up/away – problematic populations of one kind or another’ (Philo 2012, p.4), but such spaces also are deeply intertwined in social, political, and economic structures and systems, and embedded in interpretations of power (Moran 2013; Philo 2012). A boundary, carceral included, serves as an imaginary – but no less effective – prop for social relations. More than simply the setting for social interactions; a boundary constantly reinscribes the very power relations that give the boundary meaning (Gacek 2019, p.80). To this end, in any context, one must question: who is drawing the boundaries, and what gives this entity the authority to draw? How are the boundaries delineated and what kinds are being delineated? And finally, what is the purpose of delineating these boundaries (Brighenti 2006; Peters and Turner 2015)? In effect, boundaries, imbued with meaning, become the object of an ongoing work of enactment, reinforcement and negotiation, all of which can be ‘more or less effective, impressive, memorable, and affectively powerful according to specific circumstances’ (Brighenti 2006, p.72).

In general, whenever a boundary appears, its creation generates a basic discontinuity between the inside and the outside. New functions are created, pre-existing functions are reorganised, and each boundary delineation determines effects of deterritorialisation and subsequent reterritorialisation: These basic operations generate and maintain an ongoing process and dialectical relationship of separation and fusion, with the two movements embedded into one another. It is clear that the territory of the prison can be imagined as serving several different functions in the pursuit of different ends. While functions may range widely, a common thread throughout is that in most cases, co-presence defines the carceral
space of the prison (and in various ways; for detailed examples of presence and absence in prison see Moran and Disney (2017)). In effect, the focus of boundary-making in carceral space ‘is not exclusion from a particular area, but the creation of ordered social relations and co-presence, which are, in many cases, relations of dominance’ (Gacek 2019, p.81), shaping interactions and the informal as well as formal norms of prison living (see Ricciardelli 2014; Sykes 1958). This has direct relevance to the analysis of correctional officer recruits’ thoughts on the presence of trans people within prisons because, and as will be shown below, the main challenges presented to correctional officer recruits were challenges associated with ‘where’ people who identify as trans belong or ought to be placed within the prison estate, why they belong in that or this space and what will be the overall effect. The main ways that trans prisoners are placed is in accordance with their understandings (unsurprisingly) of sex and gender.

It is commonplace to assert that within the prison, the delineation of boundaries are also signs of control, conformity, and authority. Within sex-segregated prisons, though, gendered constructs act as boundaries that, in turn, create and reinforce understandings of gender-identification within a space that by its very definition allows only for a binary understanding of gender that maps on to biological sex. Such a framework permits the positioning of individuals who identify as trans in specific ways. Productive forces within carceral spaces attempt to coercively engulf all human bodies that come within their ambit, inasmuch as bodies are brought into the prison’s efforts of understanding and managing human behaviour in ways that produce control, conformity and reproduce power relations and authority (Vitulli 2013). Trans individuals are confined behind prison walls. As such, the prison relinquishes its hold over routine procedures of normalising people into ordered, docile bodies to be ‘subjected, used, transformed, and improved’ (Foucault 1977, p.136) – at least in relation to those whose bodies do not conform to the ‘notional’ prisoner.

Prisoners who identify as trans, however, by failing to conform to the alleged ‘norms’ of binary sex with its presumption of gender congruence that underpin former federal Canadian prisons policies and the production of prison docility by their very existence bring into being new forms of knowledge about the self and the carceral experience. In a metaphoric mode, the trans prisoner confounds the traditional parameters of institutional carceral boundaries and prisoner handling and housing procedures, throwing personal, social, and carceral boundaries into uncertainty and disarray. In a more literal mode, all those who inhabit prison space – and across the associated policies regulating prisoners, staff, and administrators – are left to grapple with the realities of the endless variability of gender expression (and identity) and associated transitions (for example, physically, medically, and socially) in a context that has not been built with such variability in mind.

Yet, against this way of framing issues relating to trans, sex, gender, prisons, and segregation, other slightly more material, everyday ‘realities’ also intrude. As historical accounts of the development of women’s prisons in England reveal, sex segregation is not merely because it reflects and
is constitutive of hierarchies of gendered binaries. It was (and probably continues to be) seen as ‘a solution’ (of sorts) to some of the embodied complications arising from mixed sex prisons. Leaving aside questions of ‘moral’ contagion that were so prevalent during prison reform campaigns in Victorian England (and the fact that women prisoners have become impregnated), sex segregation is, nevertheless, seen as reducing the potential for prison pregnancies (Dobash and Dobash 2015). Sex segregation is also seen as providing a (perhaps only rhetorical) solution to the perceived risks to female prisoners’ safety and security when the reality and prevalence of male sexual violence against women is taken into consideration. Being cognisant of these issues, therefore, means that we frame our analysis of the empirical data in the following way: prisons are not just carceral spaces created in boundary making, they are sex-segregated (with the presumption of gender segregation). They are spaces that are primarily designed to produce docility and order so that the main organisational purpose of those spaces is fulfilled – that is, the containment of those who have lost their liberty as a form of punishment. The political and organisational lived realities of prison are created within a political space that assumes the notional prisoner is the able male-bodied prisoner; it is not only individuals who identify as trans that subvert or challenge by virtue of being, the prison organisation and nuances in prison space. Trans prisoners – like almost anybody – are transgressive because the organisation of prisons assumes a notional able male-bodied prisoner and ‘real’ people seldom conform to notional people, as the early studies of women’s incarceration and more recent studies of geriatric, sick, child, disabled, mentally ill bodies in prison also attest (for example, Kupers and Toch 1999; Ripa and du Peloux 1990; Wendell 2013).

Matters of safety and security take precedence in how recruits imagine and think through issues relating to the placement of individuals who identify as trans. This is far from surprising as three decades of prison scholarship confirm that correctional officers’ concerns are predominately with order maintenance, and security (Hay and Sparks 1992; Liebling, Price and Shefer 2010; Ricciardelli 2019). Perhaps the one contribution we make in this article, however, is to trace these complexities in relation to gender identities and demonstrate that correctional officer recruits prefer subtle, nuanced and appreciative understandings of the issues for the prison as well as for trans prisoners.

Current Study

The lack of attention within punishment scholarship in Canada (and the array of ad hoc policies emerging around trans prisoner placement and entitlements) provided the impetus for the current study. We look to understand how correctional officer recruits – some with prior experiences working in provincial prisons with trans prisoners – interpret the divide between the categories ‘sex’ and ‘gender’ in relation to prisoners who identify as trans and the impact of navigating this in a respectful manner for their occupational role. Specifically, we first look to understand how
recruits think about trans prisoners and, second, their occupational responsibility to manage individuals who identify as trans in an environment that is not yet conducive, ready, or equipped (Emerton 2018; Jenness and Fenstermaker 2014; Mann 2006; Rosenberg and Oswin 2015; Smith 2014) to accommodate (that is to say, ‘deal with’) people who identify as trans.

Method

Correctional officer recruits (n = 55), completing the Correctional Training Program in 2018 at CSC’s National Training Academy, were interviewed to provide their experiences and expectations of correctional work and responsibilities. In terms of demographics, 56.4% (n = 31) of the sample were men, while the remaining 43.6% (n = 24) were women, and their ages ranged from 19 to 54 years. Most of the participants identified themselves as white (78.2%, n = 43) while the identities of the remaining participants (21.8%, n = 12) ranged from black, Indigenous, Metis, and First Nation, to South Asian, Chinese, and Japanese, respectively.

Interviews were semi-structured and in person, all conducted in a locale used by the National Training Academy. The primary investigator introduced the study to each class within the training programme. At this time, consent forms were administered, interested recruits filled out the forms and, to set up an interview, provided their contact information. Those who did not consent, less than 5%, did not provide contact information. All recruits returned the forms. Interviews were conducted in private spaces, each ranged from 55 to 120 minutes, and followed the conversational paths put forth by participants. A 39-item open-ended interview guide was used during interviews, but not strictly adhered to. The guide constituted a checklist of topics to be unpacked during the interviews, allowing ample opportunity to probe emergent conversational paths or topics of interest as expressed by the interviewee. Interviews were digitally voice recorded and transcribed verbatim; pseudonyms protect participant identities and any other information that could identify a participant is removed. Direct quotes are edited for readability.

Following a qualitative research paradigm, we situate our epistemological position within social constructionism (for example, see Berger and Luckman 1966), grounding data in the perspectives of participants. As Bogdan and Bilken (2003) argue, this approach to data collection is ‘rich in description of people, places and conversations . . . [and formulates research questions] to investigate topics in all their complexity’ (p.2). Our approach to coding was semi-grounded (Glaser and Strauss 1967).

Results: ‘It’s Complicated’

In exploring how correctional officer recruits understand their occupational responsibility to provide care, custody, and control toward trans prisoners while also ensuring their safety and thereby prison security, the theme of ‘it’s complicated’ arose repeatedly. We break this down into three subthemes. First, for recruits there was concern that the category ‘trans’ was
far from easy to define – not in relation to individual prisoners but rather in relation to the organisational priorities of the prison and their occupational role – and being so, this led to a great deal of uncertainty in knowing how to manage themselves and their roles as officers. Second, there was uncertainty about where such prisoners ought to be appropriately housed (that is, according to their gender identity or current anatomy); and, third, there was uncertainty about how to ensure, effectively, the safety and security of trans prisoners themselves. Recruits expressed many hesitations and concerns about incorrectly managing the gender identities of prisoners in a context where recruits believed that not doing so could lead to trans prisoners being victimised by other (non-trans) prisoners. As the voices of recruits reveal, CSC emphasises that, in general, placement and protection go hand-in-hand as placement is the central mechanism through which the protection of all prisoners can be optimised; including those with specific gender-related needs (for example, trans prisoners, incarcerated women) living within an institution that has yet to fully figure out how to accommodate trans people and the almost endless possibilities of diversity in gender expression.

The ‘Gray Area’: Interpretations of the Diversity of Trans Identities

For recruits, interpreting the divide between prisoners’ anatomical sex and gender identification is easier in theory than in application. Recruits often had limited (if any) knowledge of, and varied opinions on, current gender identity policy. While recruits’ words suggest agreement with the current legislation (that is, that trans prisoners be given the choice of which institution (for example, male or female) they be placed within), many also suggested that in practice, determining the placement of prisoners in male or female prisons needed to be done on a case-by-case basis (as noted in policies outlined in Bulletin 584). The reason for supporting a case-by-case policy was recruits’ recognition of the fact that placing individuals according to current anatomy could, in some cases, increase risk for the trans prisoner:

It's a very hot topic at the moment . . . I definitely understand and appreciate the trans community, I can't say I understand what they're going through, but I appreciate what they've gone through and the history of the LGBTQ2s community. I think that it kind of poses a risk, unfortunately. I believe that if they're in process then maybe they should have to wait a little longer until they've fully completed the transition. (participant 38)

I don't know. I mean there obviously needs to be a place for them, but where that place is, I don't know. I don't think a woman should be in a man's institution, no less a man be in a woman's. If you have all the working parts, which would enable you – I mean women are going to rape women, and men are going to rape men, so it's going to happen, but I just don't know . . . I just think that's going to come with a whole bunch of complications. (participant 29)

I feel if you're fully transitioned and you were a man and now you're a woman, I'm a true believer of 'why can't you?' [Interviewer asks: 'If someone's not fully
transitioned?'] That’s my gray area, I feel. Because I’ve seen it, that’s why I said ‘I don’t want to sound jaded’, but I’ve seen that, where guys say they’re transitioning but they’re not. They say it to get things. That’s definitely probably not the case for every individual because I’m sure it’s not. (participant 11)

Evidenced here, recruits’ interpretations of gender identity closely align with current anatomy and thus informs perceptions of risk (participant 38) and prisoner safety (participant 29). Interpretations of risk and safety are caught up in concerns about genitalia, insofar as prisoners are thought less likely to be at risk or risky depending on whether and to what extent their current anatomy aligns with the sex of prisoners in the institution in which they are placed rather than prisoners’ gender identity. For correctional officer recruits, the risk, it would seem, is the grayness of those whose anatomy and gender identity are not aligned and whether such a status is an attempt to ‘scam’ the system. Yet the reality remains that trans prisoners’ gender identity and anatomy do not always ‘align’, and some recruits express concerns about the placement of trans prisoners among prisoners with genitalia of a different sex. As a result of this fact, a ‘gray area’ exists, characterised by uncertainty and risk in the minds of the recruits.

In general, all recruits are asked, within their occupational role, to balance the need to ensure prison order and control while also caring for prisoners. For the respondents in this study, the challenges of achieving that balance have become compounded with the challenges of imagining how trans prisoners ‘fit’ (both theoretically and literally) into the sex segregated prison space. And while some recruits felt that prisoners could, at least in theory, abuse the gender identity policy to receive special privileges (see above, participant 11), the majority of respondents suggested that they were open to learning about both the LGBTQ2s community and trans prisoner experiences. This is not to say that the recruits could fully understand such experiences (no participants in this sample self-identified as trans); nevertheless, they were able to recognise that despite the tug-of-war that necessarily exists within a sex segregated system, variability in gender expressions ought still be able to emerge in prison. As participant 13 indicates:

We’re supposed to be different. If I was that trans person I would understand the turmoil and emotional effort that would go into transitioning. I empathise deeply with the LGBTQ2s community. They struggle on so many levels … It just makes sense to me that someone who truly, for the rest of their life, will identify as a particular sex, it makes sense to me that they’d use that washroom, if they commit a crime that they’d be imprisoned with that gender. They’re that gender.

Empathy for the high degree of variability of gender identity provides a space in which the presence of trans prisoners in the recruits’ imaginings does challenge, in varying ways, the hypermasculine prison environment which relies on highly specific ways of ‘doing’ masculinities (see Ricciardelli 2016; Ricciardelli, Maier and Hannah-Moffat 2015). Yet, as participant 33 indicates, ‘the gray area’ in which there is a highly diverse category of trans people remained a troubling area:
I struggle with it. And I think – I don’t know. I’m still learning this. My daughter teaches me every day. I am fully open. I have zero problem with trans people or homosexual people at all. I guess what I struggle with is because I’ve heard – and I know there must be some sort of evaluation before this can happen, right, but men are able to self-identify as women in order to go into a women’s prison. That, I don’t think is right. I think I would have to separate myself from that because it’s not my job to identify that. But, I’ve got to say, I don’t think it’s right.

As participant 33’s words evidence, this is a complex symbolic terrain for recruits to navigate. As a result of the policy changes regarding accommodating prisoners on the basis of gender identity, correctional officers are forced to recognise the tensions around sex and gender that underpin what ‘trans’ means. At the same time they are asked to question their own understandings, including the historical reasons and discourses, that account for sex-segregated prisons more generally as well as personal tolerances and empathies regarding gender expression.

Recruits’ Thoughts on Placing Trans Prisoners

Scholars have noted that sex and gender regulation is a standard element of social control within carceral institutions and remains ‘a fundamental aspect of the interactions between prisoners and correctional officers’ (Rosenberg and Oswin 2015, p.1277; see also Carlen 1983, 2013; Rodriguez 2006). All participants learn about trans prisoners during their training and some, with prior experience working in correctional services, had experiences with trans prisoners in custody. While, as previously evidenced, some respondents are empathetic to trans prisoners and their needs, placing trans prisoners in appropriate institutions remained an ongoing concern for these correctional workers.

Some recruits spoke at length about the value and their belief that prisoners should be placed on a unit with other prisoners of the same identifying gender. Specifically, participant 13 bluntly stated: ‘They should be placed in the place that they identify’, however, they quickly continued to explain that gender conforming placement, rather than anatomy was not without difficulties:

It’s going to create difficulties. You’re going to get bigotry from women who say ‘the person isn’t a woman’, from men that say ‘the person isn’t a man’. Ultimately, these people aren’t seeing the person as a person. If a person identifies as a man, why would they go to a women’s prison? If they identify as a woman, why would they go to a men’s prison? . . . if you put someone who identifies as a certain gender in the opposite sex prison just because of whatever anatomy they have, specifically trans woman identifies as a woman in a male prison, a lot of those males are going to look down on that person. They’re not just going to get it from offenders they might get it from the staff. Even though we’re trained differently. (participant 13)

It is perhaps worthy to note that the source of concern for participant 13 is precisely the difference between an individual as a person and an individual as a particular type of anatomical body. Said in another way, they are concerned about trans people facing difficulties regardless of where they are placed in prison. Participant 13 claims that a trans prisoner might...
not be viewed as a ‘person’ in their own right; instead their anatomy will take precedence and dictate how other prisoners (and even staff) define the prisoner. Thus, although the prisoner may be more comfortable given their placement with others of the same gender identity, they may be made to feel like an outsider and thus excluded, alone, and alienated on the unit.

Participant 13 was not alone in noting the tensions and complexities when relating the placement of people according to individuals’ subjective sense and expression of their gendered identity versus their anatomy. Participant 14 said:

Usually the person – well it affects both sides – if you take someone who is male in appearance but relates more to being a female and you put them with females they may feel they don’t belong there. So, it’s bad for the female population. But if you take him and put them with the males it hurts him because they don’t want to be there. It’s a slippery slope. They’re going to struggle with that one for a while because you [can’t] segregate them or put them in their own institution . . .

Participant 14’s words illustrate the discomfort that may permeate prisoners’ experiences; gender expression informs how people are treated in prison (Jenness and Fenstermaker 2014; Ricciardelli, Maier and Hannah-Moffat 2015). As a trans prisoner, they are distinct from the notional prisoner; yet, such distinctions, for better or worse, have the potential to reveal insecurities among and between correctional officers and prisoners. Participant 12, with experience of working in a provincial prison in Canada, also expressed:

We had a female that had transitioned [self-identified] to a male but had facial hair. This one just identified but wasn’t in transition. Another [prisoner] was in transition, facial hair, tall, skinny. I looked at him as a man. What they did at first, he came in and we put him in seg. A lot of them [other prisoners] were uncomfortable by it. Another time he came in and it was full, so we put him on a unit. He was very uncomfortable by it because he’s a man, and he’s with the women. I found that to be a very difficult issue . . . I understand the rule [at the time] is the transition isn’t complete. He still has a vagina so therefore, he’s in a female institution. I think maybe that’s the easiest way to do it; I don’t know. It’s such a complex issue because you identify as a male but we throw you in with the men and they could rape you because you have a woman part that they haven’t seen in a while. Or, you could be at a disadvantage. I don’t know what the right answer would be but I don’t think they’re quite there yet. . . . because just to say, ‘you still have a vagina’ it’s like ‘well okay’ but that’s very insensitive to put it that way. It just seems very harsh . . . It’s definitely an issue within the penitentiary. The women are uncomfortable with the men being there and he’s uncomfortable being there but the reverse is very uncomfortable as well.

Participant 12’s words show the overall discomfort (that is, for other prisoners as well as trans prisoners) that can result from placement, either when oriented in anatomical sex or gender expression; perhaps a fact also tied to the inherent discomfort of sharing living quarters with strangers in custodial space more generally as much as the recognition of potential male sexual violence. The insensitivities that participant 12 described was
echoed by other recruits, including those like participant 12 who had prior experiences working in provincial institutions. Participant 14 noted that:

We’re dealing with a population that’s so immature, inmates are immature. They are kids. They’re bullies. If it was any other environment it wouldn’t be a big deal. In that immature environment it’s a recipe for disaster. I don’t think there’s ever going to be a good solution to that.

In sum, these excerpts reveal that for recruits the gender identity policy posed real challenges when placing trans prisoners in carceral spaces still rigidly tied to sex binaries.

Protecting Trans Prisoners through Prison Placement

Recruits’ ability, as noted, to interpret trans identity and gender expression in prison does not occur without risks. For recruits, discerning whether a risk is posed through the placement of trans prisoners within and between institutions according to how the prisoner expresses their gender remains a concern. The protection of all prisoners in custodial care is paramount policy priority for correctional officers. The protection of trans prisoners presents a unique set of issues. Participant 11 notes:

There’s some that are legit transitioning and yet get beat up and abused. Where am I going to put them? Why should they have to go on secure and be locked up in a cell because they’re transitioning . . . It’s not fair. But I can’t put them in general population because what’s going to happen? They’ll get taken advantage of or they’re going to be doing sex acts and then it involves us and it’s just . . . I don’t know what they’re going to do with that. They can’t make a new facility.

Participant 11’s words demonstrate the complexities around placement, specifically that placement in general population (of either sex) can add risk to the prisoner and thus unit, facility, and staff. However, it is unreasonable to suggest that a trans prisoner be ‘locked up in a cell’ (participant 11). Given the new gender identity policy in CSC, how to distinguish what is safest is not a simple task:

As long as their safety is top priority. That’s such a tricky question . . . Yeah. Wherever they’re going to be safest. It’s hard to determine that. (participant 35)

Participant 35’s words illustrate the prioritisation of safety but also the complexities around what it means to be safe and how to constitute safety (particularly when it is someone else’s safety under consideration). For other participants, the very discussion about placement was also a discussion about protection and safety of trans prisoners. For instance, as participant 33 notes:

I don’t think it would be very safe for a man who’s identifying as a woman to be placed – no, opposite – for a woman who’s identifying as a man to be placed in a men’s prison. It wouldn’t be safe for him/her either. I struggle with it because I don’t know where the safety feature goes for either one. And if you’re having a man who is identifying as a woman but has all his parts going into a woman’s prison, what’s happening with birth-control, how many pregnant women are there going to be? If he’s in there for a sex offense, is he raping anybody? Again, safety
concerns, right? . . . I don’t judge somebody for identifying a different way. What I’m struggling with is where you’re placing them for their own safety and for other people’s safety.

Earlier we noted that an analysis of recruits’ thoughts regarding trans prisoners ought not be analysed merely in relation to how recruits constitute the prison space via the meanings they bring and imaginings they utilise. We suggested that there were some everyday material realities that intruded. Participant 33’s words clearly evidence this. Despite the recognition of the need to accommodate and understand prisoners and their gendered senses of themselves, participant 33 also recognised that the material realities of bodies do matter, especially in relation to well-known issues regarding sexual violence against women and the ‘gray’ areas of trans prisoners. Trans people in prison continue to be complex sites of negotiation, circulating ‘emotions, transitions, expressions, and (in)securities’ between staff (for example, correctional officers) and prisoners, and beyond the boundaries of the prisons themselves (Rosenberg and Oswin 2015, p.1278). For these recruits, trans prisoners are often left in a state of limbo which makes the most appropriate procedures to assess and manage the ‘risks’ almost impossible to understand.

Conclusion

Among the thousands of people currently incarcerated in the Canadian federal system, trans prisoners, rather recently, became publicly visible. CSC and its staff are now more publicly tasked to confront the realities of incarcerating trans prisoners. Recruits, in our sample, had much awareness of the divide between anatomical sex and gender identity for trans prisoners. Although, many were not clear about how the policy changes were being enacted, specifically, what it would mean to place trans prisoners by their gender identity or how that identification could be verified. Moreover, recruits with prior experience working in provincial correctional services explicitly recalled prisoners feeling discomfort, including trans prisoners but not exclusively, based on their prison placement. Recruits also expressed discomfort at times, their discomfort was not rooted in recognising or supporting trans prisoners, instead their discomfort was tied to the struggles of managing trans prisoners in an environment not yet conducive, ready, or equipped to accommodate trans prisoners. In these regards, trans individuals do present particular types of problems to and for the prison, as they did before more recent policy changes in Canadian federal correctional services. Yet, what is most clear among our sample, many recruits were accepting of trans prisoners, whatever their concerns were about how to effectively and respectfully navigate trans prisoner needs while managing risk and safety within the institutional walls.

Among the recruits in our sample, some expressed a lack of awareness, exposure, or knowledge of trans persons or prisoners; others had much awareness about trans experiences (including those recruits who identified as LGTBQ2s); and others admitted feeling slightly overwhelmed by the complexities around trans prisoners and their placements. Some
recruits were noticeably uncomfortable with the idea of placing prisoners who identify as trans on their units, but recruits did not express discriminatory intention nor concerns about the trans prisoner. The degree of openness towards diversities in identification could be a consequence of CSC recruitment processes and the focus on hiring persons whose values align with that of the organisation.

By way of concluding thoughts, we know that the prison, ‘as a historically gendered and sexualized environment, continues to provide an ideal arena in which to examine the role of context in making sense of dynamic categorical understandings of gender . . .’ (Sumner and Sexton 2015, p.2). At the same time, the incarceration of trans prisoners remains a burgeoning topic of legal challenge, policy development, and social science inquiry (Sumner and Sexton 2015, p.1). As part of efforts to address trans lives and issues within prison, our study begins to extend knowledge of how correctional officer recruits interpret trans prisoners in Canada. Our work taps into a significant and relatively undisturbed vein of knowledge, looking at officers in training who either have previous experiences in a provincial system or are new to correctional services, producing unique insights into how changing policies regarding trans individuals are experienced in training to work in Canadian federal correctional services. The divide between anatomical sex and gender identity is interpreted and then managed by correctional officers who deploy a range of views of gender and sex, specifically masculinities and femininities as mapped on to particular anatomy and especially given the sex segregation imposed in prison spaces. In response, any attempts to manage the ‘risk’ around trans prisoners is fraught with tensions. The voices of our participants reveal concern about those who occupy diverse gender spaces in the realities of the justice system. More specifically, in the context of prison, where should trans individuals be placed? This is pertinent not just for trans prisoners who do not conform to ideals of the notional prisoner, such as elderly prisoners, disabled prisoners, chronically sick prisoners and so on. If the empirical descriptions above tell us anything, there is a profound contradiction between the rules and regulations that exist for the purpose of ensuring security, safety, and care in carceral spaces and the sheer diversity of people who exist within those spaces. It also tells us that it is those working within the system who will inevitably be those who end up doing the discursive work (and actual practice) to implement any resolution of those contradictions. In relation to trans people, then, the challenges outlined above, manifesting in physical, social, psychological, and legal vulnerabilities will continue to inform correctional officer training and their occupational practices.

Notes

1 In this article, we understand trans people as those individuals who ‘move away from the gender they were assigned at birth, people who cross over (trans-) the boundaries constructed by their culture to define and contain that gender’ (Stryker 2008, p.1, italics in original). For the purposes of our research, the term ‘trans woman’ includes anyone who was assigned male at birth but identifies as female, and the term ‘trans man’ includes anyone who was assigned female at birth but identifies as male.

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Following a landmark ruling in Colorado, based on a young trans girl’s access to girls’ toilets in a public school, ‘anti-trans’ bathroom bills were introduced across a number of states. Each of these bills defined access to the sex-segregated space on the basis of anatomy rather than gender identity, with the effect of forcing trans people to use the bathroom of their anatomy, rather than of their chosen gender.

The occupational responsibility of correctional officers, those anticipated in the course of discharging their organisational duties when each recruit is deployed to a prison, include those tied to ensuring the smooth running of the prison and the safety of the prisoners, staff, the institution, and society.

A necessary note on language: there is a wider contemporary cultural and social politics at play which frames discussions about trans’ rights vis-à-vis women’s rights. These politics involve a struggle about words and meanings and the struggle is seen partly in activist and campaigning networks as well as partly within the realm of academic debate, most especially philosophy and social theory. Moreover, these politics have created genuine complexity in what is meant by words like ‘sex’, ‘gender’, ‘gender identity’ and whether and to what extent we can talk about biological sex. In the UK, this struggle over meaning is most acutely seen in relation to two political slogans: ‘transwomen are women’ (or #TWAW) and ‘sex matters’ (or #sexmatters). At the risk of oversimplification, from one perspective, it is claimed that ‘biological sex’ is a social construct and that fluidity and mutability of gender identity renders the category ‘biological sex’ as, at best, no longer politically or theoretically salient and at worst an oppressive organising principle within societies (Halberstam 2018; Stonewall Trans Advisory Group 2017). However, a different political and theoretical perspective claims that whatever the case, the notion of biological sex still has salience – if not legally in relation to sex as a protected characteristic, then socially and materially in relation to recognising the difference between trans’ and non-trans’ women’s experiences and social location (see, for instance, Allen et al. 2019). From both perspectives, what is at stake is the meaning of the word ‘woman’ and ‘sex’. Given the heated nature of these political and theoretical claims, the challenge for us, as authors, is to both acknowledge these wider politics – hence this footnote – while also capturing a sense of how those in politics, academia, and campaigns think and talk about ‘biological sex’ and ‘gender’ and the relationship between the idea of an essential ‘biological sex’ and a presumed associated gender in the specific context of a prison and in relation to occupational roles. In navigating such a complex symbolic and political terrain, we will refer to ‘current anatomy’ (while bracketing off any essentialised meaning of these terms). But in the quoting of our participants, there is reference to ‘biological sex’, which interviewees invoke to refer to female, male, and sex assigned at birth. We will also refer to gender and gender identity (while bracketing off the question of whether, and to what extent, gender identity ‘erases’ the salience of sex). We separate out gender identity from gender expression, as the former being the socially constructed identity in which one identifies and the latter being the expression of one’s gender identity. We do so always within a wider analytical field that eschews positivism within language or the idea that words have fixed meanings.

The Correctional Training Program is a training programme that all CSC correctional officers are required to complete.

The National Training Academy is the teaching institution for CSC.

This article is based on preliminary findings from semi-structured interview data.

Of note, the participants also point out that being, for instance, a trans woman in a men’s prison, would also lead to experiences of alienation.

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