

The Seattle Times

County adopts guidelines on transgender inmates

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By Lornet Turnbull

SEATTLE - Even talking about the incident now, all these months later, Nick still gets upset.

The 27-year-old Seattle resident, who asked that his full name not be used, told of how he and his roommate - both in the process of transitioning from female to male - had been picked up by Seattle police on suspicion of misdemeanors in spring 2005 and booked into the King County Jail.

They spent more than 10 hours in a holding cell while authorities tried to figure out what to do with them.

Eventually a male nurse told the pair - who both still have female genitalia - they would have to lower their pants to prove their gender. Across the hall they heard guards taking bets: \$20 for the one who had guessed correctly.

"We were forced to pull pants down, not because we'd been arrested for drugs or weapons or for any other reason than to harass us," said Nick, who works in sales. "They put us in female colors and gave us female underwear - humiliating stuff for people in our situation."

What happened to Nick and his roommate became a catalyst for a policy outlining how transgender men and women should be booked and housed in King County's two jails and its juvenile-detention facility.

The county adopted the guidelines in August, joining only a few jurisdictions nationally with such policies. Hailed as progressive by transgender advocates and activists nationwide, the five-page document is as much a way for the county to protect itself from litigation as it is to ensure the safety of transgender inmates.

Still, in at least one key area - housing assignments - jail officials and activists appear to have different interpretations.

Activists want transgender inmates to be placed automatically in administrative segregation, with access to the same services available to those in the general population.

Jail officials, however, say they need flexibility in housing transgender individuals and that assignments will be guided largely by genitalia.

Lincoln Rose, a transgender activist and part of a group called the Trans Jail Policy Project that worked with the county, said, "Most people are willing to write off inmates in jails and prisons, feeling that what happens to them there is part of the penalty.

"Nobody gets royal treatment in jail," said Rose, a theology student at Seattle University. "But we feel with this vocabulary and framework in place, at least we stand a chance of being treated like human beings."

For its work, the policy group recently was awarded the city of Seattle's Distinguished Award for Human Rights.

The Rev. Joe Fuiten, who heads the Committee for Religious Freedom, said the county should not be required to make special accommodations for those in the process of changing their gender.

"A person is what they are, and that is determined by known criteria," he said. "I think genitalia would be the way to identify people. Policy ought to be for the rule rather than the oddball exception."

Transgender is a broad term used by a variety of individuals whose gender expression or identity differs from conventional expectations of their gender at birth.

Nationwide, there are no good estimates of the number of people who identify themselves this way.

Transgender activists say they've been empowered by the feminist and gay-rights movements and that transgender people increasingly feel more confident to live the gender they believe they were intended to be.

This has left many institutions struggling with issues of accommodation - in public and private bathrooms, at gender-based schools, and in hospitals, prisons and jails.

Mark Bolton, deputy director of the King County Department of Adult and Juvenile Detention, said that of the estimated 55,000 inmates processed each year, only a handful are transgender men and women.

While Bolton said he could not discuss the incident involving the two roommates, what happened "sent a signal that we needed to have clarity on this issue."

The new policy, he said, doesn't bring dramatic change to the way transgender inmates are processed in county jails, but puts into writing what previously had been left to common sense.

It's an area many jails nationally have not addressed, he said. In the months since King County installed its policy, Bolton said he's received several calls from other jurisdictions that hope to follow suit.

"I think we got out in front of this thing at a pretty good time," he said. "There have been a lot of jails and prisons that ended up in litigation because they did not handle this issue with the dignity and respect they should have."

Nationally, no state has a comprehensive policy for transgender inmates in prison, said Alex Lee, an attorney who runs the Transgender, Gender Variant and Intersex Justice Project in California's Bay Area.

King County's transgender policy prohibits strip searches simply to determine an inmate's sex. It requires staff to address these inmates by their last names and refrain from using Mr. or Ms.

It permits inmates to wear clothing consistent with their target gender, and labels as harassment any discussions about gender identity within earshot of a transgender inmate.

The policy also requires inmates to have access to all necessary medical and mental-health care. Those placed in protective custody for safety are to have access to the same services and programs available to the general population.

When it comes to housing, Bolton said officials need flexibility and that assignment of transgender inmates will be "genitalia driven" to a point.

Transgender individuals who express concern for their safety, or those whose transition has progressed so far that they no longer appear as their original gender, could be placed in administrative segregation, with access to services, he said.

In King County, inmates placed in administrative segregation in either the male or female sections of the jail are housed separately from the general population and usually have limited movement and access to services.

But Rose worries that with too much flexibility, housing assignments could become subjective.

Bolton said it would help authorities to know how to house transgender individuals if they reveal their sexual identity during processing.

While Rose understands that, he also worries about encouraging transgender people to "out" themselves, fearing that could make things worse for them.

Nick, the transgender man, said he and his roommate's treatment grew worse once they revealed they were transgender.

Numerous guards got involved in escorting him to his cell, he said, mocking him and asking probing questions about his personal life. One referred to transgender people as freaks, asking why any man would want to cut his genitals off.

"The reason we didn't initially reveal is that we never felt safe enough to do so," Nick said.

"We felt they already knew (we were transgender) and us proving them right would only get us harassed even more. We were right."

Sara Ainsworth, senior counsel for the Northwest Women's Law Center, which wrote a letter of support for the policy, said, "Clearly, what happened to these men pointed up a strong need for a policy that directs guards and other personnel on how to handle inmates facing these circumstances."

Nationwide, activists and advocates - county by county - have been working in isolation for years on transgender-inmate safety.

Their results are mixed, said Lisa Mottet, Washington D.C.-based transgender-rights attorney with the National Gay and Lesbian Task Force.

"Unfortunately, most cities and state government have not written formal policies on transgender inmates," she said.

"That means there's a lot of confusion and a lot of case-by-case analysis of what to do in any situation, and it also means that a lot of folks are being exposed to discrimination and mistreatment."

In most cases, she said, transgender people who have not had surgery or changed their gender on their driver's license are treated by most jail and prison officials across the country as having their birth gender.

UNDERSTANDING THE TERMS

Transgender: A broad term used for a variety of individuals, such as cross-dressers, drag queens, or male-to-female or female-to-male transsexuals whose gender expression or identity differs from conventional expectations based on the gender they were born with.

Transsexual: A more specific term that refers to males or females who live as a gender not assigned to them at birth, with or without medical intervention.