

Prison Management of Gender Boundaries, 1941-2018

In 2017, the California prison system did something surprising. In a historic and precedent-setting act, the state's Department of Corrections provided transgender prisoner Shiloh Quine with gender-affirming surgery and transferred her from a men's prison to a women's prison. In no previous era have prisons facilitated incarcerated people's change of their biological sex and legal gender classification. While prison systems remain "sex-segregated," the adjudication of gender and the subsequent implications for those at the gender margins are not what they were. How might we understand the transformation of gender boundaries within the most coercive sex-segregated institution?

Scholars typically study transgender prisoners as categorical outsiders in a rigidly gendered organization. Transgender prisoners face the categorical dissonance of being "caught in the gender binarism" (Rosenblum 2000). This renders "transgender prisoners' identity—and, in fact, their mere existence within men's prisons—not as active resistance, but as that which destabilizes the prison regime by default" (Sumner and Sexton 2016: 618). Trans prisoners unsettle "the taken-for-granted status of sex-segregated detention" (Sevelius and Jenness 2017:32), posing a foundational challenge to system that equates sex-segregation with gender segregation (Sumner and Jenness 2014).

This account of categorical mismatch makes intuitive sense. Yet, it obscures how the prison's gender boundaries and responses to boundary violation transform over time. Concepts from the social science literature on boundaries can offer additional theoretical and historical depth. While categorical accounts of mismatch start from the presupposition that binary gender categories operate hegemonically, the boundaries literature asks how group-level differences are produced and transformed (Lamont and Molnár 2002). Instead of thinking about gender norms

and violation as static, we might ask how gender boundaries have blurred, shifted, and been crossed in different moments (Zolberg and Woon 1999). Even within a binary gender system, sociocultural definitions of sex/gender and ideas about the nature of male/female difference have changed over time (Connell 1987; Meyerowitz 2002; Stryker 2008). Countering the tendency in transgender prisoner scholarship to make assertions like, “A war on transgender women has been waged for hundreds if not thousands of years” (Stohr 2015:120), the boundaries literature invites us to see “transgender” as a new social category preceded by other distinct ways of defining and regulating gender boundaries and their crossing. Furthermore, accounts of transgender prisoners — focused, as they are, on cultural ideas about gender— risk erasing the organizational factors that shape their incarceration experiences. What transformations in punishment make this moment of transgender prison policy possible? How have the ideological and material resources of previous penal regimes influenced gender boundary management?

This article uses historical methods to investigate how California prison administrators interpreted and managed femininity in men’s prisons from 1941-2018. I ask two research questions: First: how have prison administrators interpreted and regulated femininity over time? And second: why do penal strategies for regulating gender boundaries change? I conducted research in multiple state and private archives, using primary sources such as prison classification manuals, internal communications between Department of Corrections staff, press releases, and news articles pertaining to gay and transgender prisoners. I also explored how gender-nonconforming prisoners and their advocates challenged the meanings and management practices directed towards them. 141 interviews— with formerly incarcerated transgender people (40), professionals who work with currently and formerly incarcerated people (89), former prison staff (5), and policymakers (6)— complemented my archival data by providing

deeper insight into the ways gender-nonconforming prisoners navigated incarceration and the mechanisms by which policies changed. Finally, I conducted 20 months of ethnography in two transgender prisoner advocacy organizations between 2015-2018. Ethnographic observations focused on staff's work to pass new transgender prison policies through the state legislature, their advocacy for currently incarcerated transgender people, and their support of transgender people in reentry. This fieldwork illuminated the current moment of rapidly changing transgender prison policy in light of the long history revealed by my other methods.

Over the course of the 20th and into the 21st century, prisons assimilated shifting cultural ideas about gender, but these were mediated by the prison's underlying logics, architecture, and administrative practices. Changes in the organization and logic of imprisonment catalyzed regulatory shifts. As prisons changed, administrators of men's prisons generated four distinct strategies for the regulation of femininity: containment of contagious homosexuality (1941-1954), psychiatric treatment of pathology (1955-1983), risk-based management of multidimensional disorder (1984-1999), and ultimately bureaucratic assimilation of legal difference (2000-2018). Under the typologizing regime, femininity was interpreted as an undesirable behavior that could ignite widespread same-sex sexuality and undermine the project of rehabilitation. Without facilities and staff available for psychiatric treatment, prison administrators settled for feminine prisoners' identification and segregation. Under the pathologizing regime, femininity continued to be interpreted as a symptom of psychology, but capacity was created for feminine prisoners psychiatric treatment in tailored medical facilities. As symbolic understandings of gender shifted—distinguishing gender identity, sex, and sexuality—prison staff adjusted their psychiatric governance of “homosexuality” to engage with the the concept of transsexual identity. Under the regime of risk-management and mass

incarceration, containment, rather than the correction of deviance, became a primary penal project. Because femininity was interpreted as relevant to but not fully constitutive of prisoners' riskiness, feminine prisoners' composite risk scores determined their administrative treatment. Most recently, we have seen a pushback to mass incarceration alongside the institutionalization of transgender as a category across state institutions. Under this legalistic regime, femininity was interpreted as potential evidence of a legally protected transgender status. Prison administrators constructed policies that would, at least on paper, provide legally mandated accommodations and administrative recognition to transgender prisoners. In each period, evolving regulatory regimes created shifting sets of possibility and constraint for feminine prisoners' self-expression, navigation of prison life, and collective action.

Categorical dissonance cannot explain these shifts in prison management of femininity. I argue that changing social definitions of gender were operationalized within the constraints of available carceral capacity. Prison administrators solved "gender problems" based on the logics and material resources at their disposal. Carceral capacity was the primary engine of regulatory change, so shifts in penal logics, architecture, or administrative practices could catalyze regulatory shifts even while gender boundaries stayed the same. This study denaturalizes existing categories for making sense of gender variability, foregrounding the ways that organizational practices give rise to particular ways of defining, regulating, and inhabiting gender non-conformity. This has consequences for our understanding of gender, inequality, and the carceral state.