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Rules Regarding Transgender Inmates Continue to Change

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SACRAMENTO, Calif. — California prison officials are revising their official rules and manuals to address transgender inmates. Several legal battles, rule changes and disputes have occurred in various states over the last year, repeatedly raising the difficult question of how prisons treat and house transgender inmates.

The Los Angeles Police Department created one of the earliest headlines in April, when it opened a separate detention section for transgender inmates at the Metropolitan Detention Center in downtown Los Angeles. The department cited an increased risk of violence, rape and emotional abuse compared to other inmates as the reasoning behind the change. This action made the LAPD the first department in the country to provide a specific area for transgender inmates. The facility provides male and female clothing, along with medical treatment, including hormone therapy. Officers were also instructed to address inmates by their preferred gender and names. These changes only applied to inmates being held for arraignment, upon transferring to county jails, run by the L.A. County Sheriff's Department, transgender inmates are held with the general population.

A judge in Massachusetts turned heads in September when U.S. District Court Judge Mark L. Wolf ruled that a transgender inmate was entitled to a surgical sex change procedure, funded by the Department of Correction. This was the first ruling of its kind in the nation's history. The judge previously ruled that hormone therapy was a necessary treatment in 2003, before taking this ruling a step further. The argument for the surgical procedure was that the inmate, Michelle Kosilek, born Robert Kosilek, was not receiving adequate relief from mental duress from the hormone therapy alone. The state has appealed the judge's ruling.

There are several factors that have likely contributed to this outcome. Gender identity disorder is considered a medical disorder by the most recent version of the Diagnostic and Statistical Manual of Mental Disorder, which is known as the "bible of psychology." In 2005, the American Medical Association provided testimony for another case, arguing that hormone therapy and surgical procedures "are medically necessary and effective therapeutic treatments." In his ruling, Wolf argued that surgery was the "only adequate treatment" for Kosilek.

A California inmate lost a similar case in 2011. The California prison system is currently updating its manuals to use the term "transgender," instead of the previous official designation of "effeminate homosexual." Transgender inmates will also be able to request bras or boxer shorts as part of their prison clothing. The state already has a policy of paying for hormone treatments for inmates who were taking the drugs when incarcerated, which is the line many states draw on the issue.

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