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> Rachel Sudore, MSW rsudore@buffalo.edu Trans\* Sensitivity in Re-Entry Programs: Recommendations for Social Justice Advocacy The University at Buffalo, State University of New York Nominated and Sponsored by Trevor G. Gates, PhD, LCSW

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**Author Notes**. Rachel Sudore is a 2015 graduate of the MSW program at The University at Buffalo, State University of New York. Correspondence may be addressed to Rachel Sudore, 685 Baldy Hall, Buffalo, NY 14260; email: <u>rsudore@buffalo.edu</u>.

## Abstract

Trans\* youth often endure an array of challenges throughout their lives associated with their gender identity. This population is often discriminated against for their failure to adhere to typical gender norms. The stigma and discrimination imposed on this population increases the likelihood that they will experience psychological distress. Trans\* youth are often rejected by their family, peers, and other social networks. Rejection, discrimination, stigma, and scrutiny heighten the risk of this population entering the criminal justice system. This population is not receiving adequate care pre or post juvenile justice involvement. In order to better meet the needs of trans\* youth and to improve their quality of life, a trans\* sensitive approach to rehabilitation must be implemented. This paper discusses the need for trans\* sensitive re-entry programs including risk factors for criminal justice involvement and barriers to practice in addition to how social workers can better meet the needs of this population.

Keywords: transphobia, adolescent, social justice, transgender, criminal justice

# Introduction

The *Associated Press* has reported that a 16-year-old male to female trans<sup>\*1</sup> youth ("Jane Doe") is currently being held in solitary confinement at a boys' detention center in Connecticut (Transgender Teen Sues, 2014). According to the report, staff at the facility has been referring to Jane by her male birth name and male pronouns; she is not being allowed to wear a girl's uniform, makeup, or other girl's apparel. Ear-lier this year, she was held at a high-security adult facility (child welfare authorities claimed her behavior was "aggressive") even though she had no adult criminal charges pending (Talks Begin Privately, 2014).

<sup>&</sup>lt;sup>1</sup>Trans\* (trans asterisk) is an umbrella term that describes transgender, two spirit, genderqueer, genderfluid, transmen, transwomen, and other non-cisgender people.

#### Trans\* Sensitivity in Re-Entry Programs: Recommendations for Social Justice Advocacy

While incarcerated, Jane has had a number of challenging social and behavioral needs. In September of 2014, *The Hartford News* reported that Jane escaped custody; however, she was shortly returned to custody without harm (Transgender Teen Jane Doe, 2014). The same report noted that her attorney said she has a variety of mental health needs, many of which were not being adequately met while she is in solitary confinement at the all-boys detention facility. Since being transferred to the facility, Jane has been isolated from the rest of the population, placed in a cell for 22–23 hours a day in a mental health unit. Some reports note that Jane is not receiving schooling, counseling, or any another services (Conn. Dept. of Children, n.d.).

Some of those mental health needs may stem from her earlier childhood experiences. Following the incarceration of her father at the age of 5, Jane has been in the custody of Connecticut's Department of Children and Family Services (DCF) (Talks Begin Privately, 2014). According to Jane, her mother has faced an ongoing battle with substance abuse and she experienced severe physical, sexual, and emotional abuse while in the care of relatives. Once in the custody of DCF, the trauma continued. Between the ages of 8 and 16, Jane reports being repeatedly drugged, sexually exploited, and beaten.

Jane endured high levels of abuse prior to her involvement in the justice system, and it only escalated once she entered the system. DCF has done an injustice to this youth by failing to address the unique needs pertaining to Jane's gender identity. This youth has experienced a long history of assaults while in the state's custody. The state failed to address Jane's mental health needs in regard to the horrific trauma she experienced, all on the basis of her failure to comply with expected gender norms.

Reports indicate that up to 67% of gay men and transgender women are sexually assaulted by male inmates while in state custody (Quinn, 2002). Jane states, "During the day and night, I can hear adult inmates screaming, banging, and crying; I find it difficult to fall asleep" (Conn. Dept. of Children, n.d.). The state is not in compliance with juvenile justice standards. The youth continues to be victimized and has been forced to endure scrutiny from a system that was created to help her. This paper will examine protective and risk factors for trans\* youth in the criminal justice system and explore potential social work responses for these youth.

#### **Trans\* Youth in the Criminal Justice System**

The juvenile justice system was created to help young people who violate the law with offenses ranging from truancy to murder (Anastas & Clark, 2012). Children become involved with the juvenile justice system due to a host of risk factors. Some risk factors for juvenile delinquency include childhood depression, gang affiliation, sexual exploitation, underage drinking, bullying, and truancy. The biggest risk factor associated with juvenile delinquency, however, is child abuse (Anastas & Clark, 2012).

A juvenile is a person between the ages of 10 and 18; the term *delinquent* refers to any child who has violated a state, local, and/or federal law, law of another state, and/or has escaped from confinement in a state or local correctional facility (Lawrence & Hesse, 2010, p. 2). Additionally, there are additional offenses that apply only to juveniles. These offenses, called juvenile status offenses, are offenses that are "illegal only for children and are youth of juvenile court age that violate laws that define how young people should behave" (Rubin, 2002, p. 957). These are behaviors that are considered unlawful for children but not adults; status offenses consist of truancy, runaway, and acts committed that are beyond control of the parent (Rubin, 2002). Trans\* youth are more likely than their gender-conforming peers to be runaways and to engage in truancy associated with being runaways due to the rejection that many experience from their families.

There are an estimated 300,000 gay and trans\* youth arrested and/or detained each year, accounting for between 5% to 7% of the overall national youth population (Hunt & Moodie-Mills, 2012). Among this group, between 13% to 15% are currently in the juvenile justice system. Once they are a part of the juvenile justice system, this group is denied basic civil rights, all due to their gender identity and/or sexual orientation (Hunt & Moodie-Mills, 2012).

#### **Options for Trans\* Youth Post-Detention**

Re-entry programs aim to prepare youth who were formerly incarcerated to reintegrate into society without further involvement with the juvenile justice system and/or subsequent involvement with the adult criminal justice system (Krezmien, Mulcahy, & Leone, 2008). Unfortunately, services that help youth reintegrate into society are ill equipped. In a monograph prepared for the Urban League, Mears and Travis (2004) note that each year, as many as 2,000 juveniles ages 24 years and under return home from state and federal prisons with little preparation for life outside the home they have grown accustomed to. They note that one challenge is that the youth are already undergoing a time of great physical and emotional change that every adolescent is going through (Mears & Travis, 2004).

A number of youth eligible for re-entry programs have faced physical abuse and sexual abuse (some while incarcerated) and may have formerly been involved with gangs, may have struggled with substance and/or alcohol abuse, have diagnosed or undiagnosed mental health needs, and may lack the education and/or formal job skills needed to support themselves (Ferguson, 2007). For trans\* youth, the job prospects may be grim. They may be at further risk for becoming involved in sex work, human trafficking, becoming addicted to alcohol and other drugs, and other forms of exploitation.

The social context which these youth are returning to consists of the community, school, family, and peer networks for trans\* youth. All these factors correlate to involvement in the juvenile justice system (Mears & Travis, 2004). There is a strong need for states to implement services that assist youth in overcoming barriers that affect success rates in remaining out of the system. This transition is difficult for any person, but the problems are even more prevalent for minority youth because there is an insufficient amount of resources to meet the unique needs of trans\* youth.

There are seven domains of re-entry, including family and environment, peer groups, mental, physical, and behavioral health, education, employment, substance abuse, and leisure (Mears & Travis, 2004). The interrelation of these factors needs to be addressed in re-entry programs as they relate to trans\* youth. This needs to occur in order to remain in compliance with the framework in which the juvenile justice system was created. The lack of specialized re-entry programs in treating the unique needs of these youth further marginalizes them. Many trans\* youth do not have access to stable housing and receive minimal, if any, family, community, and/or social support post-release (Prisco, 2011).

#### **Risk Factors: Post Juvenile Justice Involvement**

Unfortunately, much of the intervention post-incarceration focuses on minimizing recidivism for the trans\* youth rather than addressing the root of the problem that may have placed the youth at risk in the first place. There is much emphasis on the criminal acts committed by trans\* youth, ignoring the roots that led that to the delinquent behavior. Many juveniles who commit delinquent acts are victims of abuse and neglect. For example, they may lack adequate shelter, clothing, food, medical care, or safe and clean living conditions (Lawrence & Hesse, 2010). Individuals that are already in the child welfare system are at higher risk for entering the juvenile system (Anastas & Clark, 2012).

Trans\* youth, if they are fortunate enough to have families to return to, may face significant difficulties upon returning to their families. Many trans\* youth experience severe turmoil during the coming out process. Often these youth are faced with family and peer rejection as well as social stigma, all directly related to sexual orientation/gender identity (Feinstein, Greenblatt, Hass, Kohn, & Rana, 2001). If they have families to return to, their parent(s) and/or guardian(s) may lack the information that they need to provide care and support for the youth at home. The ignorance of parent(s) regarding gender identity has resulted in many seeking assistance from healthcare professionals in the hope of "fixing" their child. A majority of trans\* youth have been diagnosed with gender identity disorder. Mallon and DeCrescenzo (2006) describe gender identity disorder as unawareness between a person's gender and biological sex and identity. The social stigma and rejection these youth face can result in substance abuse, mental health concerns, and rebellion (Feinstein et al., 2001).

#### **School System**

Trans\* youth may be returning to an educational system that failed them (or at least made their lives very difficult) prior to their incarceration. The youth may be returning to their original school or an alternative school for students formerly involved in the juvenile justice system. They may not have the skills and resources to adequately support their transition.

Once the youth enters the reintegration process, they may return to the environment they were in before juvenile justice involvement. Hence, the youth may be returning to the same harassment and stigma previously encountered. In the school system, an administered survey concluded that 84% of gay and trans\* youth reported being verbally harassed and 40% reported being physically assaulted by their peers (Sausa, 2005).

School professionals may refuse to accept the youth's chosen name, prohibit gender expression other than that of the student's biological sex, and provide no alternative to bathroom facilities or locker rooms. If the youth choose to express their true gender identity, school officials often enforce disciplinary actions (Sausa, 2005). This forced gender conformity can be detrimental to a person's psyche. The physical and verbal abuse in school settings can cause youth to become truant; for example, this harassment results in the youth being three times more likely to carry a gun to school (Marksamer, 2008). The lack of support from school administrations and academic instructors results in the incidents often going unreported. It has been suggested that academic instructors impose further scrutiny on trans\* youth when altercations occur with other students (Sausa, 2005).

Re-entry services that specialize in trans\*-sensitive approaches would assist the youth by teaching them coping methods to deal with the stress of returning to a hostile environment. Re-entry professionals also need to ensure that school administrators and academic instructors do not impose further scrutiny on trans\* youth by failing to accommodate their individual needs.

## Homelessness

The unfortunate consequence of failing to provide support for reintegration into the family and to the school system can lead to running away, and eventually to homelessness. Harassment, physical abuse, and family rejection all correlate to homelessness and youth involvement in the criminal system (Marksamer, 2008). Homelessness is the greatest risk factor for criminal justice involvement (Hunt & Moodie-Mills, 2012). Once a youth goes through the justice system and begins the re-entry process, often he or she does not have a home to return to, which pushes the youth back on the streets (Hunt & Moodie-Mills, 2012).

The National Network of Runaway Youth services reported that between 20 and 40% of homeless youth are part of the lesbian, gay, bisexual, and transgender (LGBT) community (Marksamer, 2008). Shelters are not equipped to meet the special needs of this population and are unwelcoming, resulting in the youth sleeping in the street (Marksamer, 2008). Once on the streets, trans\* youth are forced to commit survival crimes such as shoplifting, petit larceny, and prostitution (Squatriglia, 2007). This population faces a heightened risk of being exploited by adults and being forced to commit criminal acts. Police target trans\* youth for prostitution even if they are not participating (Marksamer, 2008). A conducted survey conceded that 39% of homeless trans\* and gay youth have been involved in the juvenile justice system (Hunt & Moodie-Mills, 2012).

The interrelation between gender identity, sexual orientation, and the justice system results in youth being stripped of their basic constitutional rights. These youth are forced out of their home and pushed into the streets. They attempt to escape the scrutiny imposed by their family and peers. Additionally, after the youth enter the system, they face an increased risk of experiencing further stigmatization and are denied many of their human rights all on the sole basis of their gender identity. Following the youth's release from detainment, a majority has nowhere to reside, leading them into the streets that led to their involvement in the system in the first place.

## **Addressing the Problem**

Transgender individuals fall victim to several types of abuse all due to gender identity (Stieglitz, 2010). Trans\* individuals continuously have their basic human rights violated across academic, health care, and social service settings (Stieglitz, 2010). The lack of social support and the staff that justify the harassment trans\* youth sustain embrace victim blaming which leads to depression, anxiety, self-mutilation, low self-esteem, and anger (Marksamer, 2008).

Specifically, under the Article 5 of the Universal Declaration of Human Rights (UDHR), "No one shall be subjected to torture or to cruel, inhumane, or degrading treatment or punishment" (Reichert, 2006, p. 42). The scrutiny and stigma embedded across multiple domains further marginalizes an already oppressed population (Richmond, Burnes, & Caroll, 2012). Trans\* individuals face a constant internal battle with contemplating to adhere to acceptable societal gender norms or risk the chance of being victimized (Stieglitz, 2010).

Service providers have done the trans\* population an injustice by failing to uphold their basic human rights. More times than not, trans\* people have faced at least one traumatic experience at some point in their life (Stielglitz, 2010). The lack of adequate coping strategies and support systems have left them unequipped to handle the stressors increasing the risk of developing substance abuse problems, depression, low self-esteem etc. (Stielglitz, 2010). Trans\* people are more likely to avoid seeking mental health services due to previous encounters of discrimination.

Distress and suicidal ideation are one of the many consequences of trans\* youths' mental health needs going unaddressed. This population often displays symptoms of post-traumatic stress disorder (PTSD) either acute or chronic (Richmond et al., 2012). According to The *Diagnostic and Statistical Manual of Mental Disorders* (5th ed.; DSM-5; American Psychiatric Association, 2013) revisions in criteria concerning PTSD fall under the category of trauma and stress related disorders (American Psychiatric Association, 2013). The failure to provide this group with obtainable access to health services that promote equality is a violation under Article 25 of the UDHR:

Everyone has the right to a standard of living adequate for the health and wellbeing of himself (or herself) and of his (or her) family, including food, clothing, housing and medical care, and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control (Reichert, 2006, p. 48).

The barriers embedded throughout the mental health care setting need to be addressed in order to assist this group in overcoming emotional distress (Richmond et al., 2012). Gender-based violence is one

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of the biggest risk factors enhancing psychological distress resulting in mood and anxiety disorder (Richmond et al., 2012). The manifestation of symptoms presented can be interpreted as strategies trans\* individuals have utilized to cope with the oppression enforced by societal norms (Richmond et al., 2012).

Each year thousands of juveniles and young adults return home from state custody (Prisco, 2011). There is a shortage of social services available, especially those that employ trans\*positive providers. Transphobia in social service agencies results in trans\* youth experiencing additional social isolation (Prisco, 2011). Child welfare professionals receive no mandated training in regard to sexual orientation and/or gender identity (Quinn, 2002). This can result in the youth experiencing mental health concerns pertaining to their identity and self-concept, and in staff members attempting to force the youth into conforming with socially accepted gender norms (Quinn, 2002; Squatriglia, 2007).

Professional staff's lack of understanding of the importance of trans\* specific medical care results in a failure to properly address their mental health. Distress and suicidal ideation are the consequence of mental health needs not being addressed (Prisco, 2011). Staff often dehumanize and further exploit trans\* youth, further marginalizing them (Marksamer, 2008). Facility staff may view youth as sexual predators, putting them in solitary confinement under the guise of protecting their own safety (Marksamer, 2008). Some of this precaution may be supported by the experience of the faculty, as many trans\* people are physically and sexually assaulted while detained (Sexton, Jenness, & Sumner, 2010). To solve this problem, services need to be equipped with diverse and competent professionals. Staff must be able to identify trans\*-affirmative language utilizing self-identified gender labels, essentially following how a person labels oneself (Prisco, 2011).

Mallon (2000) suggests that re-entry services that utilize a trans\* adolescent model which understands and addresses problems and concerns related to trans\* development, family, and social relationships by viewing trans\* adolescence as normative while employing concepts of positive development (p. 49-64). He suggests that following extensive training and supervision utilizing this model as a guide in practice will assist trans\* youth in obtaining self-acceptance and learning. The role of the practitioner is to actively listen to personal stories of the trans\* youth and not to allow personal judgment to surface (Mallon, 2000). The social service provider should seek to identify resources suitable for meeting the needs of the person if the provider him/herself is unable to do so.

Programs for trans\* youth need to acknowledge the specialized experiences of these youth while being sensitive to the age, race/ethnicity, and gender of the discharged youth in conjunction with the cultural dynamic of the environment they are released to (Mears & Travis, 2004). In 2000, graduate level social work students conducted a survey via questionnaire to 30 department administrators inviting them to a training session regarding the importance of LGBT youth services (Quinn, 2002). This method promoted special services needed for LGBT youth in state care and the implementation of training which targets the homophobic views of staff. In order to meet the unique needs of this population, training such as this must be integrated into the juvenile justice system.

Another project that demonstrates the need for more trans\*sensitive services is the Model Standards Project, which was launched in 2002 (Wilber, Reyes, & Marksamer, 2006). This project was implemented in response to copious calls to staff around the country relaying the personal experiences of LGBT youth while involved in juvenile and foster care settings. Training and written policy regarding harassment of youth on the basis of sexual orientation and/or gender identity need to be incorporated into the system. Services must be improved for youth in state care so that they respect the dignity and worth of the person. This is essential to providing adequate service.

## **Recommendations for Practice**

The goal of the juvenile system is to ensure individualized justice, focusing on the rehabilitation of youthful offenders (Lawrence & Hesse, 2010). Youth should be protected through a trans\*-sensitive juvenile justice system that provides services that attend to diversity of race, ethnicity, sexual orientation, gender identity, and socioeconomic status. Unfortunately, trans\* youth do not often experience sensitive treatment which places them further at-risk.

Trans\* youth can be exploited at the hands of a system that was created to protect them. This population deserves to be treated with dignity and respect, and it is the state's duty to provide adequate rehabilitation programs addressing the individual needs of all youth. Explained below are some procedures that can be utilized to enhance the overall wellbeing of trans\* youth pre and post juvenile justice involvement.

1. Mandated training for professionals working in juvenile justice settings. Trans\* youth differ from other oppressed individuals in the LGBT community. They are continually victimized due to their failure to comply with socially accepted gender norms. Much of the issues trans\* youth face while in the system is a result of the staff's ignorance in regard to gender identity. The lack of knowledge on gender identity leaves this population more susceptible to harm due to staff not knowing how to meet their needs. Mandated training needs to be implemented into the system. Social workers need to be educated on gender identity and the discrimination imposed on this population. Training will equip staff with the tools and knowledge they need to adequately assist this population.

2. Being conscious of personal biases and how they influence practice. Social workers and other providers need to acknowledge and manage how their personal biases may negatively affect trans\* youth. The lack of acceptance from family, peers, and social networks is what drives this population to become involved with the system. When directly working with trans\* youth, professionals need to embrace the person with acceptance; not allowing their personal judgments to surface. Failure to manage one's views can further marginalize the youth, conveying the message that the youth will never receive acceptance. This can increase the chance of recidivism.

3. Educate youth in education systems and juvenile system facilities on gender identity. In the education system, trans\* youth are verbally and physically harassed by their peers. Those individuals do not receive punishment for their actions due to staff allowing bias to hinder their ability to view the situation objectively. This can result in the trans\* youth becoming truant, avoiding the hostility. Incorporating education on gender identity as part of the curriculum will broaden the youth's perception, giving them a better understanding of this population.

4. Incorporate family services into the treatment plan, if appropriate. One of the risk factors associated with trans\* youth involvement in the juvenile system and the increase in recidivism is the lack of acceptance from their family. Parents struggle with accepting trans\* youth due to fear of the unknown. Family therapy could enhance the communication between all members. The social worker or family therapist would assist the family in overcoming their biases by teaching them how to utilize problem solving. This type of therapy views the problems that occur as a family problem, not an individual problem.

5. Encourage trans\* youth to freely express themselves in any social context. In the school system policies need to be implemented that encourage freedom of expression. This population is unable to express themselves because of disciplinary consequences imposed on the person. School systems need to accommodate this population by allowing them to dress as they choose. When involved in the juvenile system, this population should be placed according to how the person identifies. Failure to do so is harmful to the mental status of the person and increases their chance of being victimized by peers.

# Conclusion

Trans\* youth need guidance. Through the use of specialized re-entry methods, the overall crime rate of this population would decrease. In theory, the Juvenile Delinquency Prevention and Control Act calls upon the juvenile justice system to give youth the rights they deserve and to make youth accountable while still protecting them. However, this often does not occur for trans\* youth. Until programs embrace a sensitive approach when working with trans\* youth, the needs of these youth will continue to go unmet.

Following release, trans\* youth continue to endure negative treatment. This makes the need for trans\*-sensitive re-entry programs even more evident. The implementation of these programs needs to occur in order to remain in compliance with the Juvenile Justice System's core principles. The trauma trans\* youth are forced to tolerate, both pre and post juvenile justice involvement, must be addressed to reduce recidivism.

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