

THE PRISON SYSTEM

A person goes to a provincial prison when their sentence is less than two years. A person goes to federal prison when their sentence is two years or more.

Activist Spotlight

Katherine Anne Johnson (1949-2014) was a trans prisoner who struggled to have the rights of all trans prisoners recognized by the Correctional Service of Canada. Beginning in 1972, Katherine spent the vast majority of her adult life as a woman living in men's prisons. Despite the adversity that Katherine faced in her life, she never lost sight of her desire to help others to avoid the pain that she experienced.

Following a successful human rights complaint, she won the right to have gender affirming surgery and be placed in a women's prison in 2010. Four years later, she passed away. At her memorial service, many women prisoners spoke of their love and respect for Katherine.

What to expect during admission to a provincial prison in British Columbia

You have the right to be **placed** in a correctional centre according to your self-identified gender or housing preference, unless there are health or safety concerns that cannot be resolved. For details, see www.transrightsbc.ca.

Correctional officers can search your body in prison. Currently, according to law, an officer can decide the gender of the officer that will strip search you. In practice, staff will usually give you a choice of who searches your body.

Trans people have the right to be strip searched by a staff person of the same gender we identify with, unless there is a danger to life or safety. In practice, staff may not know this policy because trans people are not specifically mentioned. If you can remember, you can tell them that this is stated in section 11, subsection 4 of the Correction Act Regulation.

It should happen in a private area, away from unnecessary onlookers.

It should involve minimum force and be done quickly.

It can be dangerous to tell correctional officers that you are trans because some correctional officers are transphobic. But you might choose to do this before a strip search in an attempt to prevent a transphobic reaction.

Correctional officers may collect a **urine sample**. The collector of urinalysis testing must be the same gender as your felt gender. In practice, staff may not know this policy because trans people are not specifically mentioned. If you can remember, you can tell them that this is stated in section 12, subsection 1 of the Correction Act Regulation.

What to expect during admission to a federal prison in British Columbia

Currently, trans people are placed in sex-segregated facilities based on our genitals. This policy may be contested under human rights law. For details, please see www.transrightsbc.ca.

Currently an officer can decide the gender of the officer that will strip search you.

Police can search your body if they have a good reason (for example, if the police think you pose a risk to your self or others or that you may have evidence hidden on your body). Currently, an officer can decide the gender of the officer that will strip search you. A lawyer can argue that human rights law requires you to have a choice of how you are strip searched.

The police may collect a urine sample. The collector of urinalysis testing must be 'the same sex as the offender,' rather than your felt gender. It is possible for a lawyer to argue in a human rights case that human rights law states that people should have a choice of how they are urinalysis tested.

What are our rights?

Trans people who are incarcerated are entitled to safety, as well as the right to live free from harassment and discrimination based on gender. Unfortunately, our rights are not necessarily reflected in prison policies, and we are not in a good position to stand up for our rights when we are in prison. Keep notes about your treatment. It is common to have to get help from outside organizations like the ones listed in the *Take Action* section of our website.

Trans people in prison in British Columbia have:

The right to **shower in private**.

The right to wear **clothes** and **makeup** as we choose.

The right to order **personal care products** (such as deodorant) that correspond with our gender.

The right to be addressed by the **name and pronouns that we use**.

The right to be treated with **dignity** and **respect**. This means we should not be targeted for verbal harassment or violence.

The right **not to be double bunked** with another prisoner if we feel it puts us at a safety risk. Where possible, it can help to get a letter from a doctor saying that we should not be double bunked.

The right not to be put in **solitary confinement** because we are trans. We may request to be put in solitary confinement if we are worried we will be assaulted. We should be kept there only as long as we feel unsafe. The prison should try to find a safer place for us to live where we will have as much freedom as possible.

The right to continue to receive **hormone therapy** in prison if we were prescribed hormones while in the community.

In federal prisons, the right to **gender affirming surgeries**. A recognized gender identity specialist must recommend that you get gender affirming surgery. Currently, that specialist must be able to confirm that you have lived in the community as a member of your felt gender for at least one year before you went to prison. This is not in line with internationally-recognized standards. If this is applied in your case, you can make a human rights complaint. Call Prisoners' Legal Services for help. Their phone number is below.

We may request to be put in solitary confinement if we are worried we will be assaulted. We should be kept there only as long as we feel unsafe.

How can you stand up for your rights?

If you have been treated unfairly because you are trans, you can make a complaint to the prison. Contact Prisoners' Legal Services for help. If you are in a provincial prison, you can call Prisoners' Legal Services at 1-604-636-0464 or toll-free at 1-888-839-8889. If you are in a federal prison, you can call Prisoners' Legal Services at 1-866-577-5245.

For information on organizations and resources that can help you stand up for your rights, please visit transrightsbc.ca

The Catherine White Holman Wellness Centre and the VCH Transgender Health Information Program produced this document as general legal information. It was reviewed by The Law Office of Barbara Findlay, QC and is current as of July 2015. It is not legal advice, as each situation is unique.