

Evidence and Data on Trans Women's Offending Rates

Submitted by Professor Rosa Freedman, Professor Kathleen Stock, and Professor Alice Sullivan

This evidence is submitted to the WEC as requested of Professor Rosa Freedman by Nicola Richards MP during the 9th December Oral Evidence Session. The submission is divided into the following sections: (1) a summary of the Swedish study referred to in the session, and a response to some attempt to rebut that study; (2) data from the Ministry of Justice; and (3) analysis of that data from a May 2020 academic paper on transgender prisoners in England and Wales.

1. The Swedish Study

Cecilia Dhejne, Paul Lichtenstein, Marcus Boman, Anna L. V. Johansson, Niklas Långström, Mikael Landén (2011) Long-Term Follow-Up of Transsexual Persons Undergoing Sex Reassignment Surgery: Cohort Study in Sweden
<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0016885>

Summary of findings

This Swedish cohort study by Dhejne et al. (2011) followed a population of individuals who had undergone surgical and legal sex reassignment involving hormonal and surgical treatment between 1973 and 2003 (324 in total) and compared them to a matched control group of their birth sex. It is crucial to emphasise that this study looks only at those who have undergone hormonal and surgical transition, which is a much tighter group than individuals who self-identify as transgender.

The primary purpose of the study was to consider whether medical transition helps patients (leads to better social and health outcomes) and to inform what support they might need post transition. It is methodologically robust, peer reviewed, large scale comparative source on offending rates comparing transwomen and women. It compared the likelihood of a person having one or more criminal convictions, and convictions for violent crime (defined as "homicide and attempted homicide, aggravated assault and assault, robbery, threatening behaviour, harassment, arson, or any sexual offense").

The study can be divided into two cohorts 1973-1988 and 1989-2003 with the difference being that the latter cohort received adequate mental health provision. The findings show that transsexual individuals were more likely to be criminal than non-transsexuals of the same birth sex in the first cohort (1973-1988), and no different from their birth sex in the second group (1989-2003).

The researchers state:

'male-to-females . . . retained a male pattern regarding criminality. The same was true regarding violent crime.'

MtF transitioners were over 6 times more likely to be convicted of an offence than female comparators and 18 times more likely to be convicted of a violent offence. The group had no statistically significant differences from other natal males, for convictions in general or for violent offending. The group examined were those who committed to surgery, and so were more tightly defined than a population based solely on self-declaration.

The study provides strong evidence that policy makers cannot safely assume (a) that transwomen's offending patterns, including violent offending, will be significantly different than those of the general male population or (b) that they will be similar to those of the general female population.

Has it been discredited?

Some on-line discussion of this piece describe its findings on offending as discredited.¹ Policy analysts Murray Blackburn MacKenzie conducted a search of the academic literature and were unable to find any academic rebuttal of these specific findings, or any equivalent study which shows the opposite effect to Dhejne et al's result.

The 'debunking' of this study appears to be based solely on brief statements made by the lead author in an interview some years later about how the data had been interpreted. Murray Blackburn MacKenzie² provide an analysis of these claims:³ There is also key data contained in Appendix 2 of that document, which we have attached to the submission.

Author quote: *'The individual in the image who is making claims about trans criminality, specifically rape likelihood, is misrepresenting the study findings.'*

The findings do not include specific results for any form of sexual assault, therefore it is true that claims specifically about rape rather than violent crime in general cannot be made.

Author quote: *'The study as a whole covers the period between 1973 and 2003. If one divides the cohort into two groups, 1973 to 1988 and 1989 to 2003, one observes that for the latter group (1989 – 2003), differences in mortality, suicide attempts, and crime disappear.'*

This is true for the transitioned population as a whole - it does not relate to the question of whether MtF transsexuals retain male patterns of violence and offending. This finding combines both FtM and MtF populations split by time. The comment accurately reports that in the later period 1989 to 2003, the transitioning group as a whole had no statistically significant difference from the population.

Author quote: *'This means that for the 1989 to 2003 group, we did not find a male pattern of criminality.'* The statement is only true in the trivial sense that patterns of criminality were simply not examined separately by sex for each period and so no such finding could be made.

Author quote: *'What we were saying was that for the 1973 to 1988 cohort group and the cisgender male group, both experienced similar rates of convictions. As I said, this pattern is not observed in the 1989 to 2003 cohort group.'*

This comment is not entirely clear, but seems to be intended to convey that the MtF group ceased to have a male pattern of convictions in the later period. This is not what the published data show and it requires extraordinary (implausible) assumptions about the nature of any unpublished figures to infer this from what has been published.

Author quote: *'The study as a whole covers the period between 1973 and 2003. If one divides the cohort into two groups, 1973 to 1988 and 1989 to 2003, one observes that for the latter group (1989 – 2003), differences*

¹ https://www.transadvocate.com/fact-check-study-shows-transition-makes-trans-people-suicidal_n_15483.htm

² <https://murrayblackburnmackenzie.org/>

³ <https://mbmpolicy.files.wordpress.com/2020/03/murrayblackburnmackenzie-gra-consulation-responsefinal-copy-16-3-2020-2.pdf> (Appendix 2)

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in mortality, suicide attempts, and crime disappear.'

This is true for the transitioned population as a whole (compared to non transitioners of the same birth sex) - it does not relate to the question of whether MtF transsexuals retain male patterns of violence and offending. This finding combines both FtM and MtF populations split by time. The comment accurately reports that in the later period 1989 to 2003, the transitioning group had no statistically significant difference from the population of people of the same birth sex.

Author quote: *'This means that for the 1989 to 2003 group, we did not find a male pattern of criminality.'* The statement is only true in the trivial sense that patterns of criminality were simply not examined separately by sex for each period and so no such finding could be made. It is misleading as a reading of the paper of as a whole which found that males (including "MtF" transitioners) in the 1989 to 2003 group had male patterns of criminality and females (including FtM transitioners) had female patterns).

They conclude: In the absence of any new peer-reviewed publication based on the original data which provides further results split both over time and by sex, the original published results remains the best available large scale quantitative comparative study of conviction rates by sex and transitioner type.

2. Ministry of Justice 2020 Data

The question of whether transwomen match male or female patterns of criminality is specifically addressed by the 2020 FOI referenced by Fair Play For Women (who have submitted evidence to the Committee). This is first time there has been official data to compare the rate of sex offending in 3 different groups. Men vs women vs transwomen. The hyperlinks below link to the FOI spreadsheet.

MOJ stats show 76 of the 129 male-born prisoners identifying as transgender (not counting any with GRCs) have at least 1 conviction of sexual offence. This includes 36 convictions for rape and 10 for attempted rape. These are clearly male type crimes (rape is defined as penetration with a penis).

Here is the number compared with figures for sex offending rates in men and women over the same period.

Comparisons of official MOJ statistics from March / April 2019 (most recent official count of transgender prisoners):

[76](#) sex offenders out of [129](#) transwomen = 58.9%

[125](#) sex offenders out of [3812](#) women in prison = 3.3%

[13234](#) sex offenders out of [78781](#) men in prison =

16.8%

3. Michael Biggs, 'The Transition from Sex to Gender in English Prisons: Human Rights and Queer Theory', SocArXiv, 17 May 2020⁴

On pages 10 and 11 Biggs reference the MOJ and Fair Play for Women statistics. On page 11 he states:

'Of the 125 transgender prisoners counted by the prison service in 2017, 60 had been convicted of sexual offenses, including 27 convicted of rape (BBC News 2018). In the overall prison population, by comparison, 19% of males had been convicted of sexual crimes and only 4% of females (Ministry of Justice 2018b).'

On page 10 Biggs provides a breakdown of what is known of most recent numbers regarding transgender prisoners in England and Wales. These do not include those who have GRC (including Karen White) because the prison service does not collect this data, which can be found in the middle paragraph of that page:

'The number of transgender prisoners increased following the new regulations. The first statistics were collected in the beginning of April 2016. There were 70 transgender prisoners, defined as 'currently living in, or are presenting in, a gender different to their sex assigned at birth' and as having had a case conference under the 2011 regulations (Ministry of Justice 2016, p. 2). This number excluded prisoners with a gender recognition certificate, like Karen Jones. The new regulations came into force in January 2017. Three months later the number of transgender prisoners had almost doubled to 125 (Ministry of Justice 2017, p. 13). The growth might have reflected the new dispensation which incentivized prisoners to declare a gender identity. The number of males in the women's estate was not recorded. A dissident feminist organization, Fair Play for Women, estimated this figure by combing through the reports of individual prisons, predominantly from 2017 and 2016. They found reference to 13 males in women's prisons; the total was likely to be higher (Fair Play 2017). One of them was Jessica Winfield, moved to a women's prison, HMP Bronzefield, in March 2017 (EleftheriouSmith 2017). As Martin Ponting, he had been sentenced to life in 1995 for raping two girls. Around the same time, five males were transferred to another women's prison, HMP New Hall (Hamilton 2017). The first official figures distinguishing between the men's and women's estates were provided for the beginning of April 2018. The total number of transgender prisoners had increased modestly from 125 to 139. There were 42 transgender prisoners in the women's estate: 22 of them identified as female, 17 as male, and 3 gave no response (Ministry of Justice 2018a, p. 17). It seems implausible that there were as many as 17 females identifying as transmen in women's prisons; one suspects that these figures reflect confusion over classification among inmates or officials. 9 Prisoners with a gender recognition certificate were not counted as transgender, moreover, and so the figure of 22 will underestimate the total number of males in women's prisons.'

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<https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fosf.io%2Fpreprints%2Fsocarx%2Fi%2F43f2t%2F&data=04%7C01%7Cr.a.freedman%40reading.ac.uk%7C5876fdd1ca8c4f281a2408d89c68c8ae%7C4ffa3bc4ecfc48c09080f5e43ff90e5f%7C0%7C0%7C637431321267458786%7CUnknown%7CTWFpbGZsb3d8eyJWlloiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C1000&am p;reserved=0>

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At page 5 Biggs states that no assessment is made of the dangers posed to women prisoners by trans women housed in the female estate, despite the warnings of Gender Identity Specialists. Of interest in this regard is Dr. James Barrett President, British Association of Gender Identity Specialists, 20 August 2015 ‘Written evidence submitted by British Association of Gender Identity Specialists to the Transgender Equality Inquiry’ (2015),⁵ and in particular this section:

‘The converse is the ever-increasing tide of referrals of patients in prison serving long or indeterminate sentences for serious sexual offences. These vastly outnumber the number of prisoners incarcerated for more ordinary, non-sexual, offences. It has been rather naïvely suggested that nobody would seek to pretend transsexual status in prison if this were not actually the case. There are, to those of us who actually interview the prisoners, in fact very many reasons why people might pretend this. These vary from the opportunity to have trips out of prison through to a desire for a transfer to the female estate (to the same prison as a co-defendant) through to the idea that a parole board will perceive somebody who is female as being less dangerous through to a [false] belief that hormone treatment will actually render one less dangerous through to wanting a special or protected status within the prison system and even (in one very well evidenced case that a highly concerned Prison Governor brought particularly to my attention) a plethora of prison intelligence information suggesting that the driving force was a desire to make subsequent sexual offending very much easier, females being generally perceived as low risk in this regard. I am sure that the Governor concerned would be happy to talk about this.’

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<https://eur03.safelinks.protection.outlook.com/?url=http%3A%2F%2Fdata.parliament.uk%2FWrittenEvidence%2FCommitteeEvidence.svc%2FEvidenceDocument%2FWomen%2520and%2520Equalities%2FTransgender%2520Equality%2Fwritten%2F19532.html&data=04%7C01%7Cr.a.freedman%40rea.ding.ac.uk%7C5876fdd1ca8c4f281a2408d89c68c8ae%7C4ffa3bc4ecfc48c09080f5e43ff90e5f%7C0%7C0>

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