Complex questions surround state's handling of transgender inmates

**They're turning into women -- at taxpayer expense**

Justin Murphy The Citizen | Posted: Sunday, April 29, 2012 3:00 am

*Editors' note: The transgender inmates are referred to throughout with feminine pronouns, reflecting legal and medical standards and their own preference.*

AUBURN | There are about 1,700 inmates at Auburn Correctional Facility, of whom 1,698 or so are indisputably men.

Then there are Jessica Marie Brooks and Leslieann Marie Manning.

They are part of the small population of transgender inmates in New York prisons. Both say they're receiving hormone therapy, and the physical changes are subtle but apparent.

Their hair is fine, their skin is soft and their walk and talk are plainly feminine.

Brooks, Manning and others like them occupy an intersection of intense social stigma - convicted felons receiving taxpayer-funded health care for a scorned condition.

There's no accurate count of transgender inmates in the state. The Department of Corrections and Community Supervision reports that 55 inmates are receiving hormone therapy, but not necessarily for sexual reassignment purposes.

Asked about her 20 years as a transgender inmate in men's prisons, Brooks, 43, said there's more to her life than that severe minority status.

"People start getting to know me a little and they see I am just an average person," she said. "Just prettier."

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Brooks grew up in Connecticut, confused about her gender and lacking a frame of reference to understand it. She landed in prison in 1990 at age 21, serving 37 years to life for a downstate murder she says she didn't commit.

Her fellow inmates at the Putnam County Jail called her Jesse, after Jesse James, because of the murder charge. She learned about gender identity disorder at Clinton Correctional Facility shortly after her commitment and lengthened it to Jessica, now her legal name.

"To me, my whole life was an act, like role-playing," she said. "Seeing all the other guys and trying to act like they do and not understanding it, and seeing all the girls and feeling like there was a pull there. ... It took me awhile, but now I understand. The way I see the world, the way I interact, the way I solve problems is as a woman."

What's more, Brooks identifies as a lesbian, a distinction she says is lost on inmates and staff alike.

"It's kind of ironic that everyone here who hates me, hates me because they think I'm a gay man," she said. "That's just not me."

Leslieann Manning was born Ronald Manning - named after Ronald Reagan, she noted ruefully.

She was molested for years by relatives, then beaten and eventually banished to a state boarding school when her father caught her dressing up in her sister's clothes, she said.

"They just wanted me to be out of the house," she said. "They went to family court and said, 'We don't want nothing to do with him no more.'"

She started committing petty crimes to get away from her family and served several stints in custody. There, she said she fell victim to two other child molesters - one a psychiatrist, the other an administrator at a boys' school in Maryland.
After the last incident at age 16, Manning escaped from the facility, beat up her stepfather and joined a traveling circus to escape retribution. She served time in Oklahoma and contracted HIV after being raped in the shower by another inmate, she said.

Manning began serving 30 years to life in 1991 for attempted murder after firing a gun toward an unmarked police car in Albany County. She briefly escaped from Wende Correctional Facility in 1998 but was quickly recaptured.

Like Brooks, it was at Clinton that she first grasped her condition.

"I seen the girls in (prison) and I was like, 'Damn, that's exactly how I felt all my life,'" she said. "That explains everything. It explains why I went through what I went through."

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Brooks and Manning say there is at least one other transgender person at Auburn, and more in other state prisons. That leads to two pertinent questions for New York state taxpayers: is gender dysphoria, or gender identity disorder, an actual affliction? And if so, is the state obligated to pay for treatment?

On the first question, experts agree that transgender people do indeed have a legitimate medical condition.

Gender dysphoria is recognized by the American Medical Association and the American Psychological Association and is listed in the Diagnostic and Statistical Manual of Mental Disorders, an authoritative resource published by the American Psychiatric Association.

"Gender dysphoria is a medical condition, not a lifestyle choice. ... It's not something anybody would choose," said Randi Ettner, chairwoman of World Professional Association for Transgender Health's committee on incarcerated persons. "I think the layperson doesn't understand this is a lifelong medical condition, most likely something the individual is born with, and that there is no cure for it."

Brooks said she is sometimes approached in prison by transvestite "drag queens," who ask whether they should try and become women.

"I say, 'No, you wouldn't (want to), because you're not," she said. "The whole purpose is that I believe I am (a woman). This isn't something I'm doing because I want to; it's something I'm doing because I believe I have to. ... It's a matter of identity."

For Ettner and other transgender advocates, the legal implication for inmates is clear: the state has an obligation to pay to treat all medical diagnoses, including hormone therapy, electrolysis and sexual reassignment surgery for people who require them.

"The principle has to be that to the extent that we pay for health care for people in incarceration, then everyone who's incarcerated should be treated the same way and all medically necessary care should be provided," said Michael Silverman, executive director of the Transgender Legal Defense and Education Fund in New York City. "We shouldn't be targeting one small subset of incarcerated individuals and saying, 'We don't want to provide you care because we don't like who you are.'"


"I've long believed this is an inappropriate expenditure of taxpayers' dollars," he said. Hormone therapy costs about $100 a month and gender reassignment surgery is much more expensive.

Nozzolio annually sponsors a bill that would require inmates to make a co-pay for all medical care. It has never passed the Democrat-controlled state Assembly.

States have taken different approaches to treating transgender inmates. Most allow for some medical care with a proper diagnosis; the only complete ban, in Wisconsin, was struck down in federal court last August.

The New York Department of Corrections and Community Services formally recognizes gender identity disorder as a legitimate affliction and has a policy of maintaining hormone therapy for inmates who were diagnosed prior to their entry into custody.

Inmates who were diagnosed after their entry into custody can also begin hormone therapy with a diagnosis from a specialist and the approval of the department's chief medical officer.
Both Brooks and Manning accused the prison administration of throwing up barriers to treatment, and both had to sue for the hormones they now receive.

Manning first requested hormones in 2002, then sued the state in 2005 and eventually received treatment starting in 2009. In the meantime, she stopped taking her anti-HIV medication and attempted to remove her testicles with a rubber band, according to court papers.

In 2004, Brooks challenged the state's former policy that barred hormone therapy for new diagnoses and briefly gained national notoriety after a U.S. District Court judge sided with her. That decision was later overturned, and it was not until last June -- more than a decade after her first request -- that she started on treatment.

"You've got to fight for everything in here," she said.

Both Brooks and Manning say they are currently receiving estrogen boosters and androgen blockers after having been diagnosed as gender dysphoric by an outside specialist.

Manning had to wait seven years, Brooks 11, and both said they are not receiving the dosage their doctors recommended, but the medications are having an effect.

They are both beginning to grow breasts. Their hair is becoming more fine and their hips are getting a more feminine shape.

They also reported an emotional change, a sign their condition is improving.

"I feel comfortable -- at peace," Brooks said. "It has a calming effect. Like all my life I've been on a mission to get something that's been out of sight and out of reach. Now, I don't feel that turmoil anymore. I've reached what I've been fighting for my whole life."

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Beyond access to medical care, the two transgender inmates both complained of verbal harassment and abuse from correctional officers at Auburn and elsewhere in the prison system. They gave specific examples of homophobic slurs and destruction of property like feminine undergarments.

"Some of (the officers) are more tolerant or accepting, and some of them might not like me, but they're professional in their job," Brooks said. "And some of them ...are biased, prejudiced, everything's just piling down on you and they don't care. They just hate, and they're comfortable with it."

Their claims are corroborated by a 2007 report from the Sylvia Rivera Law Project, an advocacy and legal center for transgendered people that represented both Brooks and Manning in their lawsuits. It lists numerous complaints by transgendered inmates including multiple daily strip searches and having persistent reports of rape go ignored.

Brooks and Manning have filed only one formal complaint, according to DOCCS records. That came in 2002 when Manning accused an officer of calling her a homosexual.

Manning also has a grievance pending now after DOCCS' chief medical officer in Albany denied her endocrinologist's prescription for a bra, saying her breasts weren't full enough to warrant one.

"They try to do everything they can to deny that you're trying to be female," Manning said. "There's a couple of officers up there that will call you a fag, call you homosexual, say other nasty things. It's just continual harassment."

DOCCS does not have targeted transgender sensitivity training for its officers, but spokesman Peter Cutler said there are behavioral standards for all staff.

"We expect all of our staff, security and civilian, to perform their duties in a professional manner, which includes the fair and appropriate treatment of inmates," he wrote in an email. "We have a variety of training programs for staff where sensitivity to inmates' needs is emphasized."

Morgan Hook, a spokesman for the New York State Correctional Officers and Police Benevolent Association, assailed the Sylvia Rivera report as "unsubstantiated" because the inmates quoted in it did not give their names.
As for the specific claims from Brooks and Manning, he said NYSCOPBA and DOCCS take them seriously.

"Inmates are absolutely entitled to their rights - and NYSCOPBA members swear an oath to protect those rights," Hook wrote in an email "Further, inmates should never be subjected to violence or harassment. ... (But) this depiction of Auburn is uninformed at best, and dangerously misleading at worst."

As for other inmates, both Brooks and Manning said they're mostly treated with respect at Auburn, but acknowledged they live in danger.

Manning has been sexually assaulted elsewhere and, after a few "close calls" at Auburn, now lives in protective custody, where she says there is one other transgender person.

"(Protective custody) is kind of the bottom of the barrel, but nobody's really given me a problem," she said.

Brooks is trained in self-defense and says she's never had a problem with other inmates. That is partly due to a counterintuitive deterrent.

"I am Auburn's little girl. If they come at me to fight and lose, they just got (beat up) by a girl," she said. "And I'm not even a real girl, so to speak. So they wouldn't be able to show their face in the yard."

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Both inmates are bracing for challenges ahead: after several years of hormone therapy, doctors usually recommend sexual reassignment surgery, which costs thousands of dollars and would require another diagnosis from an outside expert.

That would also likely require a move to a female facility; something both said they hope will happen one day.

DOCCS spokeswoman Linda Foglia said no records exist to indicate whether an inmate has ever been transferred to a different gender facility or whether the state has ever paid for sexual reassignment surgery.

"The medical needs of offenders are reviewed on a case-by-case basis and dependent on the information gathered, the appropriate medical action will be taken," she wrote in an email.

In the meantime, Brooks echoed transgender advocates on the outside in a call for acceptance.

"There's always going to be people who just take a look at me and hate me," she said. "But there's more to a person than who they're attracted to and what they do in private."