

Just Detention International

Criminal Justice Issues and Prisoners' Rights

<https://justdetention.org/the-lady-and-the-dale-and-the-ongoing-plight-of-trans-inmates-in-the-u-s/>

Campaign and Advocacy

Trans inmates are much more likely to be the victims of assault while behind bars. While some progress has been made, more needs to be done, experts say.

The story of [Elizabeth Carmichael](#) isn't only about a con artist who made waves due to her grandiose moneymaking schemes, it also shines a light on how trans people have been mistreated in the justice system.

Carmichael rose to fame in the mid-1970s as head of the Twentieth Century Motor Car Corporation, with her out-of-this-world vision of a three-wheeled car called The Dale. She promised that the vehicle which resembled a futuristic dune buggy that purportedly would get up to 70 miles a gallon would revolutionize the auto industry at a time when Americans faced skyrocketing gas prices.

But, despite the car getting attention in Newsweek and People magazine, and even a feature spot on The Price Is Right, it never took off. In fact, investigators determined it was all just a fraud, which turned the spotlight squarely on Carmichael, who it turns out had spent most of her life as a con artist running small-town scams in the 1950s and 60s while she was still known as Jerry Dean Michael.

Her criminal background notwithstanding, it was the revelation that Carmichael was trans that created the biggest stir, a theme prominently covered in the HBO docuseries The Lady and the Dale. She was subject to transphobic media coverage and constant misgendering, as well as a false link between her trans identity and her life as a criminal. The series details how she asserted in the courtroom and to the media that she was a woman, and deserved to be treated as one. By that point, it had been years since she came out as trans and her children considered her a mother. However, despite asking to be jailed with other women, she was housed in the Mens Central Jail in Los Angeles, where she was severely beaten. The docuseries features an interview in which she said that a guard led her to an area and then vanished before she was viciously assaulted by other inmates.

Jody Herman, a public policy scholar at the UCLA School of Law's Williams Institute and an expert on anti-discrimination protections in public facilities for transgender and gender non-conforming people, told **Oxygen.com** that transgender inmates are significantly more likely to be assaulted by other inmates or staff than cisgender inmates.

We now have data that shows that trans people are being mistreated while incarcerated at rates that are significantly higher than their cisgender peers, she said. Unlike the 70s, we actually have data and what we see within that context is very alarming.

According to the [2015 U.S. Transgender Study](#), which Herman co-authored, 1 in 5 transgender prisoners interviewed reported being sexually assaulted by correctional facility staff or other inmates. A [more recent study](#), conducted in 2016 by the Williams Institute, found that 37% of transgender inmates experienced some form of assault, compared to 3.4% of cisgender inmates.

However, Herman noted that researchers have only recently started tracking the experiences of trans prisoners and that more data is needed from the Bureau of Justice to get a full scope of what's going on.

Julie Abbate, thenational advocacy director for [Just Detention International](#), a human rights organization seeking to end sexual abuse at detention facilities, told **Oxygen.com** that, for the most part, absolutely nothing has changed since the 1970s.

Everyone who is transgender is at risk for victimization when they are locked up, period, she said. It's just the truth. It's something that must be addressed and recognized.

She noted that what happened to Carmichael is, unfortunately, still common.

A guard facilitates an attack on a transgender person, she said. She's being escorted by a staff member and then all of a sudden she's jumped. That's the culture that transgender women are living in men's prisons.

While such attacks still happen in many jurisdictions, an exception is Los Angeles County, Abbate said.

Los Angeles County's K6G Unit, a program that separates LGBTQ inmates from the general population at Mens Central Jail in Los

Angeles the same jail where Carmichael was beaten up began in 1985. It was set up as a response to an ACLU lawsuit, which aimed to protect LGBTQ inmates from violence, [LA Weekly](#) reported in 2014.

While the measures in L.A. County appear to be far from the norm, there's been at least some movement on a national level to establish best practices regarding trans inmates. The Department of Justice set guidelines in 2012 requiring prisons and jails to consider transgender inmates' gender identity when making housing decisions. Abbate explained that prior to this guideline, the decision as to where to house many trans prisoners was based solely on the literal presence, or lack thereof, of a penis. She said the 2012 guidelines pushed for consideration of gender identity itself, not merely an inmate's genitalia.

However, the guidelines are just that: guidelines, not firm regulations.

Sometimes they are tried to be followed, sometimes they are not, Abbate said.

The 2012 guidelines stem from the 2003 [Prison Rape Elimination Act](#), which aimed to address the problem of sexual assaults in detention facilities. In 2009, the National Prison Rape Elimination Commission specified that transgender people were at high risk of experiencing assault, leading to the federal guidelines three years later, according to the nonprofit [Prison Policy Initiative](#).

However, Harper Jean Tobin, policy director at the [National Center for Transgender Equality](#), told San Francisco outlet [KQED](#) last year that while some states have improved their rules on transgender housing, the policies, for the most part, only exist on paper.

California appears to be leading the way with respect to trans inmates' rights. California Gov. Gavin Newsom [signed](#) The Transgender Respect, Agency and Dignity Act into law last year, allowing incarcerated transgender, non-binary and intersex people to be housed by their gender identity. It took effect Jan. 1.

Such measures are a step in the right direction, but advocates insist more must be done.

I think that there is some progress being made in that there is awareness that this is an issue and people are talking about it, Abbate told **Oxygen.com**. However, way too many trans people are abused so it's hard to say there's progress when way too many continue to be victimized.

Some who have been victimized have taken it upon themselves to seek change. For example, a trans woman named Passion Star received [a settlement in 2018](#) after filing a lawsuit against the Texas Department of Criminal Justice alleging she suffered years of sexual and physical abuse while incarcerated in male prisons.

For years, I was raped and beaten in prison and when I asked for help I was ignored. I was hurt, scared, and thrown in solitary in hopes that I would be forgotten, but today I can be proud that I never gave up. No one should be terrorized in prison and have to experience a nightmare like that, she stated at the time of the settlement, according to Lambda Legal, a legal services nonprofit working on behalf of LGBTQ people.

Then, there's Ashley Diamond, who has been advocating for years for better treatment of trans women, like herself, often from behind bars. [The New York Times](#) has been following her ordeal for years, as she was allegedly sexually assaulted numerous times after being placed in men's facilities by the Georgia Department of Corrections. Additionally, she was denied her hormonal treatment and forced into solitary confinement. She sued the Georgia Department of Corrections in 2015 and reached a settlement in the case, which coincided with Georgia ending its practice of denying hormone treatments to trans inmates.

However, her mother Diane Diamond told **Oxygen.com** on Tuesday that she's back in a men's prison, being mistreated again. Diamond was sent back to prison in 2019 for a parole violation. She filed a new lawsuit against the state's department of corrections last year, with Diane saying her daughter had been brutally raped 14 times in the past 18 months.

Diane also alleges that prison staff have locked her away in a room butt naked on the coldest nights of the year, they are very abusive to her[] doing everything humanly possible to break her spirit.

She believes it could be retaliation for the lawsuits.

Oxygen.com has reached out to the Georgia Department of Corrections but has not immediately heard back. They did tell the [New York Times](#) last year that they can't comment on the case, due to the pending litigation.

As for Carmichael's case, while it also didn't lead to any official changes in prison policies regarding trans people, Abbate said she felt the case also brought some degree of awareness to trans rights.

The most positive thing was that the judge demanded that Ms. Carmichael be treated as a woman and dress as a woman, she said.

The HBO series included several flashbacks to the judge correcting people who continued to misgender Carmichael in court.

Someone with such authority to model behavior and help do the right thing, that is progress, Abbate said. That, I imagined, moved the minds of some of the folks in that courtroom and those watching the coverage a little bit. That was totally badass.

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