sec 1

Transgender rights issues have exploded into prominence over the last 2 decades. However, while issues like bathroom bills and bans on participation in sports are at the forefront of public debate, an issue that has largely gone unexplored in larger forums is the issues transgender people face in prison. Because of increased risks of poverty, homelessness, and discrimination, trans people are disproportionately incarcerated compared to the general population, with the most ~~at-risk~~ vulnerable group being trans women

sec 1

of color [1]. once in prison, trans people are more likely to be verbally, physically, and sexually abused [1]. A 2013 study of federal prisons found that transgender inmates were 10 times more likely to be sexually assaulted than the general prison population [1]. Fortunately, the Prison Rape Elimination act, ammended in 2012 to address these issues has now seen widespread adoption, if not necessarily enforcement [3][26]. However, an aspect of being trans that has not been adiquately addressed by the prison system is medical care. While

sec1

The PREA does dictate that trans prisoners should be referred to medical staff, what medical care inmates can, and have been able to receive varies greatly by state. This paper ~~seeks to~~ will outline a legal history of gender-affirming care for transgender inmates in state prisons.

sec 2

To examine what appropriate healthcare for incarcerated transgender people is, we must first define what [constitutes appropriate care for transgender people in general. ~~Att~~ problem this care seeks to address]. This care seeks to address gender dysphoria (GD) or simply dysphoria previously known as gender identity disorder (GID).[source]. The world professional organization for Transgender Health (WPATH) defines dysphoria as "[32] quote c". The APA has a similar definition, saying that dysphoria is "[26] quote b." It is important to note that gender euphoria, a feeling of joy when ones gender is affirmed is the best indicator of ones identity as transgender. However,

sec 2

this paper will only address dysphoria as that is the problem addressed by prisons.

There are many ways to address GD, including hormonal treatment, and several types of surgery. However, a key component of any treatment is individualization [32]. As the WPATH says in its 2012 standards of care "[32] quote B."

do I need a bit about the "cosmetic" argument?

2.1

Of all methods of treatment for GD, hormonal treatments are the most widespread. (explain what hormone treatments are, and how they treat GD)

These treatments treat GD by 2.2
conforming some aspects of a persons
body to their gender identity. These
effects are akin to that of a second
puberty, and include the redistribution
of body fat which creates changes
in facial and bodily appearence[33]
Those on estrogen (feminizing)
hormone therapy can also develop breasts,
and those on testosterone (masculinizing)
hormone therapy can see their voice
deepen.

This is a surgical intervention, 4.2
in which ones preferred genetals
are reconstructed.

sec 2

A 2017 survey conducted by the Prison Policy initiative found that, out of the 21 states surveyed, only 7 provided access to hormone treatment for state prisoners. A further 4 of these states only provided hormones if someone had been receiving them prior to incarceration, known as a freefeframe policy. This type of policy has faced legal action. In (date) the Missouri dept. of corrections (find real name) faced a lawsuit ~~against~~ saying that its freezeframe policy violated its prisoners 8th ammendment protection against cruel and unusual punishment as someone who found out they were trans {The department subsequently was} in prison could not recieve the treatment.

sec 3

several states have policies relating to whether the surgery can be performed in prison. Colorado has a vague policy that could allow an inmate to receive SRS. Gregory Cloward, writing for the Nevada Law Journal, says that "the procedures may be read to imply that SRS could be granted in certain cases." (cite) As of ~~his~~ Cloward's time of writing, these rules had yet to be put to the test as "there is no evidence that the department has ever granted SRS, or denied it." (cite) Oklahoma is only slightly more specific, saying that SRS would only be performed in "extrordinary circumstances." [26]. California and Delaware however have much better policies.

sec3

Both consider whether SRS is necessary for inmates on a case-by-case basis[26]. In California, these requests are reviewed by three pannels of physicians and psychologists before their findings are passed off to the statewide medical authorization review team, who make the final decision. This level of review brings up an important point with respect to traggender care: individualization. The WPATH says that "many individuals need both hormone therapy and surgery to alleviate their gender dysphoria, others need only one of these treatment options, and some need neither." [California has put lots of individual consideration] By putting this level of review into each

re-do context/connection

inmate's case, California provides the most individualized process. These laws allowing SRS are fairly new though. Before they were implemented, inmates turned to the courts to grant them SRS.

These cases by inmates all alledge 8th ammendment violations: that not being provided with SRS constitutes cruel and unusual punishment [26].

This is supported by the fact that many inmates attempt to kill or castrate themselves while being imprisoned. In the same way as ~~before~~ with hormones, correctional departments will often parole inmates ~~inste~~ to avoid providing care. In one case in 2014, the Virginia department of corrections

Sec 3

paroled Ophelia De'lonata 30 years into her 73 year sentence for bank robery.[24] This came just after a district court judge had ordered that De'lonata be examined by a gender specialist.[24] De'lonata had been fighting to recieve SRS for 15 years.[24] Courts have also ruled against trans inmates receiving SRS. The 2019 5th circuit court of appeals decision Gibson v. Collier resulted in a blanket ban on SRS within the circuit[26]. The case seems to have been ~~argued poorly~~ mishandled though, with procedural misteps in lower courts, and Michelle Gibson's lawer arguing that SRS was universally accepted as treatment[26]. A Another example of

sec 3

the usage of parole to avoid treating trans inmates came in 2017, in the case of Norsworthy v. Beard. The CDCR lost its initial battle at the district court level, where they were ordered to provide Norsworthy with SRS[26]. CDCR scheduled the surgery, but then appealed the decision, and pushed back the date that it would take place[24]. One day before the appeals court ruling, the CDCR pardoned Norsworthy[34] she had been fighting to receive SRS for 15 years[24]. However, a case settled later that same year would finally turn the tide: Quine v. Beard.

sec 3

Shiloh Quine had been convicted of kidnapping, robbery, and first degree murder in 1981 [35][34] Because of these convictions, she had no possibility of parole[34]. On August 7, 2015, the Northern District California district court ruled that it was medically necessary for Quine to receive SRS. While the ruling granted SRS specifically to Quine, and did not discuss the constitutionality of SRS, Quine's settlement forced the CDCR to make "structural changes" to its treatment of trans prisoners[26]. In response to this, California created the system discussed earlier, allowing for medical review of SRS requests[24]. As of January 6, 2017, Quine became the

sec 3

first US inmate to receive SRS while in prison. There were still issues though. After Quine received the surgery, she was transferred to a women's prison. Here, she went through the initial inmate intake process, and was denied "privlages like razors." [35] This, along with being housed alone, meant that her facial hair re-grew, which had a significant negative impact on her mental health.

It took until 2020 for the second US inmate to receive SRS. In 2012, Andre Edmo (race?) was convicted of sexually abusing a 15 year old boy [36][26]. After being taken into custody by the Idaho department of corrections, she was diagnosed

SEC3

with gender dysphoria, and granted access to hormones [26]. Despite these having their full effect, Edmo continued to experience gender dysphoria, resulting in habitual cutting, two attempts at self-castration, and suicidal ideation [26]. After a trial where the objections of the Idaho department of corrections were soundly dismissed, Edmo became the second inmate in the US to undergo SRS while incarcerated on July 10, 2020 [26] [36].[B] As of February this year, the CDCR has had 205 requests, 65 of which have been approved, and 9 completed.[C]

sec4

From all of this, it's clear that trans inmates often don't get the healthcare that they need. While th policies have improved, these improvements are frequently the result of decades-long legal battles rather than lawmaker or correctional department motivation. There is much more research to be done in terms of how other parts of the criminal justice systems treat trans inmates. A 2015 national transgender survey found that, while only 6% of respondants had been in a state prison within the last year, 64% had been held in a local jail[19]. Enforcement of provision of care on

sec 4

a local level ~~should be~~ is a high priority for future research. Because of the difficulties trans women face in Mexico, it would also be worth examining their treatment in migrant detention facilities, although these have more general issues. Research into other types of trans-~~specific~~ related medical care would also be warranted.

As testosterone HRT does not reduce breast size, access to mastectomies is a priority for many trans men[3]. However, prison policies often wrongly assume that "the only people incarcerated are trans women" [3], forgoing mention of mastectomies. Check Quote!

Access to psychotherapy is also particularly relevant to trans people, as they experience

Sec 4

mental distress at 8 times the rate of the general population[19]. Despite its potential to help a wide range of inmates, ~~the prison policy initia~~ only 5 out of 21 ~~surveyed~~ states surveyed provided psychotherapy to inmates[3]. Ultimately, despite the advances in recent years, trans prison healthcare still has a long way to go.

Sec 4

forced to change its policy, and
allow inmates to begin taking hormones
while in prison.
Sex reassignment surgery (AKA bottom surgery) can be 4.1
another treatment for GD.
(explain what SRS is, and how it
treats GD.) while the 2017 PPI 4.3
report says that only Delaware
provides prisoners access to SRS,
a 2020 Nevada law journal article
lists both California and Oklahoma
as offering some access to SRS to inmates [26][3].