

Under Trump, U.S. Prisons Offered Gender-Affirming Care

The Trump administration's approach is notable in light of a campaign ad that slams Vice President Kamala Harris for supporting taxpayer-funded transgender surgeries for prisoners and migrants.



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Reporting from Washington

Oct. 16, 2024

A campaign ad released by former President Donald J. Trump in battleground states slams Vice President Harris for supporting taxpayer-funded transgender surgeries for prisoners and migrants, concluding: “Kamala is for they/them. President Trump is for you.”

But the Trump administration's record on providing services for transgender people in the sprawling federal prison system, which houses thousands of undocumented immigrants awaiting trial or deportation, is more nuanced than the 30-second spot suggests.



Trump appointees at the Bureau of Prisons, a division of the Justice Department, provided an array of gender-affirming treatments, including hormone therapy, for a small group of inmates who requested it during Mr. Trump's four years in office.

In a February 2018 budget memo to Congress, bureau officials wrote that under federal law, they were obligated to pay for a prisoner's “surgery” if it was deemed medically necessary. Still, legal wrangling delayed the first such operation until 2022, long after Mr. Trump left office.

“Transgender offenders may require individual counseling and emotional support,” officials wrote. “Medical care may include pharmaceutical interventions (e.g., cross-gender hormone therapy), hair removal and surgery (if individualized assessment indicates surgical intervention is applicable).”

The statement, in part, reflected guidelines that officials in the Obama administration released shortly before they left office in January 2017, which were geared at ensuring “transgender inmates can access programs and services that meet their needs.”

The most significant change the Trump administration made in the treatment guidelines after it took over was the addition of the word “necessary,” which created a higher but not insurmountable barrier to federally funded surgeries.

“Kamala Harris has forcefully advocated for transgender inmates to be able to get transition surgeries, President Trump never has,” Brian Hughes, a senior adviser to the Trump campaign, said in an email response to a request for comment.

The Trump administration did not consider the issue a central policy priority at the bureau, which was in the middle of a push to enact sentencing reforms. That process caused rifts with Justice Department leaders, prompting the bureau’s director to leave in 2018.

Transgender inmates are among the most vulnerable people in the roughly 145,000-person federal system, and have received significant protections under federal law. Court rulings have fortified those safeguards and found that denying treatment, including gender-affirming surgery, violates the Eighth Amendment’s prohibition against cruel and unusual punishment.

Mr. Trump’s conservative appointees at the bureau did take some significant steps to reverse other policies related to transgender inmates. The number of transgender inmates was estimated to be 1,200, according to a court ruling in 2022 that paved the way for the first federally funded surgery.

Most notably, they rewrote the bureau's procedural manual to remove a provision that would have assigned housing on the basis of a person's gender identity rather than assigned sex at birth. Under the Obama-era guidance, transgender inmates had been allowed to use facilities, including bathrooms and cellblocks, that matched their self-identified gender.

President Biden restored the Obama-era policy.

The American Medical Association defines medically necessary care for people in transition as treatments that "affirm gender or treat gender dysphoria," the intense psychological distress associated with being unable to live according to one's gender identity. Appropriate services in such instances include psychological counseling, hormone therapy, hair removal and surgical procedures.

The Bureau of Prisons is the only federal agency under court order to provide gender-related surgeries. But the number of inmates requesting such operations within the bureau is minuscule, with only two known surgeries approved via court action.

The amount the bureau has spent on hormone therapy was also very small — ranging from \$60,000 to \$95,000 a year during Mr. Trump's term, according to internal department estimates obtained by The New York Times.

The Trump ads, which have been running in several battleground states — often during events with high male viewership, like football games — focus on a response by Ms. Harris to a question about transgender care for incarcerated people on a 2019 American Civil Liberties Union candidate questionnaire.

In her answer, Ms. Harris told the group that she "pushed" the state corrections department "to provide gender transition surgery to state inmates" while serving as California attorney general from 2011 to 2017.

"I support policies ensuring that federal prisoners and detainees are able to obtain medically necessary care for gender transition, including surgical care, while incarcerated or detained," she wrote. "Transition treatment is a medical necessity,

and I will direct all federal agencies responsible for providing essential medical care to deliver transition treatment.”

Initially, Ms. Harris represented the California Department of Corrections and Rehabilitation in its refusal to provide gender-affirming surgery to an offender convicted of murder who was born male.

But she agreed to a settlement in 2015, clearing the path for what was believed to be the first taxpayer-funded operation for an inmate in U.S. history.

Later, in 2019, she embraced the position as a political priority, telling members of a transgender rights organization that she had “worked behind the scenes” to ensure the state gave “every transgender inmate in the prison system” access to the care they needed.

Glenn Thrush covers the Department of Justice and has also written about gun violence, civil rights and conditions in the country’s jails and prisons.

A version of this article appears in print on , Section A, Page 15 of the New York edition with the headline: Under Trump Administration, U.S. Prisons Offered Gender-Affirming Care