

# 午夜藍 Midnight Blue

跨性別性工作者  
被捕個案實錄

Cases of Arrested  
Transgender  
Sex Workers



**午夜藍**是一個關注香港男性及跨性別性工作者權益的民間團體，多年來致力於建立男性及跨性別性工作者間的互助網絡。我們的宗旨是肯定性工作是工作、維護男性及跨性別性工作者權益及推動性／別平等。

**Midnight Blue** is a non-government organization which concerns about the male and transgender sex workers in Hong Kong. We were registered as civic organization in August, 2006. Our mission is to protect the rights of sex workers, promote decriminalization of sex work, and advocate gender equality.

午夜藍自2013年起持續跟進在香港工作的跨性別性工作者的被捕個案。截至2016年6月，我們跟進過的累積個案超過40宗，幾乎全部於審訊後被判入小欖精神病治療中心，由於當中大部份來自外地，刑期屆滿後會轉送至入境處等待遞解出境。

透過跟進個案的過程，我們逐步了解到跨性別性工作者於拘捕過程、服刑及等待遣返期間，各政府部門對跨性別性工作者的待遇。我們從中發現被捕跨性別性工作者的權利經常遭到警察、懲教署和入境處三個執法部門的嚴重侵犯。她們在被捕、服刑及等待遣返期間，皆遭受不同程度的不公平對待，有些甚至造成嚴重精神創傷。

Midnight Blue continues to follow up cases of arrested transgender sex workers in Hong Kong since 2013. Up to June 2016, we have looked into more than 40 cases cumulatively, almost all of them were sent to Siu Lam Psychiatric Centre after the trial. Since the majority of them came from other places, they would be transferred to the Immigration Department for deportation after their completion of prison term.

According to Midnight Blue's record, transgender sex workers' rights have been seriously infringed by three law enforcement agencies in Hong Kong, the Police Force, the Correctional Services Department and the Immigration Department. During the period that transgender sex workers were arrested, jailed, and repatriated, they have been treated unjustly to various levels which caused them severe emotional and psychological damage.

## 被拘捕

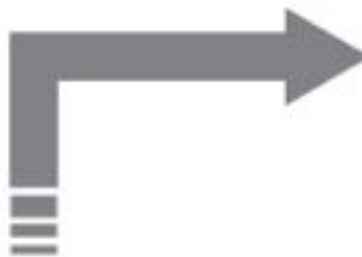
第200章刑事條例147  
唆使 / 引誘他人作不道德行為

第115章出入境條例41條  
違反逗留條件



## 警察局

脫光衣服，並由兩名男  
性警員執行搜身



## 小欖精神病治療中心

跨性別人士被定型是患有性別認同障礙

如果只是隆了胸，就會判入小欖的精神病治療中心的男監房



## 青山灣入境處

等待遣返原本的國家

單獨囚禁，獨自一人，沒有任何社交及娛樂，面對四壁，

每天只有十分鐘的時間外出去洗澡，

房間的衛生差

燈更是長開

## 被判入獄

被剪去頭髮

再次脫光搜身

沒有提供適切的賀爾蒙藥治療

沒有提供適合跨性別的制服

沒有提供獨立的廁所

## Arrest

The ordinances most frequently used for prosecution are: Chapter 200 Crimes Ordinance, s147 "Soliciting for an immoral purpose" and Chapter 115 Immigration Ordinance, s41 "Breach of condition of stay" .



## Police Station

Being requested to strip naked, while the two police who did the body search were male.



## Siu Lam Psychiatric Centre

Being stereotyped to have Gender Identity Disorder (GID).

if they just completed the breast augmentation surgery, they will be sentenced to the prison for male.



## Castle Peak Bay Immigration Centre

Waiting to be repatriated to their homelands.

Being confined solitarily in custodial rooms, alone, no social activities or entertainment, facing the walls.

Only have 10 minutes of showering time outside the room every day.

The hygiene in the room is very bad.

The light is on all the time.

## Prison

Having hair cut.

Having stripped naked body search again.

No provision of appropriate hormone treatment.

No provision of appropriate transgender costumes.

No provision of independent toilet.

## 個案情況

個案中被捕的跨性別性工作者，原本生理性別為男性，而外表、打扮、自我認同皆為女性。她們大多通過蓄長髮、隆胸、使用雌性荷爾蒙等方法來表達其性別身份，其中個別人士已完成變性手術，但大部分仍保留男性性器官。我們接觸到的當事人大多來自泰國、菲律賓、中國、越南，由於她們原籍國家不允許更改身份證件的性別，或是更改條件嚴苛和手續繁複，因此無論她們是否已完成變性手術，身份證件上的性別仍然是男性。

## The Situation

The arrested transgender sex workers are male-to-female transgender. Most of them express their gender identity by keeping long hair, having breasts augmentation and taking female hormones. Some of them have undergone sex reassignment surgery, but most of them preserved their male sexual organ. Most of them come from Thailand, The Philippines, China, and Vietnam. For their own countries forbid the change of sex displayed on their identity card, or in some countries, the process of changing it is harsh and complex, the sex displayed on their identity card remain as male.



男跨女

留長頭髮

身分證還未把性別  
男(m)轉為女(f)

身分證

男

隆了胸部,但仍保留  
男性的性器官(陰莖)



## 被引誘者反入罪

警方在拘捕行動中常使用「放蛇」手段。他們假扮嫖客，在街上主動上前向其懷疑的目標人士問價及要求服務，更用酒店房卡引誘對方共乘坐的士前往。當事人經不起引誘隨其上車，到達酒店後便立即被拘捕，罪名之一卻是「為不道德目的而唆使他人」。被引誘者反被入罪，如此荒謬之事卻一再於街頭上演。

當事人被控觸犯的法例：

- 第200章刑事條例，147條為不道德目的而唆使他人
- 第115章出入境條例，41條違反逗留條件

一般被判入獄兩個月

## The Lured is Arrested

During the arrest process, the police would pretend to be customers. They would ask the suspect on the street for service and enquire the service fee. During the conversation, they would show the sex worker a hotel key card and lure her onto taxi. Once the sex worker was lured, she will be arrested when the taxi arrive the hotel. Ironically, the charge on the sex worker is “soliciting for an immoral purpose”. The lured sex worker is arrested and charged, and this ridiculous arrest process repeats and repeats on the street.

The ordinances used for prosecution are:

- Chapter 200 Crimes Ordinance, s147 “Soliciting for an immoral purpose”
- Chapter 115 Immigration Ordinance, s41 “Breach of condition of stay”.

Convicted clients usually serve sentence in the prison for 2 months.)

是否有提供服務？幾多錢？



酒店



## 被捕後搜身受屈

警察拘捕跨性別性工作者後，將其送到警署進行搜身。當事人向我們透露，她們被要求脫光衣服，並由兩名男性警員搜身。雖然曾為男兒身，但當事人皆自我認同為女性，過程中男性警員的目光、神情、語氣及手法都令她們倍感羞辱。我們曾多次向有關警署反映情況，要求警署以尊重個人意願及維護個人尊嚴為原則，允許被捕跨性別人士選擇搜身警員的性別，但得到的回應一律是：根據內部指引，警署會依照被搜身者身份證明文件所示的性別，指派相同性別的警員進行搜身。意即就算當事人已隆胸，或已完成變性手術，而且自我認同為女性，都只會指派男性警員搜身。此種罔顧當事人尊嚴的手法，無疑是對人權的粗暴踐踏，更有可能給當事人帶來巨大心理創傷。

## Humiliating Body Search

The arrested transgender sex worker would be taken to the police station to undergo body search. One of the arrested transgender sex workers tells us that the police requested her to take off all her clothes, and she was searched by two male police. Even though she is physically male, she identifies herself as a female. During the body search, the attitude, gaze and tone of the police were humiliating. We have reflected this issue to the police many times, requesting them to respect the rights of the transgender and allow them to choose whether female or male police to search their body. However, they replied us, stating that according to internal guidelines, the police would assign the same sex officer to perform body search according to the sex displayed on the identity card or passport of the arrested. It means even they have breasts augmentation, sex reassignment surgery and self-identified as female, the police will still assign male police to perform the body search. This arrangement severely tramples on the dignity of the transgender person, and would cause psychological damage to them.



## 被判入精神病治療中心

跨性別人士在香港仍被定義為患有性別認同障礙 (Gender Identity Disorder, GID) 或性別焦慮症 (Gender dysphoria)，加上香港只設有男女兩個性別的監獄，跨性別工作者被判監禁後會被囚於小欖精神病治療中心。懲教處曾指出，如果把跨性別人士判入男監獄或女監獄，都會受到不同程度的傷害，例如被騷擾等。加上小欖有駐守的醫生，因此會把她們判去小欖精神病治療中心。如果是由男做了變性手術，會判入小欖的精神病治療中心的女監房，如果只是隆了胸，就會判入小欖的精神病治療中心的男監房。

視跨性別人士為精神病患者，以對待精神病患者的方式對待跨性別人士，做法並不適當，跨性別人士並無精神病治療的需要。雖然有駐守醫生，但他們並不了解對跨性別人士的情況及需要，跨性別人士在囚時遇到困難都求助無門。

## Being Sentenced to Psychiatric Center

In Hong Kong, transgender person is still being regarded as having gender identity disorder (GID) or gender dysphoria. For there are only male and female prisons in Hong Kong, transgender sex workers will be sent to Siu Lam Psychiatric Centre for imprisonment. The Correctional Services Department stressed that sending transgender person to either male or female prison would cause them damage in various ways. Moreover, there are stationed doctors in Siu Lam Psychiatric Centre. Therefore, the transgender sex workers would be sent to the psychiatric center.

If the person has undergone the male-to-female sex reassignment surgery, she will be sentenced to the female cell in the psychiatric center. If they only have breast augmentation, they will be sent the male cell. This arrangement still regards transsexuality and transgender as mental disorder, for those who has a longer imprisonment, imprisoned with other mental illness patients itself is a psychological torture. Despite having doctors stationed in the center, they have limited knowledge on transgender. The transgender sex workers still face a lot of difficulties during the imprisonment there.



小欖的精神病治療中心

小欖的精神病治療中心  
的男監房



有性別認同障礙  
Gender Identity  
Disorder





## 被剪去頭髮及 再次脫光搜身

根據《監獄規則》234A章第9及34條，任何人被判入獄後，懲教人員有法定責任，對每名囚犯的直腸、鼻孔及其身上任何其他外孔，進行「搜查」，囚犯亦須「服從有關清潔的指示」，包括洗澡、剃鬚及剪髮事宜的指示。判處進入勞教所或教導所的廿五歲以下男囚犯必須剪「平頭裝」，服刑中的成年男囚犯亦須定時剪髮，不得留有長髮。由於跨性別人士的身份證明文件顯示性別為男性，因此她們被剪去頭髮並要再次脫光被男性懲教職員搜身。

頭髮對於跨性別人士是十分重要的，因為蓄長髮是大部分跨性別人士表達及確立自己性別身份的重要途徑。剪掉她們的頭髮，無異於否認她們的性別身份。女性囚犯有保留長髮的權利，而自我認同為女性的跨性別人士卻被迫剪去頭髮，這種不公對待已經構成對跨性別人士的歧視。

## Haircut and Strip Search

According to Prison Rules Chapter 234A, rules 9 and 34, the correctional staff have a statutory duty to “search” the rectum, nostrils, and any other external orifice of a prisoner, because the prisoner should follow “directions as to cleanliness”, including bathing, shaving and hair cutting. Male prisoners aged below 25 who are sentenced to detention centers or training center should have their hair cut to “flat top”, the imprisoned adult male prisoners should also have their hair cut regularly, and should not keep long hair. Transgender prisoners are identified as male on their identity cards, so their hair are cut and have to undergo strip search by male correctional staff.

Hair is very significant to transgender people, keeping long hair is a way to indicate and confirm the gender identity of them. Therefore, cutting their hair means rejecting their female gender identity. While female prisoners have the right to keep their long hair, male-to-female transgender must have their hair cut. This unequal treatment is already a discrimination against transgender persons.



## 得不到適切的 賀爾蒙治療

本機構個案中的跨性別性工作者都有服用賀爾蒙，有些更是於幼年已經開始服用，長達6-7年。而由於被監禁，她們突然被迫停止服用賀爾蒙，導致身體出現不適反應甚至出現男性特徵，例如：脫髮、長出鬍鬚、皮膚粗糙生暗瘡、聲線變粗等等。而伴隨這種生理影響的是巨大的心理壓力。我們曾跟進的一位跨性別在囚人士，其刑期長達一年，而小欖監獄卻沒有提供適切的賀爾蒙治療，致使她生理上受到前述所有負面影響之餘，更因為害怕變回男性身體，刑滿後將無法重新進入以前的生活，導致心理受到極大創傷，終日以淚洗面。最終本機構與她經歷長達8個月的爭取，她才獲得所需的賀爾蒙治療。執法部門對跨性別人士需求和權益的無知與無視實在令人髮指。

## No Provision of Appropriate Hormone Therapy

Most of the transgendered sex workers we have contacted have been taking female hormone, and some of them started the hormonal therapy when they were young and has been continued for at least 6-7 years. Due to the imprisonment, they were forced to stop the therapy. It makes them unwell, and the male sexual features reappear, e.g. hair loss, mustache growth, voice change, etc. These physical changes cause them huge psychological and emotional pressure. One of the transgender sex workers we have contacted was sentenced for one year. However, Siu Lam Psychiatric Centre did not provide appropriate hormonal therapy for her, causing her to suffer the above mentioned symptoms. She was anxious about her sexuality which would be changed to male again that she could not resume her life after the imprisonment. She was psychologically traumatized and depressed. Midnight Blue has fought with her on the access to hormonal therapy for 8 months, and finally she was allowed to resume it. How the law enforcement departments mistreat and disregard the rights of transgender prisoners is disgraceful.

## 得不到適合的衣物

沒有完成變性手術的跨性別女性（保留陰莖）被囚於男性的監房，而幾乎所有的跨性別女性都有進行隆胸手術，外觀與女性幾乎無異。但懲教處仍然派發男性囚服，且不提供胸圍。導致她們在服刑期間感到尷尬的同時，也增加了她們受到性騷擾的機會。

## 無法使用獨立的廁所

關押跨性別女性的男性監獄不提供獨立的廁所，因此她們只能跟男囚友共用洗手間。有個案當事人表示，在她使用洗手間時，曾突然有人衝入後上下打量她，甚至有人向她要求口交，令她感到十分不安。

## No Provision of Appropriate Clothing

Male-to-female transgender people who have not completed the sex reassignment surgery (still keeping their penis) will be sent to male prison. However, most transgender have finished breast augmentation surgery, but the Correctional Services Department still insists to assign male clothing to them and refuse to provide them bra. This arrangement embarrassed them during the imprisonment, and at the same time increase the risk of them being sexually harassed.

## No Provision of Individual Toilet

Male-to-female transgender prisoners were not given individual toilet, and they were forced to share toilet and washroom with other male prisoners. One of the transgender sex workers told us that when she was using the toilet, another prisoner broke in and stared at her, and asked her to offer oral sex for him. Under the current arrangement, the safety of transgender prisoners is highly threatened.



賀爾蒙藥



胸圍



獨立廁所

## 入境處的單獨 囚禁

由於大部分被捕的跨性別工作者都不是香港居民，當她們在小欖完成監禁的刑期後，會被送去青山灣入境處，等待遣返原本的國家。等待遣返的時間大約一星期，期間她們會被單獨囚禁。這意味著獨自被困於狹小的羈留室中面對四壁，被剝奪所有社交自由，每天只有十分鐘的時間被允許離開房間去洗澡。此外，羈留室的衛生狀況極差，有蟑螂出沒，而燈更是長開，嚴重剝奪被囚者的睡眠。有當事人回憶，被單獨囚禁的日子度日如年，十分難捱，飽受精神虐待。本機構曾多次向負責的福利官要求改善，但一直得不到正面的回應。

國際上將單獨囚禁視為懲罰違反紀律行為的一種手段，根據《聯合國禁止酷刑公約》，單獨囚禁不得超過15日，否則屬於酷刑。跨性別人士已經在懲教署完成了刑期，在囚期間亦無違反紀律，卻被入境處以近乎酷刑的方式單獨囚禁，人權被嚴重侵犯。有當事人甚至被單獨囚禁超過一個月，酷刑之下身心受創。

## Solitary Confinement in the Immigration Department

Most of the arrested transgender sex workers are not local residents. When their imprisonment at Siu Lam Psychiatric Centre is over (Upon serving their time in Siu Lam Psychiatric Centre,) they will be sent to the Castle Peak Bay Immigration Centre, waiting to be repatriated to their homeland. The waiting period lasts for around a week, and they will be confined solitarily in custodial rooms. It means they will be confined in a tiny cell, with no social activities or entertainment, and they have only 10 minutes of showering time every day, which is also their only 10 minutes outside of the tiny cell. The hygiene in the room is very bad where there are cockroaches. The light in the cell is on for 24 hours which severely exploit their right to sleep. One transgender sex worker mentioned that the waiting period is torturing. Every second is like year to pass, which is intolerable. Midnight Blue has requested the welfare officer to improve the situation, but they never gave any proper reply and the situation has never been improved.

According to the United Nations Convention against Torture, solitary confinement cannot be exceeding 15 days, or else it should be regarded as torture. As they have completed their imprisonment in the psychiatric center, they should be free. However, they are confined solitarily, which is a breach to human right. One of the transgender sex workers has been confined solitarily for over a month which caused her severe psychological damage.



# 現況及午夜藍的 訴求

午夜藍自2013年起陸續接到跨性別性工作者被捕的個案，得知警察、懲教署及入境處等執法部門對他們的不人道待遇，數年來我們不斷向各部門投訴及抗議，要求香港政府各部門嚴正檢討現時的工作指引、增加工作指引的透明度，並重新制定關懷跨性別人士需要的新指引。

持續跟進各個案期間，午夜藍曾多次向上述的政府部門投訴，並發起過「Don't Cut My Hair」的抗議行動，我們已得悉現時懲教署不再會剪去在囚跨性別人士的長髮。然而，不論是警方、懲教署還是入境處，對跨性別性工作者的待遇仍極待改善。

因此，午夜藍要求懲教署、警方及入境處立刻檢討並改善對跨性別人士的待遇，以維護跨性別人士的人權。我們亦要求警方、入境處及懲教署三個執法部門增加工作指引的透明度，並重新制定對跨性別人士友善的工作指引。

# The Current Situation and Our Request

We have been continuously receiving cases of arrested transsexual sex workers since 2013. We notice that they are being treated inhumanely by some legal enforcement agencies such as the Police Force, the Correctional Services Department and the Immigration Department. Over the years, we continued to complain and protest against different government departments. We request them to examine the current working instructions, increase the transparency of the instruction and reformulate the new guidelines that concerns about the transgender people.

When we are following up different cases, we have sent our complaints to the above departments, and launched the "Don't cut my hair" campaign. We acknowledge that the Correctional Services Department would never cut the long hair of the arrested transgender. Still, whether it is the Police Force, the Correctional Services Department or the Immigration Department, the treatment of the transgender sex workers is still in desperate need of improvement.

Therefore, Midnight Blue demands for the Correctional Services Department, the Police Force and the Immigration Department to examine and improve the treatment of the transgender people immediately in order to safeguard their human rights. We also request the mentioned law enforcement agencies to increase the transparency of the working guidelines and reformulate the transgender people-friendly working guidelines.





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Address 九龍旺角郵政信箱78757號  
Box 78757, Mong Kok Post Office,  
Kowloon, Hong Kong

### 活動中心開放時間

星期一至五 上午10時至下午1時 / 下午2時至下午6時

星期六、日及公眾假期休息

### Opening Hour

Monday to Friday 10am - 1pm / 2pm - 6pm

Saturday, Sunday and Public Holiday Close



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