

## **TRANSGENDER RESOURCE GUIDE**

### **Disclaimer - Your responsibility when using any materials found in this packet:**

This resource is a collection of peer-generated information on navigating prison as a trans person because trans people in prison have requested this information. It is largely based on a packet created by the TGI Justice Project and has since been modified by volunteers at LGBT Books to Prisoners (LGBT BtP). Not all the opinions, language, and suggestions included in this resource guide are those of LGBT BtP or TGI Justice. When this guide was written, we did our best to provide useful and accurate information because we know that people in prison and their families, friends, and advocates often have difficulty getting legal and/or supportive information. However, we cannot guarantee that this information is accurate. The materials in this guide were not created by an attorney and do not constitute legal advice. Law changes frequently and people have different interpretations of it. Unfortunately, we do not have the resources to make changes to the material as the laws change and LGBT BtP does not offer legal advice.

If you need legal advice backed by a guarantee, please seek out the assistance of a lawyer to address your specific problem. If you use this information, make sure that the law has not changed and applies to your situation. Additionally, if you believe that you have been injured and might have grounds to file a lawsuit, you should IMMEDIATELY contact an attorney and law office and try to get legal representation. You should be aware that you must act within strict time limitations in order to protect your rights. These limits are complex and vary for different types of legal actions.

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### **Pen Pals and Other Free Materials**

#### The Gender Identity Center of Colorado's T.I.P. Journal

The Gender Identity Center of Colorado's Trans\* in Prison Journal is published quarterly as a show of support for those who are currently incarcerated. This Journal is free to all prisoners who request it. Write to request a journal: 1151 South Huron Street, Denver, CO 80223.

#### Midwest Trans Prisoner Pen Pal Project

Volunteers write letters to trans and gender non-conforming prisoners. Write to: MWTPPP, c/o Boneshaker Books, 2002 23rd Ave S, Minneapolis, MN 55406.

### Hearts on a Wire

"We are trans and gender variant people building a movement for gender self-determination, racial and economic justice, and an end to policing and imprisoning our communities." They publish a newsletter and send it free to people in prison. They also accept letters responding to items in the newsletter, black and white artwork, articles, poetry, ideas, and commissary recipes. Send requests to: Hearts on a Wire, 1315 Spruce Street, Philadelphia, PA 19107.

### Prison Activist Resource Center (PARC)

PARC is a prison abolitionist group committed to exposing and challenging all forms of institutionalized racism, sexism, ableism, heterosexism, and classism, specifically within the Prison Industrial Complex (PIC). PARC believes in building strategies and tactics that build safety in our communities without reliance on the police or the PIC. PARC produces a directory that is free to prisoners upon request, and seeks to work in solidarity with prisoners, ex-prisoners, their friends and families. Ask for their Annual Prisoner Support Directory by writing to: PARC, PO Box 70447, Oakland, CA 94612. Phone: 510-893-4648.

### Philadelphia Fight

They publish *Prison Health News*, a quarterly newsletter for prisoners. *Prison Health News* is mailed to over 5,000 people throughout the country, and distributed in several state prisons' law libraries/medical clinics. For a free subscription, write to: Philadelphia Fight, 1233 Locust Street, 3<sup>rd</sup> Floor, Philadelphia, PA 19107. Phone: 215-985-4448.

## **Legal Resources**

### National Clearinghouse for the Defense of Battered Women

They work for justice for battered women charged with crimes or who are in jail or prison. Write to: 125 South 9th Street, Ste 302, Philadelphia, PA 19107. If you are a battered woman, you can call **collect**: 215-351-0010, 800-903-0111 x 3.

### Sylvia Rivera Law Project (SRLP) Prisoner Justice Project

The Prisoner Justice Project at SRLP supports low income transgender people and transgender people of color involuntarily held in prison, jail, lock-up and immigration detention obtain life-sustaining services. Write to: 147 W 24th St, 5th Floor, New York, NY 10011. Phone: 212-337-8550

### Transformative Justice Project (TJLP) of Illinois

TJLP is a group of radical activists, social workers, and organizers who provide support, advocacy, and free, holistic criminal legal services to poor and street-based transgender people in **Illinois**. Write to: 4707 N. Broadway, Suite 307, Chicago, IL 60640. Phone: (773) 272-1822

### Transgender Law Center

Transgender Law Center regularly provides legal information to transgender people in jails and prisons and on parole. Write to: 1629 Telegraph Avenue, Suite 400, Oakland, CA 94612. Phone: 415-865-0176

### National Center for Lesbian Rights

Published with the ACLU, a guide called, *Know Your Rights: Laws, Court Decisions, and Advocacy Tips to Protect Transgender Prisoners*. This guide addresses sexual and other forms of abuse, medical care, housing, searches and privacy, and enforcing your rights. It is unclear whether this resource will be provided for free, but you may be able to receive information by writing to: 870 Market St., Suite 370 San Francisco, CA 94102. Phone: 1-800-528-6257. You can also write to the co-author at: ACLU National Prison Project, 915 15<sup>th</sup> St., NW, 7<sup>th</sup> Floor, Washington, DC 20005.

### Just Detention International (JDI)

JDI is a human and health rights organization that seeks to end sexual abuse in all forms of detention. They publish a survivor resource guide. You can write them using legal mail (confidential) to: Cynthia Totten, Esq., CA Attorney Reg. #199266, 3325 Wilshire Blvd., Suite 340, Los Angeles, CA 90010.

### Justice Now

Justice Now works with women prisoners and local communities to build a safe, compassionate world without prisons. It is the first teaching law clinic in the country solely focused on the needs of women prisoners. Interns and staff provide legal services in areas of need identified by women prisoners, including: compassionate release, healthcare access, defense of parental rights, sentencing mitigation, placement in community-based programs. Write to: 1322 Webster Street, Suite 210 Oakland, CA 94612. Phone: 510 839 7654

### TGI Justice

TGI Justice Project is a group of transgender people—inside and outside of prison—creating a united family in the struggle for survival and freedom. They work in collaboration with others to forge a culture of resistance and resilience to strengthen us for the fight against imprisonment, police violence, racism, poverty, and societal pressures. They seek to create a world rooted in self determination, freedom of expression, and gender justice. TGI Justice answers all prisoner letters. Prisoners who actively work on their own cases and also help other prisoners inside sometimes request TGIJP to conduct research for them. Write to: 1230 Market Street, PMB 705, San Francisco, CA 94102.

### Jailhouse Lawyer's Handbook

The Jailhouse Lawyer's Handbook explains how an incarcerated person can start a lawsuit in federal court to fight against mistreatment and bad conditions in prison. Because most people are in state prisons, the authors focus on those. However, people in federal prisons and city or county jails will be able to use the Handbook. There is a specific section on transgender people. You can download it from the internet for free at: <http://jailhouselaw.org>. You can also write to the National Lawyers Guild, 132 Nassau Street, Room 922, New York, NY 10038. Each copy costs \$2.00 in stamps, check or money order. You may also request it from LGBT B2P.

### **How Can I Report Abuse?**

According to the National Center for Transgender Equality, people who have experienced or are aware of abuse should follow the grievance (complaint) procedures of the institution involved and, if possible, get legal assistance. Be aware of any deadlines that may apply regarding statutes of limitations for criminal or civil actions regarding the abuse (many have strict time frames for reporting abuse). Also find out the institution's procedures for emergency grievances. Processes for filing a grievance should be available both within the agency (without involving the abuser) and through an outside/independent organization or company. You should follow whichever procedure you are most comfortable with. In federal prisons, you can write to the appropriate Regional Director (<http://www.bop.gov/about/ro/index.jsp>) if you are unsure of other ways to file your grievance. Remember that if you would like to file a lawsuit in court regarding sexual abuse, you may need to file an institutional grievance first.

The Special Litigation Section (<http://www.justice.gov/crt/complaint/#eight>) of the US Department of Justice Civil Rights Division investigates cases of systematic civil rights violations in prisons, jails, detention facilities, and other institutional facilities that are run by state or local governments. This means that a single incident of discrimination or abuse is not generally enough to trigger a Special Litigation investigation, but widespread violations in the institution that affect many individuals are considered. Complaints can be submitted to the Special Litigation Section by mail or telephone. Write to: U.S. Department of Justice, Civil Rights Division, 950 Pennsylvania Avenue, NW, Special Litigation Section, Washington, D.C. 20530. Phone: 877-218-5228.

### **Prison Rape Elimination Act (PREA)**

The United States Department of Justice released a final rule on May 17, 2012 to prevent, detect and respond to sexual abuse in confinement facilities, in accordance with the Prison Rape Elimination Act of 2003 (PREA). Below is a summary of how the PREA standards relate to LGBTI people in prison.

For more info contact Robert Hinchman, Senior Counsel, Office of Legal Policy, Department of Justice, 950 Pennsylvania Avenue, NW, Room 4252, Washington, DC 20530; telephone: (202) 514-8059. This is not a toll-free number.

The National Center for Transgender Equality (NCTE) reports the following about what the PREA standards do:

#### *Screening and classification*

- Facilities must screen all individuals at admission and if they get transferred to assess their risk of experiencing abuse or abusing others. This includes finding out who may be at risk because of their transgender status, gender nonconformity, sexual orientation, or intersex condition. Facilities also must consider whether individuals feel vulnerable.
- Individuals may not be disciplined for any refusal or nondisclosure during screening regarding gender identity, sexual orientation, intersex condition, disability status, or prior sexual victimization.
- Facilities must use this information to make appropriate, individualized decisions about an individual's security classification and housing placement.

#### *Housing transgender people*

- Decisions about where a transgender person, or a person with an intersex condition, is housed must be made on a case-by-case basis; they cannot be made solely on the basis of a person's anatomy or gender assigned at birth. This means that, for example, every transgender woman must be assessed individually to determine whether she would be best housed with other women instead of in a men's facility. An individual's views regarding their personal safety must be seriously considered.
- These decisions must be reassessed at least twice per year to consider changed circumstances such as incidents of abuse or changes in an individual's appearance or medical treatment.
- All transgender people and people with intersex conditions must be given the opportunity to shower separately from other people if they wish, regardless of where they are housed.

#### *Protective custody*

- Facilities too often respond to the problem of abuse by placing survivors and those most at risk in isolation. When prolonged, this isolation can amount to torture. The Standards restrict such uses of "protective custody" by requiring that all available alternatives be assessed before placing a person involuntarily in segregated housing. Alternatives might include relocating a perpetrator of abuse, providing heightened supervision, changing housing placement or cellmates, placement in a single occupancy cell within the general population, or transfer from a men's to a women's facility or vice versa.

#### *Segregated LGBT pods or units*

- In some facilities, gay, lesbian, bisexual, or transgender individuals are housed in separate units. Some people may prefer to be housed in this way because they may feel they are safer from being abused by other people who are incarcerated. However, these units can also pose some risk of further stigmatizing individuals and making them more vulnerable to harassment and abuse by staff. Individuals in such segregated units may also be restricted in their access to education, jobs, and other programs and opportunities.
- The Standards place some limits on separate housing for LGBT people. LGBT people may be housed in

separated, dedicated housing units only if such placement is voluntary or is based on a case-by-case assessment that includes other factors; if the unit also houses other groups of vulnerable individuals; or if the unit was established as part of the resolution of a lawsuit to protect LGBT people.

#### *Searches*

- The Standards prohibit all cross-gender strip searches and cavity searches except in emergencies, or those conducted by a medical professional. Cross-gender pat searches of incarcerated females by male staff are also generally prohibited. Any cross-gender searches that occur must be documented.
- The Standards do not specifically state how these requirements apply to transgender people. Many agencies permit transgender individuals to make a choice at admission as to whether they will be searched by male or female officers for purposes of these requirements, and NCTE recommends this as a best practice that conforms to the standards.
- All searches must be conducted in the least intrusive manner possible, and staff must be trained on how to be professional and respectful in conducting searches of transgender people. No search or physical exam may be conducted when the only purpose is to determine the individual's genital status.

#### *Minors in adult facilities*

- Many correctional experts recommend that minors never be housed in adult prisons. The Standards do not completely prohibit this practice, but they require separation of incarcerated minors from incarcerated adults both inside and outside of housing units, and outside of housing units unless there is direct staff supervision.

#### *Staff training*

- All facilities must train staff on a variety of issues related to sexual abuse prevention, including interacting professionally with LGBT and gender nonconforming people and those with intersex conditions.

#### *Reporting abuse*

- Fear of retaliation and further contact with abusers are obstacles to reporting sexual abuse in confinement. The Standards stipulate that individuals must have multiple ways to internally make private reports of sexual abuse and harassment, retaliation (by staff or other incarcerated people), and any staff negligence that may have contributed to abusive incidents.
- Individuals will also have at least one way to report abuse or harassment outside of the correctional department/agency, and may choose to do so anonymously. No discipline may be taken against a person for filing a grievance unless the agency can demonstrate that it was filed in bad faith.

#### *Support for survivors of abuse*

- When a person has experienced sexual abuse, the Standards require facilities to ensure that the individual is separated from alleged abusers and protected from retaliation. Facilities must: provide immediate and ongoing medical and mental health care as needed; gather and preserve evidence and conduct an investigation; report to appropriate law enforcement authorities; report the results of investigations to abuse survivors; and take appropriate corrective action. Facilities must also permit individuals to access support from outside organizations in as confidential a manner as possible.

#### *Consensual sex vs. sexual abuse*

- The Standards define sexual abuse between incarcerated people as sexual contact made without consent, through threat or coercion, or when a person is unable to consent. The Standards permit facilities to prohibit sex of any kind between people who are incarcerated. However, facilities may not treat consensual sex as equivalent to sexual abuse.
- The Standards define any sexual contact with incarcerated people by a staff member as sexual abuse.

Incarcerated people cannot be disciplined for sexual contact with staff unless the agency finds after investigation that the staff member did not consent.

- Staff must be trained on distinguishing between consensual sexual activity and abuse, and in juvenile facilities must also be trained on applicable age of consent laws.

#### *Grievances and access to courts*

- Federal law limits incarcerated people's access to the courts by first requiring that they go through (exhaust) all steps of an institution's internal grievance system. In an effort to relieve some of the unfair effects of this law on survivors of sexual abuse, the Standards require agencies to adjust their procedure to deem grievances related to sexual abuse "exhausted" in certain circumstances. The Standards prohibit imposing a time limit on when a person may submit a grievance regarding sexual abuse. An agency must deem a grievance regarding sexual abuse to be exhausted if it is denied at any stage of appeal, or is not responded to by a set deadline.
- The Standards also require agencies to provide a way for people to submit grievances without being required to address the issue directly with facility staff, and to permit people to get assistance with their grievances from third parties.
- If agencies fully implement the Standards, these requirements would make it easier for abuse survivors to ultimately bring their claims to court. However, individuals should be aware that their grievance will be subject to the procedures an agency has in place at the time of the grievance, whether or not they comply with the PREA Standards.

#### *Compliance and Enforcement*

- Each agency must designate staff with sufficient time and resources to oversee compliance with the Standards.
- Each facility must be audited once every three years by an independent auditor, with 1/3 of all facilities audited each year. The Department of Justice may recommend auditing a particular facility sooner if it is deemed necessary. Auditors must have access to copies of any relevant documents and be able to interview and receive correspondence from inmates and local organizations.
- The Standards are legally binding on federal prisons starting in 2012.
- Starting in 2013, each state's Governor must certify annually, based on the latest audits, that state-run facilities are in compliance or making a good faith effort to comply, or suffer a financial penalty.
- Accrediting organizations such as the American Correctional Association that receive federal funds must adopt accreditation standards consistent with the PREA Standards.

#### **Housing Transfers**

Housing and cellmates are often a source of concern for transgender, gender non-conforming and intersex people. Please keep in mind that there is no specific prison that is safe for trans people. Prisons are not safe spaces for anyone. However, you may know about a program at a certain prison, or you may wish to be transferred to a certain facility. Trust your own instincts about what spaces would be safest for you.

Unfortunately, transgender people across the United States are generally housed by birth sex unless you have had genital reconstruction surgery (often called sex reassignment surgery or gender-confirming surgery).

If you wish to be transferred, you may ask that your sex/gender classification be reviewed. You have the right to have your classification reviewed at least once a year. To request a transfer, make your desire to transfer known in writing to reception center staff, counselors, and the classification committee. Get as much evidence as you can about why the transfer is necessary. You have the right to have your transfer request reviewed if you can show that staying in your current facility would impose an unusual and significant hardship in relation to the "ordinary incidents of prison life." This standard comes from the case *Sandin v. Conner* (515 U.S. 472, 1995).

You can make your transfer request stronger by adding arguments about the constitutionality of where you are housed. Any placement or transfer that puts you in known harm might violate the 8th Amendment of the U.S. Constitution. The 8th Amendment bars "cruel and unusual punishment." Courts only use this standard for conditions of prisons unless the warden or correctional officers knew or should have known that you faced a risk of serious bodily harm, and then intentionally ignored that concern. This standard comes from the case *Farmer v. Brennan* (511 U.S. 825, 1994), which was brought by a transgender woman.

*Single-Cell Requests:* Single-cell requests are usually only successful if they are related to concerns about sexual assault or rape. Under the new Prison Rape Elimination Act (PREA, mentioned above) (28 CFR 115.113(d) (2012)) providing single-cells to at-risk people is highly encouraged. It is not mandated, though. Just Detention International (JDI) is the expert in these matters and they have a document entitled *Frequently Asked Questions (FAQ): Housing and Classification*, which is available by writing to JDI at the address above. JDI recommends writing to a psychologist or mental health specialist about your concerns and asking them to write you a letter of support. Their letter of support may help you get a single-cell.

*Transfer:* A hardship transfer is a transfer that exists in some states to move someone closer to a family's residence because a family member is ill or has a disability that prevents them from traveling long distances. In most states, while you can support the application, your qualifying family member must make the request. You will need to check with your attorney or with a counselor or case manager to determine the rules in your state.

If you live in a state where a hardship transfer is possible, your loved one must first get a letter from their physician certifying that they have a medical concern that prevents them from traveling long distances. The letter must be on letterhead and it is helpful to have it notarized (this may be required in some states). Have your loved one make some extra copies and mail the originals to the Warden.

Your loved one may also want to mail in any documents that show your relationship - birth certificates, marriage certificates, anything you can think of! They may also want to ask friends to write up verifications of their difficulty in traveling. For instance, a neighbor could write a few lines confirming that your grandmother has failing eyesight and cannot even drive to the grocery store, etc.

You should let the reception staff know that this request is being made and submit a copy of the request to your counselor or other prison staff member. Raise this concern at your yearly evaluation, too. It can be helpful to mention other reasons for why the other facility may wish to grant your transfer, such as special job skills or language skills.

If you are housed at a federal facility, you may be able to request your own transfer, but it is a very complicated process. It will be dependent on factors including: custody and classification points, disciplinary history, amount of time at current facility, time remaining on your sentence, your release destination, and program participation, like requesting transfer to a place with a unique vocational, educational or psychological program that is not available elsewhere. You can begin this process by making a formal request with your case manager.

### **Clothing and Grooming**

The Jailhouse Lawyer's Handbook explains that prison officials can generally control clothing and grooming as they see fit. However, there are some small limits on what they can require, mostly in terms of the way people practice their religion.

Prison officials often defend their clothing and grooming policies by bringing up interests such as: prisoner safety, prison security, sanitation, cost effective options at the prison commissary, or ease of prisoner

identification. Courts usually accept these interests and do not find that prisoners' constitutional rights have been violated. Transgender people challenging clothing and grooming policies have had very little success so far. One exception where there has been some success is in getting the right for trans women to have access to bras.

### **Name Changes**

People who are in some state prisons may petition for name changes if they obtain the permission of the Director of Corrections. Some people who were not able to get the Director's permission have successfully petitioned to have these decisions reviewed based upon the Constitutional right to Freedom of Religion. The Constitutional right to Freedom of Religion is one of the few Constitutional rights that has been upheld for incarcerated people. These individuals, however, were changing their names to reflect their religious beliefs.

In May 2012, the Sylvia Rivera Law Project in New York (listed above) won a major victory for the right for incarcerated transgender people to change their names. There is no reason why a similar victory can't be won elsewhere! Having advocacy organizations send letters to the Wardens may also be helpful. The advocacy organizations can speak about why access to a name change is so important. The Sylvia Rivera Law Project provided the TGI Project with a good sample of strong language. You may wish to show it to other advocacy organizations as an important example:

"For people in prison, the only way that they will ever be referred to by an affirming name is to have a legal name change. Authorities in prisons frequently target transgender people with verbal harassment, humiliation, and refusal to recognize their gender identities. By helping incarcerated transgender prisoners obtain legal name changes, we can ensure that they are able to affirm their identities in a system that imposes rigid gender regulations and systemically takes all gender affirmation away from transgender individuals. Furthermore, when our community members are able to finalize their name changes while incarcerated, they are able to leave prison with more confidence, support and affirmation, are ultimately more likely to stay connected to services and obtain affirming identification that increases the likelihood of a safer transition out of prison."

Here is additional language you may choose to use:

"I have been diagnosed with Gender Identity Disorder (GID). Legal name changes are part of the standard medical treatments for GID, as recognized by the national and international medical and psychiatric communities. Denying my name change would interfere with my medical treatment, and puts me at risk of serious psychological harm, while serving no legitimate purpose. GID, more commonly known as transsexualism, is a condition recognized in the Diagnostic and Statistical Manual of Mental Disorders, (DSM-IV, 1994, and DSM-IV-TR, 2000), published by the American Psychiatric Association. Transsexualism is also recognized in the ICD Classification of Mental and Behavioural Disorders, tenth revision, as endorsed by the Forty-third World Health Assembly in May 1990, and came into use in WHO Member States as of 1994."

It is also important to know:

The World Professional Association for Transgender Health Care (WPATH is an international professional association of experts in accepted standards for transgender health) promotes Standards of Care for Gender Identity Disorders, which describe established clinical protocols for treating persons with GID.

For many transgender individuals, having the correct name and sex on identity documents is an important part of their gender transition. Having a legal name that does not match a person's gender identity can be mentally harmful and emotionally traumatic. The WPATH Standards of Care include the ability to "acquire a (legal) gender-identity-appropriate first name" as part of the Real Life Experience, one of the three components of medical transition and treatment of GID. WPATH has also said that "changes to documentation are important aids to social functioning, and are a necessary component of the pre-surgical process; delay of document changes may have a deleterious impact on a patient's social integration and personal safety."



While each state is different, the National Commission on Correctional Health Care on transgender health care in correctional settings provides the following statement:

“Correctional health staff should manage [transgender] people who are incarcerated in a manner that respects biomedical and psychological aspects of gender identity disorder (GID) diagnoses... and follows accepted standards developed by professionals with expertise in transgender health. Determination of treatment necessary for transgender patients should be on a case by case basis...

Because incarcerated patients may be under different stages of care prior to incarceration there should be no blanket administrative or other policies that restrict specific medical treatments for transgender people.....

Psychotherapy such as reparative therapy or attempts to alter gender identity should not be employed.

....Correctional policies for management of transgender people who are incarcerated should be developed and implemented in partnership with local transgender communities and... service providers when possible

...Common effects of being denied appropriate medical care for GID include depression and anxiety.”

### **Hormone Therapy**

According to the National Center for Lesbian Rights, some transgender prisoners are able to continue the hormone treatment they received on the outside while they are in prison. This is the policy of the U.S. Bureau of Prisons. Specifically, the policy says:

“It is the policy of the Bureau of Prisons to maintain the transsexual inmate at the level of change existing upon admission to the Bureau. Should responsible medical staff determine that either progressive or regressive treatment changes are indicated, these changes must be approved by the [Bureau of Prisons] Medical Director prior to implementation. The use of hormones to maintain secondary sexual characteristics may be continued at approximately the same levels as prior to incarceration, but such use must be approved by the Medical Director.”

Even if the prison does provide hormones, however, there is no guarantee that they will be provided at the appropriate levels and with the necessary physical and psychological support services. In addition, it is often difficult for transgender prisoners to document a prior prescription for hormones, either because of the practical difficulties and limitations imposed by incarceration, or because many trans prisoners do not have private physicians willing to advocate for them. Even with enough documentation, prison officials may disregard or ignore the policy.

The issue of whether a trans person is entitled to hormone therapy while in prison has been litigated extensively, based on the established constitutional principle that it is a violation of the 8th Amendment prohibition on cruel and unusual punishment for prison officials to exhibit “deliberate indifference” to a prisoner’s “serious medical needs.” Until the last several years, in almost every case, courts have ruled in favor of prison officials. More recently, however, prisoners have had more success.

For example, in 2012, US District judge Mark Wolf ordered the Massachusetts Department of Corrections to provide sex-change surgery to an incarcerated transgender person, Michelle Kosilek, who is serving life in prison for murder. The judge ruled that failure to provide the surgery violated the prisoner's Eighth Amendment right to adequate treatment. In 2014, the 1<sup>st</sup> US Circuit Court of Appeals upheld this ruling.

### **Gender Reassignment Surgery (aka SRS)**

If you elect to try to obtain sexual reassignment surgery, here are some resources that can help you pay for the procedures.

### Jim Collins Foundation

Awards grants to transgender people seeking sexual reassignment surgery based on financial need. All applications have to be done online at <http://jimcollinsfoundation.org/>. Applicants must understand the steps that are currently required to undergo the medical process of transition, and must have completed (or have outlined plans to complete) the following steps:

- Get a letter of support from a licensed medical or mental health professional, such as a psychologist, psychiatrist, social worker, or therapist.
- Select a surgeon who is knowledgeable in transition-related surgeries. If applicant is chosen, the organization assumes this will be the final surgeon.
- Identify who will provide care and support post-surgery.
- If you have not completed all of these steps, but are planning to do so, please include your plans in your application. *Note:* If you are selected for funding, the payment will be made directly to the doctor or hospital facility. You must comply with any and all requirements according to the Standards of Care of the World Professional Association for Transgender Health's (WPATH), as determined by your selected surgeon.
- You must demonstrate a genuine need for financial assistance.
- You must detail the efforts you have made to fund-raise and the amount of cost that you will be able to cover on your own, if any.

The Jim Collins Foundation makes selections for grants based on a combination of demonstrated financial need and level of preparedness.

### CK Life

A transgender organization in the Bronx, New York. They have a surgery scholarship fund. To apply for the scholarship, send an email to: [scholarshipfund@cklife.org](mailto:scholarshipfund@cklife.org) with your application (info below). More info at <http://cklife.org>. Applications are currently only accepted via email, but consider writing to them to ask for an exception. Address: Attn: CK Life Scholarship Fund, P.O. Box 6060, Bronx, NY 10451

Application Materials:

1. Cover Page with name (Both Legal and Preferred if different), Date of Birth, Contact Info (Email and/or Telephone), which ONE Surgery you are asking for assistance accessing, and Name of Surgeon with contact info and a back up surgeon.
2. Personal statement of no more than 1000 words – include efforts you have made to fund surgery, who will care for you after surgery, how it will impact your life, and what you will do to try to afford surgery if you don't get a scholarship.
3. Professional letter from a medical or mental health provider that states how long you've been transitioning and what steps you have taken (this letter can be sent separately to the mailing address above).
4. Personal letter of no more than 500 words from someone you know stating why they think you should be picked for a scholarship. It should include their contact information.
5. Financial statement that says your annual income and source of income, your annual expenses, money saved for surgery and amount still needed, and whether you have insurance.

Must submit by April 1 of each year.

### **Confidentiality**

The Jailhouse Lawyer's Handbook explains that prisons must generally keep a prisoner's health information confidential. In *Powell v. Schriver*, 175 F.3d 107, 111 (2d Cir. 1999) a court ruled that the fact that a prisoner is transgender must be also be kept confidential. In that case, a transgender woman in a women's prison sued because prison staff said that she was HIV positive and had sex reassignment surgery in front of other staff and prisoners. As a result, rumors spread through the prison and both guards and prisoners harassed her. The court said that "like HIV status ... transsexualism is the unusual condition that is likely to provoke both an intense desire to preserve one's medical confidentiality, as well as hostility and intolerance from others." Under this

reasoning, the court decided that the prison employee in question violated the constitutional right to privacy. More routine medical information can probably be shared without violating the constitution, though.

### **International Human Rights**

Human rights are laws about people's dignity and humanity. They are often described as the condition needed in order to be fully human. They are internationally recognized minimum standards for the treatment of all people, including incarcerated people.

Under human rights laws, governments have a responsibility to respect, protect, and fulfill the human rights of all people. Human rights laws come from the following sources: the Universal Declaration of Human Rights, International Treaties, United Nations Documents, and Customary laws. Unfortunately, the United States government has not signed many of the more important United Nations declarations. For example, we have not signed the United Nations Standard Minimum Rules for the Treatment of Prisoners. Therefore, it is not a legal authority. Nevertheless, you can use it persuasively in any writing or advocacy you do.

The United States has ratified (agreed to) the International Covenant of Civil and Political Rights (ICCPR) Article 7 and the Torture Convention, which prohibit torture and cruel, inhuman, and degrading treatment. These documents both require that the government investigate and punishes these acts. These are both more expansive than the 8th Amendment of our Constitution. These documents prohibit forced sex and forced sexual contact, and provide freedom from abusive strip searches and pat searches, freedom from demeaning language, the right to dignity while incarcerated, the right to family, the right to physical and mental health including the right to receive medication, and the right to pre-natal care.

### **Glossary**

Gender: That which a society deems “masculine” or “feminine”; Gender is a social construction that is not necessarily the same as an individual’s biological sex.

Gender Identity: A person’s innermost concept of self as a man, a woman, both, neither, or another identity. A felt sense of self that is not contingent on the individual’s biological sex.

Gender Identity Disorder (Gender Dysphoria): strong, persistent feelings of identification with the opposite gender and discomfort with one's own assigned sex that results in significant distress or impairment. People with gender dysphoria desire to live as members of the opposite sex and often dress and use mannerisms associated with the other gender.

Gender Expression: Refers to the ways in which people externally communicate their gender identity to others through behavior, clothing, haircut, voice, and other forms of presentation. Gender expression should not be viewed as an indication of sexual orientation.

Gender Non-Conforming (GNC)/ Non-Binary Gender: Terms for people whose gender expression differs from stereotypical expectations, such as “feminine” boys, “masculine” girls, and those who are perceived as androgynous. This includes people who identify outside traditional gender categories or identify as both genders or neither. Other terms that can have similar meanings include gender diverse or gender expansive.

Genderqueer: A person who has a gender identity and/or gender expression that does not conform to the gender they were assigned at birth. People who identify as “genderqueer” may or may not also identify as “transgender.”

Intersex: A general term used for a variety of conditions in which a person is born with a reproductive or sexual anatomy that doesn’t seem to fit the typical definitions of female or male. Some intersex people identify as “transgender.”

Sex: Refers to a person’s biological status and is typically categorized as male, female, or intersex. There are a number of indicators of biological sex, including sex chromosomes, gonads, internal reproductive organs, and external genitalia.

Sexual Orientation: The inner feelings of who a person is attracted to emotionally and/ or physically, in relation to their own gender identity. Some people may identify as “asexual,” “bisexual,” “gay,” “lesbian,” “pansexual,” “queer,” “straight,” “same gender loving,” and many more.

Transgender: A person whose gender identity and/or expression is not aligned with the gender they were assigned at birth. “Transgender” is often used as an umbrella term encompassing a large number of identities related to gender non-conformity.

Trans: An umbrella term that can refer to all of the identities within the gender identity/expression spectrums, including transgender, genderqueer, gender fluid, gender non-conforming, Two Spirit, agender, gender questioning, etc.

Two-Spirit: a culturally distinct gender that describes Indigenous North Americans who fulfill one of the mixed gender roles found traditionally among many Native Americans and Canadian First Nations indigenous groups.