

# — — Resources for Incarcerated Trans\* People — —

*“It is in collectivities that we find reservoirs of hope and optimism.” – Angela Davis*

The resources and terminology in this guide are intended to help trans\* people in prison, including transgender, nonbinary, intersex, and Two-Spirit individuals. Information within is compiled from various LGBTQ organizations, most prominently the TGI Justice Project, Lambda Legal, and the Transgender Law Center. The volunteers at LGBT Books to Prisoners (LGBT BtP) have done their best to ensure the usefulness, accuracy, and clarity of this guide.

## IMPORTANT DISCLAIMERS

Not all of the opinions, language, and suggestions included in this resource guide are those of LGBT BtP or another organization. We aim to provide relevant information to people in prison and their families, friends, and advocates. While our volunteers do their best to refresh these materials in a timely manner, we cannot guarantee the information is always accurate and up-to-date. **Furthermore, the materials in this guide were not created by an attorney and do not constitute legal advice.** Laws and available resources are subject to frequent changes.

If you need legal advice, please seek out the assistance of a lawyer to address your specific concerns. If you use the information in this guide, please make sure that the law applies to your situation and has not changed. Additionally, if you have been injured or discriminated against and wish to file a lawsuit, contact an attorney or law office to request legal representation **immediately**. There are often strict time limits for taking legal action.

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*Organizations are listed in alphabetical order. Whether a resource is available nationally, in specific states, or in certain facilities is noted when possible. Legal language has been condensed or clarified in some passages.*

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### LGBT Books to Prisoners

is a donation-funded, volunteer-run organization based in Madison, WI that sends books and other educational materials, free of charge, to incarcerated LGBTQ people across the United States.

### CONTACT US

c/o Social Justice Center Incubator  
1202 Williamson St., Suite 1  
Madison, WI 53703  
[lgbtbookstoprisoners@gmail.com](mailto:lgbtbookstoprisoners@gmail.com)

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

### Black and Pink

B&P sends free monthly newsletters featuring news, calendars, submissions by incarcerated members, and more. They also have a pen pal program and chapters throughout the U.S.

**For newsletter or pen pal, write to: Black and Pink, 6223 Maple St #4600, Omaha, NE 68104.**

**Email: members@blackandpink.org**

### East Bay Prisoner Support

EBPS sends free revolutionary, anarchist, and LGBTQ literature to people in prison in all 50 states.

**To request a catalog, write to: PO Box 22449 Oakland, CA 94609.**

**Email: eastbayprisonersupport@protonmail.com**

### Hearts on a Wire

A movement led by trans and nonbinary people. Hearts on a Wire publishes a newsletter and sends 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.

**Write to: Hearts on a Wire, 1315 Spruce Street, Philadelphia, PA 19107.**

**Email: heartsonawire@gmail.com**

### Prison Health News

A free quarterly newsletter mailed to more than 5,000 people throughout the country and distributed in several state prisons' libraries + clinics. They strive to lift up the voices, experiences, and expertise of incarcerated people and respond to health questions.

**For a subscription, write to: Prison Health News, 4722 Baltimore Ave., Philadelphia, PA 19143.**

**Email: prisonhealthnews@gmail.com**

### Prison Activist Resource Center

PARC is a prison abolitionist group committed to exposing and challenging the institutionalized racism, sexism, ableism, heterosexism, and classism of the Prison Industrial Complex. PARC produces a directory free to incarcerated people upon request, and seeks to work in solidarity with those incarcerated, formerly incarcerated, their friends and families.

**For their Annual Prisoner Support Directory, write to: PARC, PO Box 70447, Oakland, CA 94612.**

**Email: prisonactivist@gmail.com**

### Transgender, Gender Variant, and Intersex Justice Project

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 seek to create a world rooted in self-determination, freedom of expression, and gender justice. They send out a biannual newsletter, resource guide, and answer letters regularly. **Write to: 370 Turk St. #370, San Francisco, CA 94102.**

**Phone: 415-554-8491**

**Email: info@tgijp.org**

### Tranzmission Prison Project

TPP is a queer- and trans-powered prison abolition organization that provides free literature and resources for incarcerated members of the LGBTQ+ community.

**Write to: Tranzmission Prison Project, PO Box 1874, Asheville, NC 28802.**

**Email: tranzmissionprisonproject@gmail.com**

## Legal Resources

### American Civil Liberties Union - National and Regional Affiliates

The ACLU provides legal assistance for incarcerated people who contact their local ACLU affiliate. Also co-published the *Know Your Rights: Laws, Court Decisions, and Advocacy Tips to Protect Transgender Prisoners* guide addressing abuse, medical care, housing, searches and privacy, and enforcing your rights.

**Write to: ACLU National Prison Project, 915 15th Street, NW, 7th Floor, Washington, DC 20005**

**Also: ACLU National HQ, 125 Broad St., 18th Floor, New York NY 10004.**

**Phone: 212-549-2500**

### Jailhouse Lawyer's Handbook - 2021 Edition

Available in print and as a PDF (<http://jailhouselaw.org>), the handbook explains how to begin a lawsuit in federal court to fight against mistreatment + bad conditions in prison, with a section on transgender rights. The authors focus on state prisons, but people in federal prisons and city/county jails can also find use in the handbook.

**To request, write to: The Center for Constitutional Rights, 666 Broadway, 7th Floor, New York, NY 10012.**

### Lambda Legal - National and Regional Offices

Mission is to achieve full recognition of the civil rights of LGBT people + everyone living with HIV. They do not charge clients for representation or advocacy. The organization does litigation, education, and public policy work.

**Write to their national HQ: 120 Wall St, 19<sup>th</sup> Floor, New York NY 10005.**

**Phone: 212-809-8585**

### 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. If you are a victim of battery charged with a crime in which your history of abuse is relevant, you can contact them.

**Write to: 990 Spring Garden Street, Suite 703, Philadelphia, PA 19123.**

**Call collect: 215-763-1144**

### National Center for Lesbian Rights

NCLR works at local/state/federal levels to ensure LGBTQ people are safely housed and have access to life-saving medical care while incarcerated. They may help if you can't access hormones, medical care, or have housing issues (including being put in solitary confinement due to your gender or sexuality), or have been assaulted.

**Write to: 870 Market St. Suite 370, San Francisco CA 94102.**

**NCLR Legal Helpline: 800-528-6257**

### Sylvia Rivera Law Project: Prisoner Justice Project - Available in NYC/NYS

The Prisoner Justice Project supports low-income transgender people and transgender people of color in prison, jail, and immigration detention obtain life-sustaining services. The Project provides legal services to people in **NYC jails and New York State prisons**, including pro bono attorney assistance for name changes.

**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, + organizers who provide support, advocacy, + free, holistic criminal legal services to poor and street-based trans people in Illinois. They also assist with legal name changes.

**Write to: 203 N. LaSalle, Suite 2100, Chicago, IL 60601.**

**Phone: 312-558-1472**

### Transgender Law Center

Transgender Law Center provides basic legal information to transgender people in jails, prisons, and on parole. They cannot provide individualized advice or take on cases.

**Write to: PO Box 70976, Oakland, CA 94612-0976.**

**Call collect: 510-380-8229**

### Transgender, Gender-Variant, and Intersex Justice Project

Described above in 'Pen Pals + Other Materials'. They also provide legal help. People who actively work on their own cases and/or also help other incarcerated people can request for TGI JP to conduct research on their behalf.

**Write to: 370 Turk St #370, San Francisco, CA 94102.**

**Phone: 415-554-8491**

## Reporting Abuse

### Reporting Violence or Harassment by Another Incarcerated Person

If another person in prison hurts, threatens, or harasses you for any reason, there are ways to report.

- File a grievance using your institution's complaint system immediately. This involves paperwork. Many institutions have strict timelines for reporting complaints.
- Seek legal advice. Note: Prisons often require you to exhaust all internal systems before filing a lawsuit.
- It can help to keep a written account of the incident(s) and tell someone you trust on the outside. Request physical copies of any grievances you file.
- If you feel comfortable speaking to a staff member (like a CO, nurse, or chaplain), you can do so privately.
- Call the **Prison Rape Elimination Act (PREA) Hotline at 1-833-362-7732**. Calling is free and you may request to remain anonymous. However, the call could be monitored.

### Reporting Violence or Harassment by Prison Staff

If a prison staff member hurts, threatens, or harasses you for any reason, there are ways to report.

- You can still file a grievance using your institution's complaint system. Retaliation for reporting is illegal.
- Seek legal advice. Conversations with a lawyer should be private and they may offer advice on next steps.
- Call the **Prison Rape Elimination Act (PREA) hotline at 1-833-362-7732**. The hotline is primarily for cases of sexual abuse, but they might be able to help you with other forms of abuse.
- Contact the Department of Justice's Office of Inspector General (OIG) in your state. **Call 202-514-3435 or write to: Office of Inspector General, Department of Justice, 950 Pennsylvania Avenue, NW Washington, DC 20530-0001.**

### Reporting Sexual Abuse

If you experience or are aware of sexual abuse, assault, or rape while incarcerated, there are ways to report.

- File a grievance using your institution's complaint system immediately. Be aware of any deadlines that may apply regarding statutes of limitations for criminal or civil actions regarding the abuse.
- The National Center for Transgender Equality states **you should be able to file a grievance without involving the abuser**. Prison officials must also allow you to report to **an organization or person on the outside that is unconnected to the prison**.
- In federal prisons, you can write to the Regional Director if you are unsure how to file a grievance. Keep written documentation of all your efforts and request copies of grievance(s).
- If you would like to file a lawsuit in court, you may need to file an institutional grievance first.
- Seek legal help. A lawyer can offer specific guidance and should keep your conversation private.
- **Call Prison Rape Elimination Act (PREA) hotline at 1-833-362-7732. See more PREA information below.**

*The Special Litigation Section 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. 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. If you suspect widespread abuse at your facility, it may be useful to contact the department.*

**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 Ave. NW, Special Litigation Section, Washington, D.C. 20530. Phone: 877-218-5228.**

## The Prison Rape Elimination Act (PREA)

*The U.S. Department of Justice published standards in 2012 to prevent, detect and respond to sexual abuse in confinement facilities, in accordance with the Prison Rape Elimination Act of 2003. Below is a summary of how the PREA standards relate to LGBTQ people in prison from the National Center for Transgender Equality (NCTE).*

### Screening and classification

- Facilities must screen all individuals at admission and upon transfer to assess their risk of experiencing or perpetrating abuse, including identifying those who may be at risk because of their transgender status, gender nonconformity, sexual orientation, or intersex condition. The individual's own perception of their vulnerability must also be considered.
- 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 in prison 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 to another facility.

### Segregated LGBT pods or units

- In some facilities, LGBT 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 others. 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 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.
- 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 a person's genital status.

### Minors in adult facilities

- Many correctional experts recommend that minors should never be housed in adult prisons. The Standards do not completely prohibit this practice, but they require separation of young people from 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, 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 people in prison 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. However, facilities may not treat consensual sex as equivalent to sexual abuse.
- The Standards define any sexual contact with people in prison by a staff member as sexual abuse. An incarcerated person cannot be disciplined for sexual contact with staff unless the agency finds 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 access to the courts by first requiring incarcerated people to go through 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 someone 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 to submit grievances without being required to address the issue directly with facility staff, and to permit the person filing 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 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 people in prison 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 nonconforming, 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.**

In **federal prisons**, guidelines requiring officials to consider trans\* people's safety when determining housing were reinstated in January 2022. The federal Transgender Executive Council (TEC) is in charge of reviewing requests for housing, gender-confirming surgery, and other concerns for trans\* people in prison.

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 request 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 useful documents available by writing to JDI at **Cynthia Totten, Attorney at Law, CA Attorney Reg. # 199266, 3325 Wilshire Blvd., Suite 340, Los Angeles, CA 90010**.

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.

**Other Transfers:** 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**

### **Federal Prison Policy**

In 2022, the Federal Bureau of Prisons issued a manual that clarifies access to gender-affirming services in **federal prisons**. Per the new manual, it may be easier to access care and resources if you notify prison officials of your identity and have a "Case Management Activity (CMA) assignment of transgender" or Form BP-A1110.

- Transgender people in federal prison are able to request and wear undergarments (boxers, bras, etc.) that affirm and align with their gender. This is true even if you are not housed in a facility with others who share your gender.
- Institutional laundry services are supposed to have undergarments available to transgender people.
- Undergarments must have **no metal components**.
- Additional commissary items such as undergarments should be available for transgender people.
- A Warden may approve further items based on individualized assessment of a prison's population.
- If an item or its use violates an institution's rules, it can be taken away and the person who purchased or was provided the item **could be subject to disciplinary sanctions**.

### **State-Run and Private Facilities**

Policies in **state and privately-operated prisons** vary considerably. However, the ACLU states that staff should generally allow you access to gender-appropriate clothing, undergarments, and grooming supplies, as well as to present yourself in a manner consistent with your gender. If they deny you such treatment, they may be in violation of the Eighth Amendment.

If you have been denied gender-appropriate clothing or grooming items, or otherwise suspect your rights have been violated, consider filing a grievance, reaching out to a lawyer, and/or contacting legal experts (such as Lambda Legal, the ACLU, or the Transgender Law Center) to access more information.

## **Name Changes**

### **The Federal Bureau of Prisons states:**

*Staff interacting with [people in prison] who have a CMA (Case Management Activity) assignment of transgender, shall either use the authorized gender-neutral communication with [them] (e.g., by the legal last*



*name or “Inmate” last name) or the pronouns associated with the [person’s] identified gender. Deliberately and repeatedly mis-gendering [someone] is not permitted.*

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 (listed above) send letters to your warden may also be helpful. The advocacy organizations can speak about why access to a name change is so important. Groundwork for name changes has also been laid by incarcerated people seeking name changes based on religious rights protected by the U.S. Constitution.

**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 [people] 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 Dysphoria (GD). Legal name changes are part of the standard medical treatments for GD, 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. GD is a condition recognized in the Diagnostic and Statistical Manual of Mental Disorders, (DSM-V, 2013), published by the American Psychiatric Association.*

**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 GD.

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 change names and gender markers on identity documents as a social support technique to help treat GD.

While each state is different, the National Commission on Correctional Health Care on transgender health care in correctional settings provides the following statement: **The NCCCHC states that correctional health staff should manage incarcerated trans people in a manner that ‘respects biomedical and psychological needs.’ They advocate for all people in prison to be treated with fairness, dignity and respect. Further, all treatment should be individual-specific.**

## **Hormone Therapy**

According to the National Center for Lesbian Rights, some transgender people 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 [trans\* person] 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.*

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*Hormone therapy or other medical treatment may be provided after an individualized assessment of the requested [person] by institution medical staff.*

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. It also presents problems for people who are diagnosed with Gender Dysphoria while in prison. In addition, it is often difficult for people in prison to document a prior prescription for hormones, either because of the practical difficulties and limitations imposed by incarceration, or because many trans\* people do not have private physicians willing to advocate for them. Even with enough documentation, prison officials may disregard/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's prohibition on cruel and unusual punishment for prison officials to exhibit "deliberate indifference" to a person's "serious medical needs." Unfortunately, courts have often ruled in favor of prison officials.

## **Gender-Affirming Surgery**

In 2022, Cristina Iglesias, an incarcerated transgender woman in Texas, will become the first person in federal custody to receive gender-affirming surgeries, after suing the government with the help of the ACLU. The U.S. Bureau of Prisons has agreed to pay for her surgeries. **However, a majority of trans\* people in prison still do not have easy access to fully-funded gender-affirming surgeries.** Speak to a trusted health care provider or CO about the process. Keep documents and notes. **Here are resources that can help pay for surgeries.**

### Founders' Grant Fund through Jim Collins Foundation

Awards grants to transgender people seeking any gender-affirming surgery based on financial need. **The Founder's Grant covers 100% of surgical fees.** Grants from the **Krysallis Anne Hembrough Legacy Fund** cover 50% of the surgical costs and recipients must match each dollar of funds received with a dollar of their own money or other money raised by the recipient. **Currently, all applications must be done online at <https://jimcollinsfoundation.org/>.**

#### **Application Requirements:**

- 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 these steps, but plan 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 also 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. **Applications are due August 1<sup>st</sup> each year. You must be 18 or older to qualify.**

### Point 5cc Surgery Fund through Point of Pride

Point 5cc sells t-shirts and awards grant money for one gender-affirming surgery each year. Currently, all applications must be submitted online. Someone can submit on your behalf. However, in the future they may accept mailed applications. **Contact: Point of Pride, PO Box 10991, Eugene, OR 97440 to inquire.** Finalists must submit additional materials.

#### **Application Requirements:**

- Identify as transgender (FTM, MTF, non-binary, genderqueer, GNC, and all other non-cis identities)

- Be 18 years of age or older
- Have begun saving money for your surgery
- Complete your surgery within 18 months of receiving the grant
- Complete your surgery in the United States with a U.S. surgeon

**Due between November 1-November 30. Finalists selected in January and recipients announced in February.**

#### Rizi Timane Trans Surgery Grant Application

Transgender Hormone Fund has awarded scholarships of \$1500 to 6 transgender women to assist with purchasing hormones annually. They provide one surgery grant as well. **Send a letter of interest to [rizi@rizitimaneministries.org](mailto:rizi@rizitimaneministries.org)**. In the letter, give information about yourself: where you are from, whether you are GNC, FTM, or MTF, your progress in transition, why you need the fund, and any other pertinent information. **Grant applications close at the end of November.**

**For more info or to submit online:** <https://rizitimane.com/trans-surgery-scholarship-application/>

### **Confidentiality**

You have the right to confidentiality in prison, especially when it comes to your health. This includes information about gender-affirming surgery, hormone injections, or any other medical treatment or condition. The Jailhouse Lawyer’s Handbook explains that prisons must generally keep incarcerated people’s health information confidential. Exceptions come when such information is necessary to enforce the law or protect health/safety.

In *Powell v. Schriver*, 175 F.3d 107, 111 (2d Cir. 1999) a court ruled that **the fact that a [person] 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 gender-affirming surgery in front of other staff and incarcerated people. As a result, rumors spread through the prison and both guards and other incarcerated people harassed her. The court ruling read: “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.” The court decided that the prison employee in question violated the constitutional right to privacy.

**When deciding whether to share information with a staff member, consider the following actions:**

- Asking the staff member about the prison’s policy on confidentiality and privacy before sharing anything.
- Confirming who will be told about any conversations you choose to have (with counselors, COs, etc.)
- Telling the person exactly what information you want to remain private.
- Documenting any instances where staff share your information without your permission.

**If your medical info has been wrongly shared, consider filing a Health Information Privacy complaint (HIPAA):**

Centralized Case Management Operations  
 U.S. Department of Health and Human Services  
 200 Independence Avenue, S.W.  
 Room 509F HHH Bldg.  
 Washington, D.C. 20201

Be sure to include:

- Your name, Full address, Telephone numbers (include area code), E-mail address (if available)
- Name, full address and telephone number of the person, agency, or organization you believe violated your (or someone else’s) health information privacy rights or committed another violation of the Privacy or Security Rule
- Brief description of what happened. How, why, and when do you believe your (or someone else’s) health information privacy rights were violated, or how Privacy or Security Rule otherwise was violated
- Any other relevant information
- Your signature and date of complaint

- If you are filing a complaint on someone’s behalf, also provide the name of the person on whose behalf you are filing.

## International Human Rights

Human rights are internationally recognized minimum standards for the treatment of all (*including incarcerated*) people. Governments have a responsibility to respect, protect, and fulfill our human rights. These laws come from many sources: the Universal Declaration of Human Rights, International Treaties, United Nations Documents, and Customary laws. Unfortunately, the U.S. government has not signed many of these documents. Nevertheless, you can use international laws persuasively in any writing or advocacy you do.

The US *has 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 require the government to investigate and punish these acts. They are both more expansive than the 8th Amendment. 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 healthcare (including receiving medication), and the right to prenatal care.

### Glossary: Gender and Sexuality Terms

*The following terms have fluid meanings. Some come with great nuance + historical context. These definitions are not meant to invalidate how you understand gender + sexuality. When it comes to your life, use terminology that feels most comfortable + correct to you.*

**Gender:** Refers to the social construct that certain behaviors or expressions can be considered as masculine, feminine, or nonbinary traits.

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

**Gender Dysphoria:** Medical diagnosis of the issues people experience when their outward appearance does not align with their internalized state.

**Gender Expression:** The ways people externally communicate their gender identity to others through behavior, clothing, haircut, voice, and other forms of presentation.

**Gender Non-Conforming:** Term for people whose gender expression differs from stereotypical expectations, such as “feminine” boys, “masculine” girls, and those perceived as androgynous. Other terms that can have similar meanings include gender diverse or gender expansive.

**Genderqueer:** A person whose gender identity and/or expression does not conform to the gender they were assigned at birth. People who identify as genderqueer may or may not identify as trans\*.

**Intersex:** A term used for someone born with reproductive or sexual anatomy that doesn’t seem to fit the traditional definition of male and female.

**Nonbinary:** A person whose identity exists beyond the man/woman gender binary.

**Personal Pronouns:** Words (like him, her, and them) used to refer to a single person. Always ask a person their pronouns, rather than make an assumption.

**Sex:** Refers to 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:** Refers to the attraction one person feels towards others, often labeled based on gender. Some orientations are lesbian, gay, bisexual, asexual, and pansexual.

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

**Transmasculine + Transfeminine:** Transmasc describes people who were assigned female at birth but identify with masculinity to a greater extent than femininity. Transfemme refers to the opposite.

**Two-Spirit:** 2S is an umbrella term used by some indigenous communities in North America to describe people who have gender identities (or perform ceremonial roles) that transcend the gender binary. Should not be used as a blanket term for all LGBTQ Native Americans.

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