

THE CATALYST

2ÈM EDISYON

ARC GENDER JUSTICE.ORG

JANVYE 2024



Art by Bishakh Som

The Catalyst se bilten Alyssa Rodriguez Center for Gender Justice (ARC). ARC ranfòse mouvman pou jistis sèks atravè mi prizon, goumen kont vyolans ki baze sou idantite seksyèl, epi elimine baryè pou patisipasyon politik pou sivivan ki nan prizon ak lòt defansè fondamantal.



This newsletter is available in English!
¡Este boletín está disponible en español!

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FÈ KONEKSYON

Kèk mwa sa yo te difisil nan yon ane ki difisil. Kriminalisasyon swen sante trans ak avòtman entansifye. Twa tribinal apèl federal te kite entèdiksyon sante trans pou minè rantrè an vigè. Tribinal siprèm eta Georgia a te kite yon entèdiksyon avòtman sis semèn rete an vigè, epi Tribinal Siprèm lan te pèmèt yon entèdiksyon avòtman ekstrèm nan Idaho rete an vigè. Masak plizyè moun ak vyolans jenosid kont Palestinyen nan Gaza, Masalit nan Darfur, ak Amenyen nan Artsakh ap rache kè nou.

Nou konnen tout bagay sa yo konekte, epi rezistans nou an konsa tou. Anbago ki anpeche ekipman medikal rive jwenn Amenyen yo pa tèlman diferan de miray prizon ki anpeche moun ozetazini rive nan kominote yo. Zam etazini itilize pou bonbade lopital nan Gaza rantrè nan depatman lapolis lokal yo tou. Epi menm ensistans sou lavi ak diyite moun ki kolonize ak oprime yo ranfòse tout lit nou yo.



Art by Monica Trinidad



Rele Tout Sè yo! Trajè a andan nou!

pa Michelle C

"Trans" se adjektif mwen. Mwen te chwazi li. Dyagnostik mwen se Twoub Idantite Seksyèl. Mwen jere li. Terapi ranplasman òmòn se preskripsyon mwen. Mwen te merite li kòm yon prizonye nan eta Florid.

Mwen pa t kapab bat yo, kidonk mwen te rejwen yo. Se te erè ki pi pridan mwen te janm komèt. Mwen te nan prizon pou apeprè yon ane. Mwen trè alèz nan yon enstitisyon pou gason ki gen pwogram Disfòri Sèksyèl. Mwen resevwa twa medikaman separe pou kontinye tranzisyon mwen an. Mwen pran responsablite pou dèt mwen genyen anvè sosyete a. Paskè mwen tran sa pa eskize m pou krim mwen. Mwen se yon sivivan; mwen pa yon viktim.

Mwen gen yon dèt pou tèt mwen tou. Mwen te oblije retire defans mwen devan fanm nan miwa a, paske li te lakòz mwen plis mal pase nenpòt moun! Mwen toudenkou reyalize mwen se yon fanm nan entegrite, ke mwen te toujou konsa.

Mwen ta di nenpòt fanm trans ki soufri nan yon prizon pou gason, "Bay tèt ou yon ti poz." Pi bon bagay nan tout sa mwen te aprann ane pase a nan refleksyon ak pwòp tèt mwen se ke transjan se yon pati nan moun mwen ye a, men mwen plis pase sa. Mwen se yon fanm an premye, epi youn ki fò, espesyalman lè mwen te nan moman pi fèb mwen. Si w ap li sa a, mwen pa ta jwenn lapè lespri m san ou. ♦



Photo: Joe Piette

De Madam Samantha Morse

Kòm yon fanmi fanm trans, nou bezwen ede youn ak lòt lè nou wè kèk nan moun nou yo ki bezwen èd.

Mwen rele Jazz ede m admèt sa mwen ye pandan mwen nan prizon. Mwen te yon fanm transjan tout lavi mwen, men sèlman 2 oswa 3 moun te konnen epi yo pa t la pou ede m vin fanm mwen ye jodi a.

Mwen ta renmen ale New York, pou rankontre kèk fanm trans mwen te wè nan The Come Up. Epi ale wè Jazz an Florid.

Mwen jis mande tout fanm trans ak gason trans yo chwazi lanmou, lavi ak kè kontan, lajwa. Nou menm jan ak tout moun nan mond lan. Nou jis bezwen rasanble ansanm tankou yon fanmi. ♦

Premye Asistan Sante Mantal Radikal

ki soti nan Oumou Sylla

Oumou Sylla te kreye yon fondasyon pou kijan nou ka ede youn ak lòt lè nou ap fè fas ak chagren oswa kriz sante mantal. Li itilize akwonim "AKSYON."

Evalye sitiyasyon, kontèks, kapasite, ak anviwònman. Si ou twò boulvèse pou ofri sipò, ou ka montre yo yon lòt moun oswa pran yon moman pou pran swen tèt ou anvan.

Sant konsantman, swen, ak kiryozi. Pa eseye fòse swen sou yon moun ki pa vle li. Poze kesyon olye pou w fè sipozisyon.

Fè fas ak yon sèl bezwen alafwa. Li ka fè sans pou w kòmanse ak bezwen ki pi rapid oswa pi fasil pou adrese a an premye.

Idantifye lokalsosyal, dinamik pouvwa, mantalite. Si ou se yon moun lòt moun vrèman respekte, mo ou yo ka pote pwa siplemantè. Kidonk ou ka vle pran swen siplemantè avèk yo.

Ofri opsyon. Li ka akablan lè yon moun mande, "Kisa ou bezwen?" Li ka pi fasil si yo di, "èske ou ta renmen ekri yon lèt bay pitit fi w, fè kèk egzèsis pou sote avèk mwen, oswa fè yon apèl pou maladi?" Oswa, "mwen ka chita avèk ou pou yon ti tan oswa al pran dlo pou ou?"

Règleman sistèm nève. Pafwa pran kèk souf ansanm, anbrase, leve epi deplase, oswa nonmen sa k ap pase ozalantou w ka ede.



Art by Micah Bazant + Sharmim Hossain



Gender Justice News Briefing

by Lewis Raven Wallace

#LetGazaLive

The relentless bombing campaign and ground assault on Gaza has been going on since early October. Palestinians in the open air prison which is Gaza have been subjected to ceaseless airstrikes, targeting hospitals, schools, journalism outlets, and dozens of other civilian targets. The Israeli Defense Forces (IDF) claims that it is aiming to root out Hamas fighters who “hide behind civilians,” while Israeli leaders also openly dehumanize Palestinians and state their intentions to eliminate them. An October 7 incursion from Hamas into Israeli-held territories killed 1400 Israelis; since then, over 20,000 Palestinian lives have been taken, nearly half of them children. Whole families have been wiped from Gaza’s registry and more than half the population of Gaza are now refugees.

The only bright side to this story is that a global solidarity movement is insisting on freedom, self-determination, and a ceasefire in Gaza. Led by Palestinians and anti-Zionist Jews, the ceasefire movement here in the U.S. has shut down the U.S. capitol, Grand Central station, and other key sites. While our political representatives remain silent, the majority of Americans support a ceasefire. Many LGBTQ groups and individuals have spoken out in favor of a ceasefire, pushing back against Israeli “pinkwashing” – the propaganda move in which Israel’s purported support for gay rights is pitted against Palestinians. We know that Palestinians have a spectrum of political views, that there are

many queer and trans Palestinians, and that they deserve to live and thrive!

Abortion law changes affect access to mifepristone

As the national crackdown on abortion rights and access continues, pregnant people face new limitations on access to the drug mifepristone. While it’s sometimes called an “abortion pill” and can be used to terminate early pregnancies, mifepristone is also commonly used to treat those who have had miscarriages. In August, the United States Court of Appeals for the Fifth Circuit issued a decision restricting patients’ access to the drug while keeping the drug legal; the Supreme Court will hear the case but has also ruled that patients’ access to it should continue in the meantime.

Anti-trans legislation update

85 anti-trans laws passed in 2023, and over a hundred have already been proposed for 2024. In good news for the trans movement, several notorious anti-trans candidates were defeated in the November elections—Kentucky Governor Andy Beshear, who had vetoed anti-trans legislation and spoken about trans rights on the campaign trail, held onto his seat against transphobic challenger Daniel Cameron. In Virginia, Danica Roem, a Democratic state rep, was elected to the state senate in a successful campaign against an anti-trans Republican. And the American Federation of Teachers reported that conservative Right school board candidates lost 70 percent of their races in November.



Art by Janet Nechama Miller

“Extremist politicians on the Republican side have been really focusing on attacking transgender people,” said Rodrigo Heng-Lehtinen, the executive director of the National Center for Transgender Equality Action Fund. “They did so cynically, because they thought it was going to get them votes. But what Tuesday night’s results really born out was that [attacking transgender rights] only captures votes in the primaries, because it only resonates with the fringes. When you get to the general elections, it really backfires on these anti-trans candidates.”

#STOPCOPCITY escalations

Activists face state repression in the campaign to stop a \$90 million police training center from being built in the middle of some of Atlanta’s only remaining green space. After organizers gathered over 100,000 signatures to put a referendum on the ballot to stop

Gender Justice News Briefing

(continued)

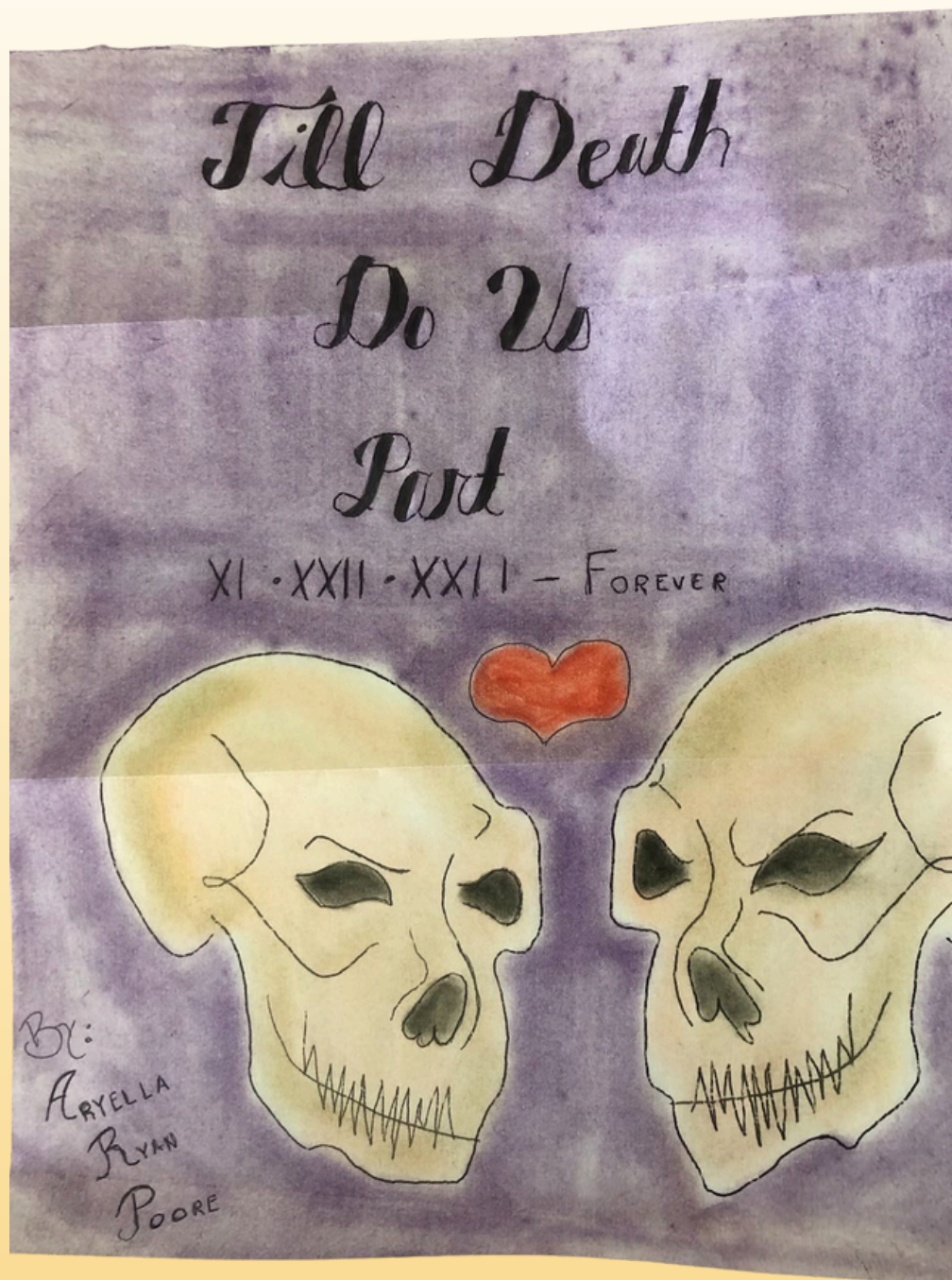
the construction of Cop City, Atlanta city officials refused to verify the signatures, thus hanging the process up in administrative limbo and not allowing for a vote.

And in August, prosecutors announced sweeping federal indictments of 61 protesters under RICO, the "Racketeer Influenced and Corrupt Organizations Act." Absurdly, the prosecutions accuse these grassroots activists of a racketeering conspiracy because they exercised their free speech rights to speak out against Cop City, and sent small payments to one another as a part of bail fund and mutual aid activities.

Fighting for pregnant people everywhere (by Gabriel Arkles)

Ashley Caswell, like many others in Alabama, was jailed when she was two months pregnant. She tested positive for meth, so she was prosecuted for "fetal endangerment." Of course jail just made things worse. She couldn't get prenatal care, slept on a mat on the floor and had terrible food. Staff wouldn't take her to the ER when her water broke, so she gave birth in a shower stall. She says, "I thought I'd lose my baby, my life, and never see my other kids again."

Fortunately, she and her baby survived, and she is



taking action. Represented by Pregnancy Justice and two other organizations, in October she sued Etowah County and others for deliberate indifference to her medical needs, intentional infliction of emotion distress, and negligence. Defendants answered the complaint and the case is in discovery.

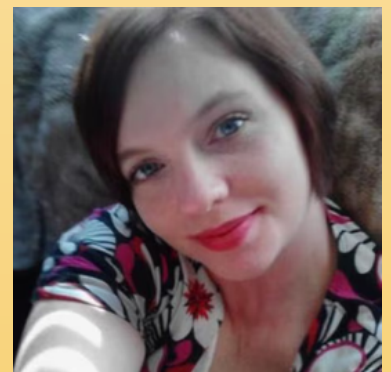


Photo: Ashley Caswell

Community wisdom: Advocacy and healthcare

Below are insights we've compiled from incarcerated and formerly incarcerated trans people and cis women about self-advocacy and healthcare.

Little ole Ms. Blast won!

*Synthia-China Blast,
Sylvia Rivera Law Project*

If you are thinking about bringing your own lawsuit on any subject, the first and most important step is filing grievances and appealing them all the way to the top (CORC in NY).

You must then do your research and find any cases that

resemble yours. Find cases that support you and cases against you so that you know what will be coming at you.

I allowed DOCCS to bury themselves in their hostile denial letters and then I filed a §1983 lawsuit. Within 7 months the Attorney General notified me they wanted to settle the lawsuit. They knew I did my homework and my research. Along the way I reached out to Prisoner Legal Services and I reached out to pro bono attorneys but, the lack of budget always came up. So little ole Ms. Blast, 40 years old, no high school diploma, no

vocational skills, just a passion to win...won! Research the law. It's that simple. You'll be surprised how easy it is to litigate on your own.

The wisest two things

Anonymous, American Friends Service Committee
The wisest thing I did was to file a civil action for denial of medical care which I won in 2002. The second wisest thing I did was to change my voice by reading aloud to myself, the best practice there is, and plenty of time to get the pitch just right.

We fought for it and fought

*Ken Ky Peterson,
Freedom Overground*

When I was incarcerated, I was in a female's facility in South Georgia. And there were other trans guys there. And it was so crazy because we didn't have access to anything. They denied us hormones. We couldn't get boxers, like it was a lot of stuff that was just denied. So we fought for it and fought for it and fought for it. And during that time, Ashley Diamond had just won her case. And that following day or following week, I was stuffed onto a van in the early morning to go see a doctor, the endocrinologist, and they got me started.

But it was so many guys that did not even know this. Like the basic rights that they had. I was able to get a support group started in the prison for the guys. And once I gave the guys that information, a lot of them wanted to get



Ken Ky Peterson

started. And I helped the few that did and then they just kind of passed it along. And I love that because it got to a point to where the guys were just like, you know what, if this can happen for you, I know it can happen for me and I don't have to be scared to say, "Hey, this is what I need."

So I learned everything I could

*Ethan Ybabes
Marshall Project*

At first, I was apprehensive about transitioning. I had heard there were health risks associated with

HRT, and I didn't know if I would ever be able to afford surgery. I didn't feel like I had enough information, so I put it off for a while. Even the doctors they sent me to didn't have a lot of information, since they were used to dealing with male-to-female.

So I learned everything I could from books. A chaplain gave me the book "Becoming a Visible Man" by trans activist Jamison Green. It was like a sacred text for me. I remember highlighting the whole thing. It was the first time I had read someone's story that sounded like mine. I felt connected to the world in a way I never had before, connected to another human being, someone who could fully understand me. Finally.

Community wisdom: Advocacy and healthcare

A Survivor's Story

Laura Purviance,
California Coalition for Women
Prisoners
Reprinted from the Fire Inside

As a survivor of long-term childhood sexual abuse, part of the trauma I've learned has come to impact my life is having panic attacks during or as a result of gynecological exams. My first exam at CCWF, when I was first processed in, was a total nightmare, and subsequently I've refused every exam offered to me. I've had to navigate various forms of manipulation, coercion, condescension, etc. from medical personnel in this prison; during our (still ongoing) lockdowns for Covid, I have been both called into the nurse's line and visited at my cell door regarding exams I never requested no less than 5 times. It

moved beyond feeling disrespectful to feeling predatory. Every time, I reiterated the extent of my trauma and my choice to continue to refuse gyno exams from CDCR, I signed so many medical refusals that twice I didn't have to since it was so close to my previous signed refusal. No one seemed to take note of why I continue to refuse, to the extent that when a nurse came to my cell door to "educate" me about what an exam entails and why it's important (like I don't know), my response was met with the offer to have a woman exam me instead of a man. Anyone who knows anything about me knows that my long-term sexual abuse was at the hands of a woman, my mother, and that I find it offensive to assume only men are capable of such assault. This ongoing conduct only furthers my resolve to not consent to such exams while in prison.

I kept telling them

Natalie, Ostara Initiative

I had a very bad infection, like a yeast infection, and I kept telling them 'something is wrong, something is wrong' and I didn't mean to be, you know, graphic but women, feminine things they go through, stuff like that, and, I kept telling them. I said "I need to go to the nurse, I need to go to the nurse." I went on with this for about a month before they finally decided to get me to the nurse so I could receive treatment.



Resources

Organizations from the community wisdom above.

Sylvia Rivera Law Project

147 W 24th St, 5th Floor
New York, NY 10011
212-337-8550

SRLP assists trans people in NYC jails and NYS prisons.

American Friends Service Committee

1501 Cherry Street
Philadelphia, PA 19102
215-241-7000

AFSC published *Surviving In Solitary: A manual written by and for people living in control units*

Freedom Overground

70 Kathryn Dr
Marietta, GA 30066
admin@freedomoverground.org
Freedom Overground supports TGNC/LGBQIA+ people in or leaving prison in Georgia.

The Marshall Project

Studio Cityspire
156 West 56th Street, 3rd Floor
New York, NY 10019
212-803-5200
News focused on the U.S. criminal justice system. Free print subscriptions for prisoners.

California Coalition for Women Prisoners

4400 Market St.
Oakland, CA 94608
Free subscriptions to *The Fire Inside* for people in prison.

Ostara Initiative

P.O. Box 18603
Minneapolis, MN 55418
612-440-9682
Runs the Minnesota Prison Doula Project and the Alabama Prison Birth Project. Published the *Prison Birth Storytelling Project*.



Art by Michelle C.

Florida Trans Prison Policy (Part 1)

by Rayne Vylette

Prison is not an ideal place for anyone, let alone a transgender or gender variant person. While policies are better than they once were, they are nowhere near perfect. At the time of this writing, there are inmates in California and Washington, and likely other states, who are housed in a facility consistent with their gender identity. There is even a provision in Florida policy now that permits the same, though I'm not aware of it being implemented yet. Many states are improving in compliance with PREA, resulting in access to private showers or private shower time, more

respectful pat-down and strip-search procedures, and individual, informed housing decisions. But, again, these policies are either imperfect or imperfectly implemented everywhere.

A 2019 report by the Prison Policy Initiative said that Delaware had the best policies for trans persons, including conformance with PREA standards, gender affirming health care, and staff training. The report made no mention of any further gender-affirming accommodations such as female clothing or grooming standards, though. While the

WPATH standards remain the most respected guidelines for the treatment of gender dysphoria, the 2019 report indicates that, of the 21 states surveyed, only Delaware even cited the WPATH guidelines and instructed medical staff to use them for guidance. So, while there are states that have shown a lot of improvement, there are no perfect state or federal policies, and it should come as no surprise that Florida is no exception.

To understand current Florida trans policy, I feel it is helpful

to understand how it's evolved over the last several years. Like the 2-part Delaware DOC policy, revised in 2016, the changes in Florida policy were the result of an ACLU lawsuit. For those who don't believe one person can make a difference, I'd like to introduce Reiyne Keohane.

Reiyne was arrested at age 19, about six weeks after beginning hormone therapy, and taken to Lee County Jail. There, she was denied access to her hormone therapy. Eventually, she accepted a 15 year plea deal and was sent to prison, where she promptly requested permission to resume her therapy. She shortly added the request to be able to socially transition as well (social transitioning is a WPATH approved treatment component that includes living in the desired gender role full or part time,



Reiyne Keohane

including clothing, grooming, and cosmetics standards consistent with the person's gender identity). Both requests were denied.

Regarding her hormone therapy, she was told that she hadn't received hormone therapy since July of 2013 and would not receive hormone therapy while incarcerated in the custody of Florida DOC. Florida, like many other states, had a "freeze-frame" policy stating that "Inmates who have undergone therapy for gender dysphoria will

be maintained only at the level of change that existed at the time they were received by the department."

There were additional requests and grievances, as well as multiple suicide attempts and an attempt at self-castration. By any measure, Reiyne was clearly in a state of psychological distress. There was a clear medical need, and it was being treated indifferently.

In February of 2016, Reiyne filed a lawsuit with the ACLU. In September, Florida DOC granted the hormone therapy request, and, in October, they rescinded the freeze-frame policy, but I'm sure neither action had anything to do with the lawsuit.

[continued next page >>](#)

Florida Trans Prison Policy

(continued)

In July of 2017, FDOC issued Procedure 403.012, "Identification and Management of Transgender Inmates and Inmates Diagnosed With Gender Dysphoria." For the first time, Florida DOC had a policy specifically addressing the treatment of transgender and gender variant inmates, including eight relevant definitions (things like Gender Dysphoria, Sexual Reassignment Surgery (SRS), Transgender and Hormonal Therapy were defined.) Policy addressed housing assignments and even included a provision stating that those who had completed SRS

prior to incarceration would, in most cases, be at a site consistent with their reassigned gender.

Also, for the first time, were referenced "Department-approved gender dysphoria sites", which are sites that would house those requiring treatment for gender dysphoria, including hormone therapy. A new, multidisciplinary "Gender Dysphoria Review Team" (GDRT) was created to assess those, who were able to receive a provisional Gender Dysphoria diagnosis at their institution, at a designated site, which, at the

time, was Zephyrhills C.I. for those at men's facilities and Florida Women's Reception Center (FWRC) for those at women's facilities. In this policy, treatment approved could include hormone therapy, psychological therapy, and additional, but undefined, "other treatment and accommodations." New and existing hormone therapy was covered, as was therapy requested to be discontinued by the inmate who later wishes to resume it again. Additional accommodations included how to handle name

changes and permission to use preferred titles, such as Ms., Miss, Mrs., or Mr. in correspondence, and gender neutral address from staff for those inmates who request it.

Still, the new policy stated that social transition would not be permitted, and Reilyn, with her ACLU legal team, continued to pursue the lawsuit. In August of 2018, *Reilyn Keohane vs. Julie Jones* (Julie Jones was the former Secretary of the Florida Department of Corrections) was decided in Reilyn's favor by Judge Mark Walker in a decision that was about 20 pages long (at least my copy was) and which just makes you want to stand up and clap. Florida DOC was permanently enjoined from reenacting the freeze-frame policy, was required to provide Reilyn's hormone therapy, and was required to permit Reilyn to



socially transition, including female clothing and grooming, cosmetics, and female undergarments. On this last order, the Dept. continued to deny social transitioning all the way through to the appeal filed by FDOC. Before that was decided, though, FDOC updated their policy once more.

On November 13, 2019, FDOC updated and renamed procedure 403.012. It is now called "Identification and Management of Inmates Diagnosed with Gender

Dysphoria." This, the current policy, has been changed in some pretty substantial ways. There are now TEN definitions (including the addition of Intersex and Transitioning). The GDRT is more clearly defined now, including their role and responsibility in determining and implementing an appropriate course of treatment.

Zephyrhills C.I. is no longer the designated screening site (it may change again in the future, but at this time, Wakulla C.I. is one such site), and the policy no longer references a specific site (presumably so they won't have to update policy when these things change, as they may in the future). The assessment process has been simplified, but it's still notoriously difficult to get the

Florida Trans Prison Policy

(continued)

provisional diagnosis required in order to be transferred and evaluated by the GDRT.

I've known five people who have sought but been denied a provisional diagnosis. One of us, a girl named Khloe, did eventually receive the diagnosis and was transferred to Wakulla for assessment, but they had a 2011 Gender Identity Disorder (Gender Dysphoria was formerly known as Gender Identity Disorder in the DSM) which they received while in the custody of FL DOC. I feel like they didn't so much receive a new diagnosis, but that the Dept. recognized a former diagnosis.

The biggest changes, though, are regarding accommodations for those who do get the formal diagnosis from the GDRT. The GDRT issues, after their assessment, an "Accommodations Pass" (DC4-643G), which may include the following:

- Providing alternate canteen and quarterly order menus in addition to the regular ones.
- Allowing people to wear cosmetics inside the housing area (but requiring that they be removed outside of it).
- Female hair grooming standards (no mention of male grooming standards for trans men).

- Inmate uniform and undergarments for the gender you identify with, inside and outside of the housing unit.
- Additional accommodations may be requested but are pending review from the GDRT.

What confuses me is that this policy is effective July of 2019, but the appeal text for Reilyn Keohane vs. Julie Jones indicates that the above social transitioning accommodations were still denied in 2020. It seems clear

to me that the policy change, like the initial policy creation, and the rescinding of the freeze-frame policy, are intended to moot the arguments of the lawsuit and to prevent further injunctive legal action. I have no way of knowing whether these policies are currently followed or whether these accommodations are currently available to those housed at the Department-approved Gender Dysphoria sites, because I haven't read any first-hand accounts from those currently housed at one (though I'd like to).

This is a big deal, though, and can have a major impact, but I caution all the girls out there to consider that the grass is not always greener on the other side. I've heard, for example, that Khloe, the one person I know of who got her diagnosis and transfer, is miserable at Wakulla

due to increased incidences of drug usage, gang activity, and harassment. I'm not in touch with her, though, and cannot confirm

whether she truly feels this way or not.

Part 2 will be printed in the next issue



Rally at Chowchilla Valley State Prison for Women, photo by Daniel Arauz



Women & Justice Project coordinated this mural in 2016 with Katie Yamasaki, women who have experienced incarceration, and mothers and children in the Hour Children community. The mural's two vibrant panels depict women on both sides of the walls creating community and claiming their power to transform themselves and the world. Only a portion of the full mural is shown here.



Women & Justice Project coordinated this mural in 2016 with [Katie Yamasaki](#), women who have experienced incarceration, and mothers and children in the [Hour Children](#) community. The mural's two vibrant panels depict women on both sides of the walls creating community and claiming their power to transform themselves and the world. Only a portion of the full mural is shown here..

Legal News Briefing

by Jack Einstein and Gabriel Arkles

Win in Broome County

Makyyla Holland is a Black transwoman, content creator, and star on reality TV show *Valley of the Baddies*. In 2021 she spent 2 months in Broome County Jail in New York, where she experienced abuse, beatings from correctional officers, illegal strip searches, misgendering, and the denial of several medications.

The Transgender Legal Defense and Education Fund, the New York Civil Liberties Union, and Paul Weiss represented her in a case against the county. In late August, Makyyla Holland settled her case. She got the County to make policy changes. Now, they are supposed to house transgender people consistent with their gender identity unless transgender people ask to be placed based on assigned sex for safety reasons. Transgender people also get a say in the gender officer that strip searches them. Several other county jails have changed their policies following the settlement, including Cayuga County. She also got \$160,000 compensation.

“No one should ever have to go through what I went through at the Broome County Jail and I am so grateful that with this new policy hopefully no one else ever will; this is a great outcome,” Makyyla said. “This policy and policies like it can impact a lot of my community, and I will continue to fight to ensure that no other trans person in New York or anywhere has to endure what I did.”

Supreme Court petitions to watch

If you want the Supreme Court to take your case, you have to “petition for certiorari.” That means you file papers (a “cert petition”) explaining to the Court why a question in your case is so important that they ought to review it. Here are a few petitions we’ve had our eye on.

Petitions denied

Johnson v. Prentice, No. 22–693. Is it cruel and unusual punishment to deprive a prisoner in solitary of exercise for three years?

Tingley v. Ferguson, No. 22–942. Does Washington’s ban on conversion “therapy” (attempts to make young people cis and straight) violate free speech?

Hamlet v. Hoxie, No. 23–7. Should Procunier v. Navarette be overruled, ending the qualified immunity defense in conditions of confinement cases?

Petitions granted

Danco Laboratories v. Alliance for Hippocratic Medicine, No. 23–236. Does a group of anti-abortion doctors have standing to challenge FDA approval of mifeprax for abortion? Did FDA approval comply with the Administrative Procedures Act?

Petitions pending

Metropolitan School District of Martinsville v. A.C., No. 23–392. Is it okay, under Title IX and the Equal Protection Clause, for a school district to force trans students to use only restrooms that don’t match their identity?



Photo of Makyyla Holland by Micheal O’Neal

L.W. v. Skrmetti, No. 23–466. Does Tennessee’s ban on gender-affirming care for trans adolescents likely violate the Equal Protection Clause or Due Process Clause of the constitution?

Glossip v. Oklahoma, No. 22–6500. Can a court require a defendant to show by clear and convincing evidence that no reasonable fact finder would have found them guilty to get relief from a violation of Brady v. Maryland?

Grants Pass v. Johnson, 23–175. Is it cruel and unusual punishment to criminalize homeless people for sleeping outside?

If there are specific laws, cases, or protests you would like us to update you on next time, please write and let us know!

Resource spotlight: Florida Prisoner Solidarity

Correction!

In the last issue, we shared the wrong address of the Fight 4 Justice Project. The actual address is: 712 H Street, NE, Suite 8975, Washington, DC 20002. We're sorry for the mistake.

Florida Prisoner Solidarity (FPS) is a carceral abolitionist collective with membership expanding across the state, both inside and outside prisons. Their efforts are focused around the needs of all incarcerated individuals, their care networks, and the people in community with them.

Recently, they organized a campaign for free phone calls for people in Alachua County jails and to stop horrific violence against people in a Lake County jail. They also have supported the campaigns for a ceasefire in Gaza and to #StopCopCity in Atlanta.

They center the experiences and testimonies of the most marginalized comrades inside, specifically Black, Brown, Indigenous, LGBTQ+, the disabled, and those with mental health conditions.

"We believe the tendrils of the prison do not stop at its walls, they snake out through the bars and embed themselves in every aspect of our community's freeworld lives. Our work occupies all of those spaces while continuing to center the voices of those most directly impacted. We see all forms of incarceration as a direct result of white supremacy, capitalism, and empire. We're in this until every cage is emptied."



We believe the tendrils of the prison do not stop at its walls, they snake out through the bars and embed themselves in every aspect of our community's freeworld lives. We're in this until every cage is emptied.

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Gender-affirming care and the law

by Miley S. Fletcher

Institutions where incarcerated folks are not getting proper medical care, the relevant law is the Eighth Amendment of the U.S. Constitution. Under the eighth amendment, you are protected from "cruel and unusual punishment" which includes "deliberate indifference to your serious medical needs." *Estelle v. Gamble*, 429 U.S. 97, 104-05 (1976).

This can be in the form of prison officials not treating serious medical issues, intentionally delaying or denying access to care, or intentionally interfering with prescribed treatments.

There are two parts to this. Generally speaking, any medical condition that someone could

die from or which causes serious pain counts. The second part is that someone has to prove that the staff showed "deliberate indifference." This means that they must have known about the condition and what needed to be done, and then chose not to do it. In most cases, a disagreement about treatment won't count as deliberate indifference. The law only provides a right for adequate treatment, not the treatment someone wants.

However, if the doctor "consciously chooses an easier and less efficacious treatment plan" that can be deliberate indifference. *Chance v. Armstrong*, 143 F.3d 698, 703 (2d Cir. 1998).



So the useful thing would be to show that the method they have chosen does not work and could cause more harm.

Assault or Discrimination

Prison officials have a legal duty to refrain from using excessive force and to protect prisoners from assault by other prisoners. *Farmer v. Brennan*, 511 U.S. 825, 833 (1944). However prison officials are not automatically responsible for all assaults.

Courts apply different standards for arrestees and pretrial detainees. However, in general, people need to show that the force used was not justified by any legitimate law enforcement or prison management need: or completely out of proportion to that need. Inflictions of pain that are "totally without penological justification" are necessarily "unnecessary and wanton" in violation of the eighth amendment. *Hope v. Pelzer*, 536 U.S. 730, 730 (2002). The amount of force that counts as an eighth amendment violation varies based on the situation. As a general rule, the force used by

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Gender-affirming care and the law

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prison staff must not be "de minimis," meaning that people have to show some kind of injury. If there is a legitimate need, courts will not consider even a very serious injury to be an eighth amendment violation. See, e.g. *Whitley v Albers*, 475 U.S. 312, 322-26 (1986) (allowing police to kill in hostage situation).

But if there is no legitimate interest then there is a much higher chance of finding an eighth amendment violation in any injury, regardless of seriousness. See e.g., *Treats v Morgan*, 308 F. 3d 868, 872 (8th Cir. 2002) (observing pepper spray use might violate the Eighth Amendment). The extent of the injury is simply one factor to consider in deciding whether

staff acted "maliciously and sadistically" or in "good faith." Establishing malice doesn't require us to know what's in the officer's mind. Sometimes the actions alone are sufficient to show malice. *Filmore v. Page*, 358 F.3d 496, 509 (7th Cir. 2004) (Defining Maliciously as "intentionally injuring another without just cause or reason."). The official's state of mind can be shown, "from the fact that risk of harm is obvious." *Hope v Pelzer*, 536 US 730, 738 (2002).

Moreover, sexual abuse by corrections officers is a malicious and sadistic use of force. *Smith v. Cochran*, 339 F.3d 1205, 1212-13 (10th Cir. 2003). So is use of force purely based on discrimination, such as homophobia, transphobia, and racism. People have a right to



Photo: Crafty Dame

equal protection of the laws on the basis of race, sex, nationality, and other intersections of identity. This still applies in prison, because equal protection is not inconsistent with proper incarceration but is a core human right. *Johnson v California*, 543 US 499 (2005). Recent case law has clarified that sex discrimination includes discrimination on the basis of being trans or gay. *Bostock v. Clayton Cnty, Ga.*, 140 S. CT. 1731 (2020); *Romer v. Evans*, 517 U.S. 620 (1996); *Obergefell v. Hodges*, 772 F.3d. 288 (2015). The equal protection clause requires the government to treat similarly situated people alike. *City of Cleburne v. Cleburne Living Center*, 473 U.S. 432 (1985). In discrimination cases, it's important to show exactly how people were treated differently.

Name Changes

Eligibility for a name change varies by state and can depend on offenses and charges. If someone has a felony offense or are required to participate in sex registration, that may affect their ability to get a name change. See: e.g. Arizona Rev. [continued next page >>](#)



Gender-affirming care and the law

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Stat. 55.12-501 & 12-602 (imposing barriers for those who have offenses involving false statements or misrepresentation identity); Hawaii Rev. Stat. 574-1 to 574-6 (only allowing name changes for individuals on sex registries if "in the best interest of justice" and "won't adversely affect public safety"). Additionally, some states require a background check or fingerprinting to change your name. See: e.g. 18 Maine Rev. Stat 1-701, Maryland Rule of Special Procedure 15-901 (both giving the judge the authority to require a background check).

In most cases the name change process involves filing a petition to the court, and awaiting a Judge to grant the change. In some states, people may have a right to object to a name change request. See: e.g. Del. Code Ann. 5901-5905 (DOC may object); 36 Guam Code 36012 (anyone may object); Minn. Stat. Ann. 259.13 (prosecutor may object). These cases are handled on a state by state basis. In most cases, the forms are easy to fill out independently, but in some states, legal representation may be helpful when the court requires criminal records.

Gender Affirming Procedures / Items / Support

Gender dysphoria qualifies as a serious medical need,

particularly if someone has mental or physical health effects from dysphoria. While writing a filing, it's important to talk about how it feels to be trans, and how the lack of recognition affects mental health. If someone has any mental health diagnoses that are being made worse by not having a dysphoria diagnosis that is helpful to add. The key thing is to show that there is a condition, diagnosed by a doctor or otherwise very obvious that causes pain or discomfort. *Johnson v. Lockhart*, 941 F.2d 705 (8th Cir. 1991).

Next, it must be documented that the prison officials know about the need – this is where requests, grievances, and that sort of thing come in. It's not enough to show that the staff should have known. The documentation has to show that they actually did know about it and didn't do enough. Finally, it must be shown that prison officials were

indifferent or provided inadequate medical care in light of the need. In most cases, a disagreement about medical treatment is not enough to show "deliberate indifference." However, if it is documented that the doctor consciously chose an "easier and less efficacious treatment plan," that counts as deliberate indifference. *Chance v. Armstrong*, 143 F.3d 698 (2d Cir. 1998). Documentation can also show deliberate indifference if there is a delay in treatment that causes "substantial harm" *Sealock v. Colorado*, 218 F.3d. 1205, 1212 (10th Cir. 2000). Generally speaking, for treatment of trans people, the World Professional Association for Trans Health (WPATH) standards are the standard of care. *De'lonta v. Johnson*, 708 F.3d 520, 522 (4th Cir. 2013). ♦



Photo: Joe Piette

Bystander intervention

by Gabriel Arkles

Have you ever seen someone getting harassed and tried to help? Has anyone ever tried to help you when you were getting attacked? Has anyone ever tried to stop you from hurting someone else?

Some organizations give trainings on “bystander intervention.” They teach people what to do if they see sexual harassment or other violence.

These trainings get results. College campuses that use these trainings have less sexual and dating violence than those that don’t.

But the trainings also have limits. For one thing, bystander intervention only works if there are bystanders. Most sexual violence happens in private. For another, the trainings have not been created by or for people in prison. As far as I know, people haven’t really tried to adapt them to work for people who are incarcerated. But we can work on adapting them together now.

These are the “5 Ds” of bystander intervention, mostly from the organization Right To Be.

Distract



Create a distraction. Ignore the harasser. Don’t talk about the harassment. Instead, try things like this:

- Ask for directions from the person getting harassed
- Start talking to the person getting harassed about something random
- Pretend not to notice what’s happening, but walk between the harasser and the person getting harassed
- Spill or drop something nearby

Delegate

Ask someone nearby to help. You can choose someone in authority, or not. Don’t call the police unless the person getting harassed specifically asks you to.

Say what you see, then ask the person nearby to do something specific. For example, you can ask them to create a distraction while you check in with the person being harassed. Or say what you see, and ask them to help you come up with a plan.

Document



You can take notes or record what’s happening. Only use this technique if someone else is already helping more directly. Afterward, ask the person who was harassed what they want you to do with the recording or notes. If you post it online without their consent, you could cause more harm. But if they want to report what happened, your notes or recording could help.

Delay

After the harassment is over, you can talk to the person who was getting harassed. You can try things like this:

- Say that you saw what happened, and it wasn’t okay. Ask how they are.
- Offer to walk the person somewhere or sit with them for a while.
- Offer to help them report what happened if they want to.

Direct

If you think it would be safe, you can also confront the harasser. You would do that by saying something short and firm. For example, you might say:

- “That’s not okay.”
- “Leave them alone.”
- “Please stop right now.”

Do these techniques work in prison? What would people have to do differently? Have you seen people do these things, in jail or on the street? How have they worked? What would you add or change? Let us know! We’d love to print some ideas in a later issue.



ARC Newsletter Submission Guidelines



Call for submissions: Safety

As we see tremendous violence unfold around the world, we would love to hear from you about safety. What does safety mean? What helps you feel safe? How do you create safety with others? How does the legal system affect violence and safety? We'd love to see your visions for safety, your tips on how to prevent violence, and your ideas on how to advocate for change that will reduce gender-based violence and support survivors.



What to submit:

- Visual art, 8½ x 11 or smaller
- Essays, articles, personal narrative, short stories, and poetry under 2500 words
- Topics:
 - Advocacy tips & legal skills
 - Strategies for ending gender-based violence
 - Strategies for accessing trans healthcare and reproductive healthcare
 - Updates on conditions in facilities and work folks are doing to make change
 - News on law and policy related to gender justice
- Geographic focus: Global, national, Florida, Georgia, New York, or Pennsylvania
- Language: English, Spanish, or Haitian Creole

What not to submit:

- Sexually explicit material
- Anything that encourages riot or violation of institutional rules
- Personal information of an inmate or staff member
- Plagiarism
- Anything racist, sexist, ableist, anti-trans, anti-LGBQ, classist, Christian supremacist, threatening, or hateful
- Personal letters or shout-outs to friends or family
- Anything that you think would put you at risk if people saw it

How to submit:

- By mailing us your work at the address below, you give us permission to publish it in our newsletter and on the internet. We may edit for length or clarity.
- If your work was published before, please let us know when and where, so we can ask for permission to reprint it.
- We will do our best to return originals of visual artwork on request. We CANNOT return original writing.

MAIL TO:

ARC Gender Justice
Attn. Newsletter
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Artwork by Micah Bazant

