

2

# Entitled to Treatment

Medical Care for Transgender Adolescents  
in the Juvenile Justice System

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# Entitled to Transgender Men

## Medical Care for Transgender Adolescents in the Juvenile Justice System

### Overview

Transgender individuals are those whose gender identity, their personal sense of being male or female, does not match the sex they were assigned at birth. Some transgender people describe this as feeling as if they have been born into the wrong body.

Changing one's gender identity is not possible. Unfortunately, many transgender children go without appropriate care and endure such distress and anxiety over the mismatch of their physical bodies with their identities that they suffer from a condition known as gender dysphoria.

Judicial decisions regarding the right to gender dysphoria treatment for transgender youth have been inconsistent. Courts have uniformly held that gender dysphoria is a serious medical condition for which treatment is necessary. Failing to provide it can violate the Eighth Amendment's ban on cruel and unusual punishment.

Medical treatment for transgender adolescents consists of an individualized protocol that can include:






## Legal Perspective

From a legal perspective transgender adolescents in juvenile detention have a right to treatment for gender dysphoria

Courts have held prisons liable for violating the Eighth Amendment's ban on cruel and unusual punishment when they have been deliberately indifferent to objective serious medical needs. A juvenile detention facility that is on notice of a youth's gender dysphoria and denies treatment has created deliberate indifference. Courts have uniformly held that gender dysphoria is an objective serious medical need for which treatment is medically necessary.

Free reframe policies that simply maintain the level of treatment present at intake are not sufficient to withstand legal challenges.



A photograph of a person's back and head from behind. The person has dark hair and a large, intricate tattoo on their upper back. A semi-transparent dark grey box is overlaid on the image, containing white text. The background is a plain, light-colored wall. There are several horizontal, multi-colored bars (resembling a barcode or glitch effect) overlaid on the right side of the image, partially obscuring the tattoo and the person's shoulder.

Untreated gender dysphoria  
may lead to heightened risk of  
suicide, depression, anxiety,  
drug use, and school drop-out.



## Medical Perspective

From a medical perspective it is important for juvenile justice agencies to facilitate appropriate interventions for transgender adolescents because they have a relatively narrow window of time to curtail the development of secondary characteristics.

In addition, refusing timely medical interventions for adolescents might prolong gender dysphoria and contribute to an appearance that could provoke abuse and stigmatization, contributing to psychiatric distress.

## Recommendations

### **Avoiding Legal Liability and Promoting the Health of Adolescents in the Juvenile Justice System**

- Properly assess and treat gender dysphoria among transgender adolescents
- Evaluate healthcare policies and practices to ensure that transgender youth are receiving appropriate care
- Identify regional gender identity clinics or physicians with experience treating gender dysphoria in adolescents. If none are available, juvenile detention facilities should facilitate consultations with a provider experienced in treating gender dysphoria in adolescents.
- Permit transgender youth to continue to receive all transition-related treatment they started prior to involvement with the child welfare or juvenile justice agencies. Permit transgender youth to initiate or advance transition-related healthcare.





## Model Policy for Caring for Transgender Adolescents

Juvenile detention facilities should consider adopting and implementing the following model policy. This policy has been adapted from the Massachusetts Department of Youth Services Guidelines for LGBTQQI and GNC Youth as well as the Philadelphia Youth Study Center's policy on Non-Discriminatory Treatment of LGBT Youth.

### Counseling, Mental Health, and Substance Abuse

- Clinicians shall offer affirming counseling and information to LGBTQI and gender non-conforming GNC youth who are experiencing distress related to their gender identity, gender expression, sexual orientation, or intersex condition.
- All adolescents experience social and developmental challenges. Clinicians shall educate themselves about the additional barriers to mental health faced by LGBTQI and GNC youth. We aim to reduce these barriers with open, non-judgmental, and empathetic communication and help youth to develop their strengths, coping skills, and resilience.
- LGBTQI and GNC youth frequently face stressors related to their gender identity, gender expression, sexual orientation, or intersex condition that other youth do not. Clinicians shall be aware that these stressors may lead to heightened risk of suicide, depression, anxiety, drug use, and school drop-out, and they shall be prepared to treat these issues.
- When youth express a transgender identity or request hormone therapy, they shall be referred to a comprehensive youth gender identity clinic, a psychiatrist with experience diagnosing and treating gender dysphoria in adolescents, or a transgender affirming psychiatrist who consults with experienced gender identity specialists listed in order of preference. All efforts shall be made to obtain an appointment within two weeks of the request. All providers shall follow the World Professional Association for Transgender Health (WPATH) Standards of Care for treating gender dysphoria.

- Counseling sessions for youth shall include individual

## Resources

Endocrine Society , Hormone Science to Health [endocrine.org](http://endocrine.org)

Human Rights Campaign [hrc.org](http://hrc.org) , Identifying clinics and providers

Lesbian, Gay, Bisexual and Transgender Youth in the Juvenile Justice System for the Annie E. Casey Foundation [Nclr.org](http://Nclr.org)

RAD Remed [radremed.org](http://radremed.org) , Connecting to accurate, safe, respectful and comprehensive care

World Professional Association for Transgender Health (WPATH) [wpath.org](http://wpath.org) , Treatment protocol for gender dysphoria included in its Standards of Care for the Health of Transsexual, Transgender, and Gender Non-Conforming People

## Endnotes

1 WORLD PROF'L ASS'N FOR TRANSGENDER HEALTH, STANDARDS OF CARE FOR THE HEALTH OF TRANSSEXUAL, TRANSGENDER, AND GENDER-NONCONFORMING PEOPLE (7th ed. 2012) [hereinafter WPATH Standards], *available at* [http://www.wpath.org/uploaded\\_files/140/files/Standards%20of%20Care,%20V7%20Full%20Book.pdf.2](http://www.wpath.org/uploaded_files/140/files/Standards%20of%20Care,%20V7%20Full%20Book.pdf.2) Statement of Interest of the United States at 1-2, *Diamond v. Owens*, No. 5:15-CV-50 (MTT), 2015 WL 5341015 (M.D. Ga. Sept. 14, 2015) [hereinafter DOJ Statement of Interest], *available at* [https://www.splcenter.org/sites/default/files/documents/doj\\_statement\\_of\\_interest\\_diamond.pdf](https://www.splcenter.org/sites/default/files/documents/doj_statement_of_interest_diamond.pdf).

3 WPATH Standards, *supra* note 5, at 21.

4 SHANNAN WILBER ET AL., CWLA BEST PRACTICE GUIDELINES 58 (2006), *available at* <http://www.nclrights.org/legal-help-resources/resource/child-welfare-league-of-america-cwla-best-practice-guidelines-serving-lgbt-youth-in-out-of-home-care/>.

5 *Id.*

6 MASSACHUSETTS DEPARTMENT OF YOUTH SERVICES, GUIDELINES FOR LGBTQQI AND GNC YOUTH 3-4 (2014), *available at* <http://www.equityproject.org/resource/massachusetts-department-youth-services/e>.

7 PHILADELPHIA YOUTH STUDY CENTER, NON-DISCRIMINATORY TREATMENT OF LGBT YOUTH 4 (2011), *available at* <http://www.equityproject.org/wp-content/uploads/2015/01/Philadelphia-YSC-LGBT-Policy.pdf>.



A person wearing an orange short-sleeved button-down shirt is holding a small, white, ceramic bust of a woman's head. The person's hands are visible, with light blue nail polish. The bust is positioned in front of the person's chest. The background is a plain, light-colored wall. The image is overlaid with several horizontal, multi-colored digital glitch patterns.

Transgender adolescents in juvenile detention have the right to treatment for gender dysphoria.

## Glossary

**GNC:** <https://www.gnc.com/>

**Gender Dysphoria:** <https://www.mentalhealth.gov/learn/what-is-gender-dysphoria>

**Gender Expression:** <https://www.mentalhealth.gov/learn/what-is-gender-expression>

**Gender Identity:** <https://www.mentalhealth.gov/learn/what-is-gender-identity>

**LGBT:** <https://www.gay.com/>

**LGBTQIQ:** <https://www.gay.com/>

**Transgender:** <https://www.mentalhealth.gov/learn/what-is-transgender>

**WPATH:** <https://www.wpath.org/>



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