

**THE LANGUAGE OF THE LAW: INCARCERATED TRANS WOMEN,
HEALTHCARE, AND HUMAN RIGHTS**

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MEGHA VISWANATH

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Faculty Research Advisors:

Dr. Vanita Reddy
Dr. Dinah Hannaford

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ABSTRACT

The Language of the Law: Incarcerated Trans Women, Healthcare, and Human Rights

Megha Viswanath
Department of International Studies
Texas A&M University

Research Faculty Advisor: Dr. Vanita Reddy
Department of English
Texas A&M University

Research Faculty Advisor: Dr. Dinah Hannaford
Department of International Studies
Texas A&M University

This project will identify specific legislation and laws that contribute to the denial of healthcare to incarcerated trans women and identify changes in these existing laws that could improve the experience of this distinct group of incarcerated individuals within the criminal justice system. This project focuses on two specific cases, comparing and contrasting the experiences of Chelsea Manning (a White trans woman) and Ashley Diamond (a Black trans woman of color). This project is situated within a current political climate, in which the former Trump administration has actively eliminated protections and rights for the LGBTQ community while working to increase police enforcement and incarceration over this group.

My research questions seek to examine the limitations and possibilities of framing incarcerated transwomen's lack of access to health care as a human rights issue. I seek to address how the denial of specific forms of health care - hormones, gender reassignment surgery, and

therapy - violate human rights definitions of the right to equality and freedom from discrimination, the freedom from torture and degrading treatment, and the right to equality before the law. I hope to do this by analyzing three specific cases. Furthermore, I hope to explore the gendered nature of human rights, the inclusion of Transwomen and women within human rights frameworks, how both gender and race are treated under this framework and how the category of “human” itself is characterized by the current human rights discourse.

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NOMENCLATURE

- Transgender:** A term for people whose gender identity, expression or behavior is different from those typically associated with their assigned sex at birth. Transgender is a broad term and is good for non-transgender people to use. “Trans” is shorthand for “transgender.” (Note: Transgender is correctly used as an adjective, not a noun, thus “transgender people” is appropriate, but “transgenders” is often viewed as disrespectful.) (National Center for Transgender Equality, 2014)
- Transgender Women/Trans women:** A term for a transgender person who currently identifies as a woman. (National Center for Transgender Equality, 2014)
- People of Color (POC):** Phrase primarily used to describe any person who is not “White”.
- Women of Color (WOC):** Term used to describe female people of color.
- Gender Identity:** An individual’s personal sense of having a particular gender (Oxford Languages)
- Transition:** The time when a person begins living as the gender with which they identify rather than the gender they were assigned at birth, which often includes changing one’s first name and dressing and grooming differently. Transitioning may or may not also include medical and legal aspects, including taking hormones, having surgery, or changing identity documents (e.g. driver’s license, Social Security record) to reflect one’s gender identity. Medical and legal steps are often difficult for people to afford. (National Center for Transgender Equality, 2014)

INTRODUCTION

I will be centering my research on one facet of transgender rights, focusing on the discrimination and mistreatment of incarcerated trans women and trans WOC through the criminal justice system's denial of necessary transgender healthcare needs. For example, the denial of hormones to incarcerated trans women would constitute a denial of trans-specific healthcare needs. I will use intersectional frameworks, specifically through the lenses of gender, race, and class, to analyze how the denial of healthcare to this group could constitute human rights violations. I will show how an intersectional framework helps to reveal the inequities in health care among incarcerated trans women by comparing the experiences of an incarcerated trans WOC to that of an incarcerated White trans woman.

1.1 “Standards of Care” and other professional guidelines for treatment

The World Professional Association for Transgender Health (WPATH) published a “Standards of Care” for treatments that are considered imperative to transgender individuals. Though hormone treatment is recognized and endorsed as a necessary form of medical treatment for patients suffering from gender dysphoria¹ by the Standards of Care, it is still not provided easily to many transgender inmates and continues to be seen as an expensive, vanity cost by many prisons and lawmakers (Stroumsa, 2014). The National Center for Transgender Equality published a policy guide that would increase the safety and respect for transgender prisoners. This guide included a policy statement from recognized medical associations regarding healthcare treatment for incarcerated trans individuals. The statement said “It is the

¹ Psychological distress caused by feeling one's emotional and psychological identity as male or female to be opposite to one's biological sex

overwhelming consensus among major medical organizations—including the American Medical Association, the American College of Physicians, the American Psychological Association, the American Psychiatric Association, the American Academy of Family Physicians, the Endocrine Society, the American College of Obstetricians and Gynecologists, and the World Professional Association for Transgender Health—that transition-related treatments are safe, effective, and medically necessary for many transgender people. These leading organizations have conclusively rejected the notion that transition-related care is “cosmetic” or “experimental” and repeatedly affirmed their position that transgender people should be able to access transition-related care, including hormones and surgeries, that are appropriate for their medical needs” (The National Center for Transgender Equality, 2018).

The American Psychiatric Association even put out a public statement² in 2008 that recognized the necessity of providing transition-related care in institutional settings (such as prisons and jails) and called for these institutions to provide transgender-specific care. Since then, the APA has taken further steps to provide a more accurate understanding of transgender health care needs and terminology. For example, the APA previously used to classify gender identity disorder (GID) as a mental illness prior to 2012. Due to much public debate, the APA then moved towards “differentiating GID from mental illness” and their board approved changing the diagnosis of GID to gender dysphoria, which was a “significant move toward de-pathologizing gender variance” (Stroumsa, 2014). This is important to address since the way that hormone therapy is provided to transgender individuals is held to standards and recommendations from recognized professional groups like the APA and WPATH, and

² American Psychological Association. (2008). Policy on Transgender, Gender Identity & Gender Expression Non-Discrimination.

specifically affects whether and how incarcerated trans women obtain such treatment. The WPATH has listed three criteria used to determine whether an individual is fit to begin hormone therapy. These are “(I) persistent well-documented gender dysphoria diagnosed by a mental health professional well versed in the field; (II) capacity to make a fully informed decision and to consent for treatment; (III) age of majority; and (IV) good control of significant medical and/or mental comorbid conditions” (Unger, 2016).

While progress has been made by prisons to provide better healthcare for transgender populations, healthcare services needed for transitioning³ are still not viewed as a necessary form of healthcare under many state prison laws nor are they uniformly provided across the country. The policies that provide such healthcare also follow the outlined criteria mentioned above and require a physician's approval before hormone therapy can even be considered (as illustrated in the next examples). Only recently, in 2016, the Texas Department of Criminal Justice issued a statement outlining that “the current Correctional Managed Health Care policy, among the most conservative in the nation, ensures that offenders are prescribed hormone therapy only after going through a rigorous process that includes being reviewed by a gender dysphoria specialist, an endocrinologist, and having an affirmative diagnosis. Only then would it be considered medically necessary and require the minimum level of treatment which is hormone therapy. Offenders cannot have gender reassignment surgery which would be considered elective and is not covered under the TDCJ [Texas Department of Criminal Justice] offender health care plan” (Guilfoos, 2016). Furthermore, when KBTX News reached out to local candidates running for

³ “The time when a person begins living as the gender with which they identify rather than the gender they were assigned at birth, which often includes changing one’s first name and dressing and grooming differently. Transitioning may or may not also include medical and legal aspects, including taking hormones, having surgery, or changing identity documents (e.g., driver’s license, Social Security record) to reflect one’s gender identity. Medical and legal steps are often difficult for people to afford.” (The National Center for Transgender Equality, 2014)

seats in the state House, only three candidates responded, and all were against state prisons funding transgender healthcare (Guilfoos, 2016). These actions demonstrate the slow progress that has occurred when it comes to addressing health care inequities in the prison system, but also indicate the fragility of and hostility towards transgender healthcare policies that provide such treatment. It also indicates how gender dysphoria is still largely pathologized from a medical and policy perspective.

1.2 Equal access to transgender healthcare services

I argue that gender-affirming transgender healthcare, such as hormones, gender reassignment surgery, and mental health care, should be legally available to all incarcerated trans women who currently lack these basic treatments. The Federal Bureau of Prisons provides treatment for other basic health care needs that incarcerated female inmates require, such as acne treatment, and dental care that could be seen as “expensive and unnecessary”, but is mandatorily provided, nonetheless. Acne treatment, preventative oral dentistry, and free pads and tampons are provided at the federal level because of the recent Dignity for Incarcerated Women Act and the First Step Act. I want to acknowledge however, that those who do not opt for Gender Affirming Hormone Therapy (GAHT) or other trans-specific healthcare options, should not be viewed as any less trans -- there is no “ideal” trans individual that represents the trans experience. I hope to advocate for those who do require or desire these resources in prison, and that they should be able to access them as easily as non-transgender inmates who utilize other available healthcare resources.

Transition treatment would optimize transgender inmates’ lives similar to how providing other forms of medical treatment for non-transgender prisoners does. Existing literature documenting transgender inmates’ ability to obtain trans-specific healthcare indicate that “more

than 40% of imprisoned transgender or gender nonconforming detainees who were on hormone therapies before imprisonment obtained hormones through alternative means (without a doctor prescription)” (McCauley et al., 2018). Lack of access to insurance when transwomen were in the community⁴ is also an important reason that even fewer individuals can access hormones in prison. Disruptions to hormone treatment can lead to serious health complications for incarcerated trans women who had previously been taking hormones prior to incarceration. A participant in the “Exploring Healthcare Experiences for Incarcerated Individuals Who Identify as Transgender in a Southern Jail” study, commented that she was experiencing hot flashes, and physical changes such as facial hair and peach fuzz growing back and stalling her transition process. In this study as well, several participants could not access hormone therapy while imprisoned simply because they did not have a medical prescription for hormone therapy prior to being incarcerated. Some inmates resort to utilizing illegal or dangerous sources to procure hormones, which ultimately creates the potential for medical complications that go untreated because of improper medical supervision. It also leads to punitive measures taken against them, if they were to be caught with contraband. Still, however, having access to prescribed hormones in the community before imprisonment does not guarantee that these transgender prisoners have access to them once in jail. 37% of incarcerated trans individuals who had access prior to their incarceration reported that they were denied hormone therapy once in prison (USTS, 2015). Suddenly stopping hormone treatment can have significant medical consequences such as those that occurred in the case of *Fields v Smith* (2005). In this case, the plaintiff was denied hormonal therapy under the inmate Sex Change Prevention Act (Act 105). In 2005, the Wisconsin

⁴ When describing incarcerated trans women or transgender individuals being “in the community” it is referring to their experiences outside of a correctional setting, generally prior to incarceration.

legislature passed a law that prevented doctors from “deciding the best course of treatment for transgender people by denying them access to any type of hormone therapy or sex reassignment surgery while in state custody” (ACLU, 2011). The district court held that the plaintiffs suffered from a serious medical need (Gender dysphoria, which was called Gender Identity Disorder (GID) at the time), and that the defendants deliberately harmed the plaintiffs by not providing the appropriate healthcare due to Act 105.

1.3 Gender Based Violence (GBV) in prisons and its relation to healthcare provision

I also hope to highlight the criminal justice system’s perpetuation of gendered violence and the lack of LGBTQ-friendly healthcare policy and practices. Gender Based Violence (GBV) is any violence “rooted in gender-based power inequalities and gender-based discrimination” (Gilles, 2011). The current legal system plays a large role in furthering gender-based violence towards trans women that transgender individuals are already subject to outside of the prison system. One such example is the often-discussed issue of placement into prison facilities that do not match trans women’s gender identities. Most prison facilities house inmates based on their genital characteristics or their gender assigned at birth. This leads to many trans women being housed in men’s prisons, putting them at high risk for abuse and violence and simultaneously violating the Prison Rape Elimination Act that was passed in 2003 (National Center for Transgender Equality, 2018). I will further expand upon this act and its significance in the following section on gender and prisons. Other forms of physical abuse faced by trans women include being forced to shower with male inmates who verbally and sexually abuse them and groping during strip searches by correctional personnel (Burns, 2018).

I also want to extend my argument to include the idea that a form of GBV can occur through the denial of trans specific healthcare as well. By withholding or denying healthcare to

trans women in prison, the prisons continue to perpetuate gender-based discrimination against these women by creating an emotionally upsetting and physically distressing situation. Specifically, when trans women lack the access to hormones, many of them undergo physical changes that affect their appearance and exacerbates or increases the possibility of them experiencing gender dysphoria and mental health issues. A trans woman by the name of Miss Major, spoke about her negative reactions and feelings when her estrogen prescription was withheld from her when she was incarcerated years earlier in a New Jersey prison. She stated that "You begin to feel like you might as well just die...It's like a roller coaster ride without anything to hang on to. You have no control over what's happening to you. It's devastating. You don't know who you are anymore," (Briggs, 2013). In another instance, a trans woman named Janiah Monroe, who had been diagnosed with gender dysphoria by the Illinois Department of Corrections was still denied the necessary healthcare she needed. She then tried removing her own genitals in a desperate attempt to stop the flow of testosterone in her body (Bedi., et al, 2019). GBV includes emotional abuse, which is demonstrated through these inmates' anecdotes, and the denial of trans specific healthcare should be seen as a significant form of harmful GBV.

1.4 Transgender individuals and their multi-faceted identities

The United States' prison system was not created with trans subjects in mind. Thus, the legal language governing the management of prisons fails to recognize gender outside of biological definitions and naturalizes gender as binary and fixed. This means that subjecting transgender individuals, and especially trans women, are subjected to incorrect facility placement and vulnerability to abuse. This group's negative treatment by the legal system and the high rates

of discrimination they face in daily life are only exacerbated their class, race, gender, and sexuality.

1.5 Legal aspects

Many states still lack laws that do not directly require accessibility to hormones, gender reaffirming surgery, or mental health care for incarcerated trans individuals. WPATH's "Standards of Care" are international standards, and more and more medical practitioners are moving towards models of care "that recognize gender diversity as an identity, not a pathology, and that respect trans people's agency and expertise" (Oberholtzer, 2017). Yet 24% of trans individuals nationally have reported needing to teach their medical providers about their trans health care needs (USTS, 2015). In 2017, the Prison Policy Initiative (PPI) published their findings of a review they conducted over current transgender/gender non-conforming prison policies in 21 states.⁵ This review reveals that 12 out of the 21 states' prison policies do not provide access to hormones, and only four states provide hormones if the inmates had been prescribed hormones before incarceration. Delaware is noted as the only state that provides bottom surgery⁶ and none of the 21 states provides top surgery.⁷

I aim to also pinpoint specific laws that allow for the systematic and legal discrimination of incarcerated transgender women through the issue of lack of healthcare access, including

⁵ "The 21 states represented here are those that are available online and without a FOIA request; further research should include a review of all 50 states' policies." (Oberholtzer, 2017) The 21 states included are Alabama, Alaska, Arizona, California, Delaware, Georgia, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Missouri, Nevada, North Carolina, Oklahoma, Pennsylvania, Tennessee, Texas, Vermont, Virginia and Washington.

⁶ Surgery performed on one's genitals as part of gender reassignment (Oxford Dictionary). Often uses term "Sex reassignment surgery"/"SRS" or just "surgery" (Oberholtzer, 2017)

⁷ A type of gender confirmation surgery in which a person's breasts are removed or augmented to match their gender identity (Merriam-Webster, 1992). Used in Prison Policy Initiative to describe specifically breast implants and mastectomy procedures.

access to talk therapy and mental health services (psychotherapy⁸), as well as hormone therapies and sex reassignment surgery.

According to “LGBTQ Behind Bars,” a guide provided by the National Center for Transgender Equality, prison facilities still place healthcare decisions related to transgender inmates in the hands of administrators, rather healthcare providers, leading to the adoption of blanket policies that deny providing hormone therapy and other transition-related care (National Center for Transgender Equality, 2018). As a result of this lack of care, trans inmates face added mental and physical stress that could potentially lead to self-harm in an already high-stress and anti-LGBTQ environment. Incarcerated trans women already face higher rates of physical and sexual assault than other inmates. The U.S Transgender Survey’s 2015 report recorded that Transgender individuals overall are ten times more likely to be sexually assaulted by other inmates and five times as likely to be sexually abused by prison staff (USTS, 2015).

I argue that preventing incarcerated trans women from receiving proper health care could be seen as a form of cruel and unusual punishment. There have been rulings made by several federal courts⁹ that acknowledges this. These rulings took into account expert medical advice along with the Standards of Care published by The World Professional Association for Transgender Health. They also argued that the denial of such forms of healthcare to trans women could be seen as a violation of the Eighth Amendment (Stroumsa, 2014). The Eighth Amendment states that “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted” (US Const. amend. VIII).

⁸ Psychotherapy, or talk therapy, is a way to help people with a broad variety of mental illnesses and emotional difficulties. Psychotherapy can help eliminate or control troubling symptoms so a person can function better and can increase well-being and healing (American Psychiatric Association)

⁹ *Fields v Smith, Adams v Federal Bureau of Prisons, Kosilek v Spencer, O’Donnabhain v Commissioner.*

Access to such fundamental healthcare needs, I argue, can fall under basic human rights needs, as well, as these individuals are denied basic treatments needed for their survival. The access to such healthcare needs, I argue, should fall under federal and state prison jurisdiction to be required for all transgender inmates who should need it. The National Center for Transgender Equality collaborated with many domestic transgender rights organizations across multiple states to compile a list of police policies towards enhancing incarcerated transgender individuals' lives. This revealed that only four out of sixteen holding facilities adequately address hormone needs for transgender inmates, while none of the departments mandated trainings that would sufficiently educate police staff about appropriate interactions with incarcerated transgender individuals. Training correctional staff to be more aware of transgender inmates' situations and how to appropriately interact (such as not deadnaming,¹⁰ using their preferred pronouns, etc.) will provide an emotionally safer space that would lessen the impacts of gender dysphoria and other mental illnesses. Training would also create more well-rounded correctional officers who would be receptive and understanding towards the needs of trans women and transgender inmates. Inmates might feel more comfortable asking for trans specific health care without feeling as much fear or shame too, and a greater sense of respect and dignity for the trans inmates might be reciprocated from the officers if they had the appropriate training. This fear and shame are part of a larger structure in which transwomen are denied the health care treatment they require.

¹⁰ Deadnaming refers to when a transgender individual is called intentionally or unintentionally by their pre-transition or birth name.

1.6 Case Studies

My project aims to build upon the existing feminist thought and legal discourse to show how this population's access to healthcare differs from non-transgender inmate's healthcare access and how their experiences with transgender healthcare in the criminal justice system as incarcerated trans women are impacted by their intersectional identities and the law. Specifically, I analyze two cases of transgender women who were incarcerated in 2010 and 2012 respectively, Chelsea Manning and Ashley Diamond. I then compare and contrast Manning's and Diamond's experiences as trans women requiring trans specific health care services while incarcerated.

Chelsea Manning is a White trans woman who served in the army and was prosecuted as a whistleblower in a high-profile case for leaking classified government information. In August 2013, shortly after she was convicted of 17 out of the 22 charges against her, she publicly announced her transgender identity. The military prison replied that they do not provide any form of trans specific healthcare,¹¹ despite their confirmed diagnosis of her suffering from GID (ACLU, 2017). Ashley Diamond is a Black trans woman who was convicted of a nonviolent crime and was placed in a series of high security male prisons, even though she had transitioned and been on hormones for years prior to her arrest. She had been living as her real gender prior to conviction but was abused by the Georgia Department of Corrections (GDC), denied critical hormone therapy, and placed in solitary confinement as a solution for the abuse she was facing in prison.

1.7 Differences in treatment of trans WOC

Previous scholarship has documented the prevalence of both physical and verbal violence towards the trans community, and how that violence disproportionately affects trans

¹¹ Specifically refers to hormone therapy or sex-reassignment surgery in this instance.

people of color (POC). It incorporates the comparison of transgender WOC's statistical incarceration to White transgender women's incarceration rates and studies the effects that their intersectional identities play into their treatment. In a study conducted over "Homicide Rates of Transgender Individuals in the United States: 2010-2014," young Black or Latinx trans woman/trans feminine individuals had comparatively higher rates [as victims] of homicide than ciswoman/cis feminine counterparts (Dinno, 2017).¹² Transgender individuals who are currently in the criminal justice system and forced to face the consequences of outdated, exclusive prison healthcare policies,¹³ as well as being in a prison system that is harshly anti-LGBTQ suffer from increased mistreatment. One prime example of this mistreatment is the forceful placement of trans women in a gendered prison that does not align with their gender identity. According to a study done over "Racial/Ethnic Disparities in History of Incarceration, Experiences of Victimization, and Associated Health Indicators Among Transgender Women in the U.S" published in the U.S National Library of Medicine, Black, and Native American or Alaskan Native transgender women were 19.7% more likely to be incarcerated than White transgender women; and Black, Latina, and mixed-race women are more likely to experience victimization (such as verbal and physical abuse) while incarcerated (Reisner, Sari L et al., 2014).

This larger body of work addressing systemic legal inequalities aids in my research because it provides evidence of increased discrimination against incarcerated trans women and specifically trans WOC. Incarcerated LGBTQ individuals should not be further cruelly punished by the state for their gender identities by being denied adequate transition treatment. Discourse

¹² Original data used in this study sourced from Transgender Day of Remembrance and National Coalition of Anti-Violence Programs data.

¹³ Such as Virginia's Operating Procedure 0.38.3, 720.2 and 730.2, along with Georgia's Standard Operating Procedures Policy 208.06 that are just a few policies that do not adhere to WPATH standards and do not provide access to hormones, psychotherapy or sex reassignment surgery (Oberholtzer, 2017)

surrounding what it means to be “criminal” in the United States has been racialized and constructs communities of color as inherently more criminal and deviant and is in part defined by non-heteronormativity as well. The way that the legal system views rights and oppression is heavily contingent upon historical and ongoing structures of inequalities and perspectives on race (Vitulli, 2010). Bodies that are outside the heteronormative standards and are perceived as further away from Whiteness have less access to legal rights, as rights are naturally understood to “belong to certain bodies and not to others” (Vitulli, 2010). Moreover, it shows that these individuals' race and gender identities play a central role in the treatment they receive by the justice system.

1.8 Human rights issue

Lastly, my research uniquely contributes to the ongoing discourse about the denial of healthcare treatment for incarcerated trans WOC by analyzing whether prisons are held to human rights frameworks and standards. If so, could this denial of health care be viewed as a human rights violation? If gendered forms of health care or lack thereof can be framed as human rights violations, then what is the definition of humanness and humanity under a human rights framework? Are such definitions inclusive of incarcerated transgender women (and trans women of color (WOC)), and if so where is their place within these frameworks, and where do the intersections of race and gender fall within these frameworks?

2. GENDER IN PRISONS

2.1 History

In this section, I want to preface the definition of transgender within the context of my essay, and terms relating to the incarcerated transgender health care experience that I felt were important to define in order to provide a better understanding of my argument.

Many previous studies have documented the history and growth of United States penal institutions. By acknowledging and scrutinizing certain past policy implementations, we can form a better understanding of why prison healthcare and gender placement policy are woefully deficient in addressing the realities of trans women's lives, and why incarcerated transgender individuals are being harmed and discriminated against within this system.

Most of the literature in prison histories has been written by men and from the male perspective, and also focuses on specifically male prisoners. While this may seem like an insignificant issue, it has had significant influence on "the nature and development of penal institutions" (Rafter, Nicole Hahn 1985).

The prison system was founded on the ideals of masculinity and punishment, and the individuals who created prison policies lacked the insight to create a system that appropriately addressed reform and punishment from differently gendered perspectives (Rafter, Nicole Hahn 1985). The modern state prison system as we know it was established in the early nineteenth century, during a time when femininity and the female were considered the "lesser gender" and certainly not included in discussions around institutional reform (Rafter, Nicole Hahn 1985). After the Revolutionary War, states began assuming responsibility for felons' punishment and established jails that failed to appropriately care for and rehabilitate inmates, so a new call for

reform occurred in 1870. This was when striking differences in male and female prisons occurred. Male prisons focused on reform that indoctrinated the concept of “manliness” which included vigorous exercise and training for jobs open to men, whereas women’s prisons focused inculcating domesticity and femininity because it was thought that they were criminals solely because they were not successful at being “true” women. Reformers however believed this reformation was not the best way to reform women, so they created the cottage plan. This plan dictated that women's prison institutions would exist in rural areas and be run like a household with a “head mistress” as their disciplinarian and teach them “womanly” skills of sewing and home making (Rafter, 1985). The idea behind all this is that women were essentially infantilized, and their disciplining by the state reflected this. They were viewed as meeker and weaker in comparison to men, who were in prisons in which discipline took the form of harsh physical punishment. An important observation to make on women’s discipline, is that one form of punishment was to send women to their “rooms” and denied meals, similar to how children are punished at home (Rafter, 1985). This form of discipline can be seen as a precursor to modern-day solitary confinement, and a common way of punishing trans women in men's prisons.

In David Rothman’s 1971 work titled “Discovery of the Asylum” he fails to think about how prisons were designed in a way that perpetuated masculinity as part of systematic “reform” and stated that “The doctrines of separation [solitary confinement], obedience, and labor, became the trinity around which officials organized the penitentiary.” By stating this, Rothman reveals that he had neglected to include women who were also housed in prisons at the time in his analysis, because if he had, he would have realized that the “trinity” he describes are very differently experienced by female inmates (Rafter, 1985). They lacked opportunities to labor, and were provided little separation, which as Rafter concludes is an important concept to note,

because it would have given Rothman the possibility to realize in his conclusion that “the discipline of male convicts was shaped by notions of masculinity - concepts of manhood and beliefs about what men (though not women) could endure” (Prison officials often aggravate misplaced transgender women’s problems by throwing them in solitary confinement as a quick fix to the harassment and assault they endure because of the poor initial choice to place them in men's prisons. Solitary confinement in men's prisons has thus been a “solution” that prisons have used to keep trans women placed in men's prisons. In 2015, a survey conducted by the prison abolitionist group Black and Pink stated in their key findings that 85% of the LGBTQ respondents have “been in solitary confinement at some point during their sentence and that approximately half have spent 2 or more years there” (Lydon, Jason et al., 2015).

Transgender inmates are sent to solitary for a number of reasons often involving disciplinary action that relates back to their gender identity in some way. Some prisons categorize items that trans individuals use to identify themselves with their gender as contraband and use isolation as a punitive lesson for doing so. One instance of this was in Nevada when an inmate created a makeshift bra out of socks and tank top in order to reaffirm their gender identity but was instead put into isolation for creating a gender-affirming item that was deemed as contraband (Manson, 2019). Another reason that prison staff implement isolation is when a transgender woman may be assaulted or harassed and fights back in self-defense. Generally, solitary confinement is used as a “punishment for gender expression, sexual activity, or for filing grievances” (McCauley, Erin et al., 2018).

This usually involuntary¹⁴ solitary confinement comes with little to no judicial or administrative oversight. Solitary confinement consists of long periods without human

¹⁴ Although sometimes voluntary as some trans women accept this as a safer place to exist within a prison.

interaction and proper access to gender reaffirming programming or resources, and the loss of visitation and recreation privileges. In relation to trans women, however, it is used as a punishment for gender variance. This ties back to the formation of prisons because the idea behind instituting reform and punishment for women inmates was based on what was believed at the time would produce moral, domestic and obedient females.¹⁵ State criminal justice systems took on the responsibility of punishing women who failed to conform to “prescriptions for the proper way women should behave” (Rafter, 1985). Women who were criminalized, were those identified as partaking in immoral acts such as intoxication, vagrancy, fornication and “lewd and lascivious carriage” (Rafter, 1985) that were viewed as antithetical to ideal femininity. This is significant because most of these women were only misdemeanants and lesser offenders and did not pose a significant threat to society and yet were criminalized because they did not conform to the societal idea and standards of what a “true” heterosexual, Christian, White women should be. Men could also not be incarcerated for this same behavior, creating a gendered double standard (Rafter 1985). Incarcerated trans women are seen as deviant when held to these standards, as they vary greatly from the heterosexual norm, and many are trans WOC too, where they are criminalized further due to racial bias and prejudice that causes society to view them as threatening. Trans WOC, as previously mentioned, have higher documented rates of incarceration than any other group.

These biases and standards are reproduced in legislation, and as such have created institutions that view incarcerated trans women and trans WOC through these same heterosexual and heteronormative, White lenses.

¹⁵ Much of this idea of the “true” women comes from Christian ideals.

3. PRISON AND PRISON POLICY

3.1 The significance of the PREA

The most relevant policy regarding incarcerated trans women's treatment in state prisons and their ability to access appropriate healthcare is the Prison Rape Eliminate Act or the PREA, passed in 2003. The PREA was a broad reformation act that was created with the intention of acknowledging the widespread rape and sexual misconduct occurring in prisons nationwide (Oberholtzer, 2017). In 2009, the National Rape Elimination Commission recognized transgender individuals as a high-risk group facing violence and abuse while incarcerated, and in 2012 provided narrowed standards under the PREA focused on the protective care of inmates and outlined some specific guidelines in regard to the trans population. The standards are as follows:

- Individuals must be screened upon intake for risk factors for experiencing abuse, including whether they identify as trans.
- When an individual identifies as trans, the facility must assess them on a case-by-case basis to decide housing (i.e., whether they belong in a men's or women's facility), and an individual's views regarding their own safety must be seriously considered in housing decisions.
- Trans people cannot be placed in segregated housing or solitary confinement for their own protection without their consent, or unless it is the only available option.
- Trans people must be given the opportunity to shower separately.

- Correctional staff may not physically search trans people to determine their genital status; all examinations must be conducted by a medical professional as part of a broader medical exam.
- Facilities must train correctional staff in how to search and communicate with trans people respectfully.
- When reviewing an incident of rape or sexual assault, staff must review whether the incident was motivated by various factors including gender identity and/or transgender status.¹⁶

Unfortunately, many prisons clearly do not adhere to these standards of care set by the PREA, as numerous incidents of abuse against trans prisoners and especially trans women are reported annually. They also fail to provide any standards specific to medical needs or health care, which is an existing gray area when it comes to prison policy and enforcement. Having specific standards regarding trans health care provisions within the PREA would increase accessibility to hormones, psychotherapy and sex reassignment surgery for trans inmates, as there would be a better baseline for what “basic” trans health care would look like and would avoid the current ad hoc nature of trans health care. Currently, health care laws are unique to each state, which creates uneven accessibility to important health services. Additionally, providing an oversight committee or service where prisons would be under stricter scrutiny (such as in-person monthly compliance checks) to adhere to PREA standards would provide a safer environment for incarcerated trans women, and be helpful in the reduction of incidents of all forms of abuse and harassment from the prison and its correctional staff.

¹⁶ Sourced from the Prison Policy Initiative (Oberholtzer, 2017)

4. CHELSEA MANNING

4.1 Who is Chelsea Manning?

Chelsea Elizabeth Manning is a transgender woman who was previously serving in the army as an intelligence officer when she was court-martialed for violating the Espionage Act for leaking 750,000 classified military or diplomatic documents and sensitive information to WikiLeaks. She was imprisoned from 2010 to 2017 when her prison sentence was commuted. However, in 2013 Manning publicly acknowledged her transgender identity and began a request for hormone therapy while in prison. However, early at the start of this case, Manning's worries over her crime did not concern whether she would be caught and punished for the crime she would be committing but rather that she would have pictures of her "plastered all over the world press . . . as [a] boy . . ." (Review of 16 N.Y. City L. Rev. 319). This is just one example of the emotional and mental turmoil that transgender individuals face when they are not able to present in a way that presents in line with their gender identity. This case in particular gained a vast amount of national media attention because Chelsea's position within the army implicated her in national security.

However, the importance of her case to the focus of this paper lies in Manning's second resurgence within the media. Years after she was convicted, she made headlines once more as she filed a lawsuit in federal court after she was denied the hormone therapy, she wished to have in order to start her transition while in prison. As a trans woman, the media attention created further mental distress and gender dysphoria as she was continuously misgendered and deadnamed both before and after she came out as a trans woman and as she was pursuing her

lawsuit. Her legal representation from the ACLU noted how high Manning’s risk for self-mutilation was due to the extreme gender dysphoria she was experiencing (Nottingham).

In *Manning v Hagel, et al*, the ACLU then sued the Department of Defense in 2014 for their failure to provide the necessary medical treatment for her gender dysphoria. The complaint was “accompanied by a motion for preliminary injunction demanding that Ms. Manning be provided hormone therapy, permission to follow female grooming standards, and access to treatment by a medical provider qualified to treat her condition” (ACLU, 2016). The military eventually awarded Manning the necessary hormone treatment. Yet she was still denied the ability to follow female grooming standards. As such, Manning began a hunger strike in retaliation for being refused further gender transition medical needs, specifically sex reassignment surgery. Her hunger strike ended in 2016, when the military assured her that this service would be provided. Manning’s access to the surgery was also a first for a transgender inmate (ACLU, 2017).

Ultimately, Manning only served seven out of the 35 years of her initial sentence, as the Obama administration commuted her sentence due to widespread support from activist groups, letters from every major LGBT organization,¹⁷ and celebrity protest and petitions. She was released on May 17, 2017, and remains free currently.

¹⁷ American Civil Liberties Union, BiNet USA, COLAGE, Family Equality Council, FORGE, Inc., GLBTQ Legal Advocates & Defenders, Immigration Equality, KhushDC, Lambda Legal, League of United Latin American Citizens, Los Angeles LGBT Center, National Black Justice Coalition, National Center for, Lesbian Rights, National LGBTQ Task Force, National Organization for Women, Pride at Work Transgender Law Center

5. ASHLEY DIAMOND

5.1 Who is Ashley Diamond?

The day is June 26th, 2015. A historic day for the LGBTQ+ community as it signified the final ruling in the *Obergefell v Hoge*s case, which ruled that the fundamental right to marry was guaranteed to same-sex couples by the Equal Protection Clause and the Due Process Clause. This was a day that lesbian, gay, and transgender individuals would be closer to having the same rights as their heterosexual “normative” counterparts. However, that same day Ashley Diamond, a Black transgender woman was kept in a Georgia prison, sitting solitarily in a prison cell. She had originally been charged with burglary and attempted escape during arrest in 2012, which sentenced her to ten years of prison time.

Diamond’s trans identity had been a source of contention throughout her life. At fifteen years old she was disowned by her family and after being diagnosed with gender dysphoria, was forced to work to support herself as a child. However, the job searches ultimately proved futile as her trans identity interfered with her ability to find employers willing to hire her. In 2011, her boyfriend at the time then convinced her to sell a stolen saw at a pawn shop, which led to her arrest on burglary charges, and she was given a 10-year sentence. Her story is one of many transgender individuals who lack proper widespread resources and support in their communities, and who are criminalized and misunderstood by both the law and society.

During Diamond’s time in prison, she was housed in a series of maximum-security male prisons, where she repeatedly endured sexual assaults from other inmates, and where her requests for help were ignored by correctional staff (Center for Constitutional Rights, 2020). The Georgia Department of Corrections (GDC) even responded to Diamond’s complaints by stating

that they could not protect transgender inmates. Diamond was also denied critical hormone therapy by the GDC, even though she had been on hormones for 17 years. She endured painful physical transformations due to her access to hormones being denied and attempted self-mutilation and suicide.

On August 5th of that same year, she was placed in mandatory solitary confinement by the prison as the “solution” to alleviating the attacks and assaults. However, this “solution” is not foolproof and does not solve the harm of poor mental health. Diamond suffers from the mental and physical manifestations of gender dysphoria, along with the post-traumatic stress induced by the assaults and taunts, all of which were exacerbated because of the prison’s choice to place her in a male prison from the start. (Mercer Law Review, Vol.67, Page 707) Diamond stated that “I am locked down in a solitary cell for 24 hours a day, without access to light, exercise, or running water. Twenty-four hours a day I battle a debilitating and agonizing desire to end my life because being forced to change my gender and live as a male makes me feel like I am already dead” (Transgender Inmate Ashley Diamond Released from Georgia Prison, supra note 4). Her comment reveals the oppressive and unsafe nature of prisons that create a high-stress and negative environment for transgender inmates.

As a result of this, Diamond brought a case against the GDC for the cruel treatment she had endured and demanded that the GDC prisons provide safe placement and medically necessary care for trans inmates (Center for Constitutional Rights, 2020). With the backing of the Department of Justice (DOJ), she reached a landmark settlement with the GDC that led to tangible policy reform that would allow trans inmates to receive hormone therapy and adopted a sexual assault policy that would align with federal standards better. However, as reflected in

many instances, the practice of implementing and enforcing policy changes and trans policy is largely lacking.

Diamond was arrested again in August 2019 on parole violation for failing to appear in court for a hearing. Correctional officers used excessive force that left physical damage to her teeth and skin. This form of police brutality replicated the types of sexual assault and abuse she had faced both inside and outside prison prior to her landmark settlement. She was once again housed in a men's prison and is again being denied vital trans-specific healthcare. Diamond has filed a second lawsuit against the GDC for her immediate placement into a female prison and access to the appropriate healthcare. The current state of this second lawsuit is that the Justice Department is not "taking a position on the facts of Diamond's case" (Aspegren, 2021). The Justice Department does note that the Eight Amendment of the U.S Constitution requires prison officials to "conduct individualized assessments that lead to reasonably safe conditions of confinement and adequate medical care for all prisoners" (Aspegren, 2021), and agreed that not housing inmates in facilities that align with their gender identity poses a serious harm to their safety. The lawsuit has not been finalized yet, but a hearing for Diamond's requests to be moved to a women's facility and provided with the necessary medical treatment is set to occur in May 2021 (Aspegren, 2021).

6. COMPARING MANNING AND DIAMOND'S CASES

While Manning and Diamond had different reasons for their initial incarceration, both lawsuits address their respective prison facilities for their abusive treatment and denial of trans health care needs. Their cases, however, open a deeper discussion about the role of race in the criminalization and incarceration of trans women.

Since her release in 2017, Manning has been praised as a trans icon and activist and became a speaker at events around the country. Her name has consistently been a source of both tension and inspiration for the media, and Manning benefitted from her media celebrity and notoriety. She was also seen in 2018 at the “Night for Freedom” event, a gathering of alt-right- and right-wing individuals, where individuals like the Proud Boys founder attended. She was called out by many LGBTQ individuals and leftists for her choice to attend and defended herself by stating that she wanted to “infiltrate” enemy territory, “[crash] the fascist White supremacist hate brigade party,” and that she learned in prison “that the best way to confront your enemies is face-to-face in their space” (Oppenheim, 2018).

In Diamond’s case however, even though her case also marked a landmark settlement, not much changed. After her initial release in 2015, she went back to Rome, Georgia, where she was tormented and abused by local law enforcement officers due to her recognition as a trans activist and as a transgender individual herself. In 2018, she was given a ticket for a broken taillight. Her fear of returning to prison and the treatment she would be subject to there caused her to state she “would do anything” (Center for Constitutional Rights, 2020) to avoid returning to jail. The officer mistakenly understood this as a sexual offer and charged her with bribery.

This is just one example of how Black trans women's experiences post-incarceration still reflect the racial differences. These differences can be explained below.

Manning is a White trans individual and thus enjoys the privileges and respect conferred upon White passing trans people. Her ability to rise in fame does partly rest in her ability to be seen without certain racial biases alongside her trans identity - biases that are attached to trans WOC, especially Black trans women. For instance, in Diamond's anecdote regarding the bribery charge, the police officer immediately viewed Diamond as a sexual being and her offer "to do anything" was misunderstood as a sexual proposition. Black bodies have been sexualized due to systems of power and oppression that stem from the histories of slavery and colonialism. Lynn Segal's research in the 1990's on masculinity, demonstrated how "the regulation of bourgeois masculinity was constituted in the "othering" of the female, the homosexual, and the black male" (Battle et al, 2008). Black trans women possess the identities of the female, at one time possessed the identity of black male (and physically face the consequences of this identity depending on if they chose to transition and where they are in their transition and gender expression process) and embody queerness (not always homosexuality). Segal's analysis of "slavery, capitalism and European encroachment onto African soil reiterates the gender and sexual assumptions cast on to black bodies" (Battle et al, 2008). Modern society still exemplifies the long-lasting ideas of sexualizing black bodies, especially female bodies, and has expanded to include trans women, as well.

Manning's ability to even attend an event like "Night for Freedom" speaks to the vast differences that race plays in incarcerated trans women's experiences. Diamond frequently feared for her life, and multiple times attempted suicide while in prison because she could not deal with the reality of her interactions with her enemies. Whereas in Manning's case, she had the

nonchalant ability to walk in and out of a far-right wing party with hate group founders and people who believed her gender identity was repulsive and that her treason was unforgivable and remain unscathed. Diamond was not even protected from everyday police violence, as in her experience with the broken taillight.

CONCLUSION

The eighth amendment is the determining federal law structuring both women's cases of whether the denial of transgender healthcare procedures and needs can constitute a human rights violation. In a Supreme Court ruling in 1976, the *Estelle v. Gamble* case determined that if an incarcerated prisoner is restrained and unable to care for themselves, the State Department must provide the appropriate healthcare and protection for the inmate (Cleveland State Law Review, *Review of Gender euphoria in the jailhouse: a constitutional right to hormone therapy*). One such instance of restraint and inability to care for oneself is when transgender women are placed into solitary confinement as I detailed in a previous section.

The United Nations (UN) serves as an international body that oversees and upholds its member countries to specific standards of human rights. These laws have been codified in the Charter of the United Nations along with the Universal Declaration of Human Rights. In this, the UN has clearly defined "Human rights [as] rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture..." (United Nations).

While the Manning and Diamond cases have set precedent and laid the groundwork for incarcerated transgender people to take legal action against the prisons in which they are housed, there is still the ongoing issue and legal debate of defining what adequate healthcare for transgender individuals looks like. The Eighth Amendment comes into play here because while prisons exist to punish individuals for the crimes they commit, they are not meant to impose punishment deemed cruel and unusual. Could the denial of hormone therapy to Manning, in this case, be seen as a form of cruel and unusual punishment instituted by the prison system? The

denial of hormone therapy disregards Manning's basic human need to feel at home in her own body. By denying her hormones as well as forcefully placing her into a male prison unit, the prison system denies her basic humanity, which according to the UN definition of human rights, consists of being provided things like dignity, respect, and a sense of self. By denying hormone therapy and other forms of trans health care to trans inmates, it keeps them internally at conflict with their conceptions of their own humanity. This turmoil can manifest in self-inflicted physical harm such as self-mutilation or suicide attempts as trans individuals try to rectify their reality to exist the way they need to. As such, the denial of hormones should not be taken lightly, and can constitute a form of cruel and unusual punishment due to the unnecessarily added pain caused by denying trans health care. This is also a form of cruel and unusual punishment that is only inflicted upon a certain group of people.

Prisons were initially formed with the intention of punishment for perceived crimes and have become institutions that profit from criminalized, racialized, and sexualized Black and Brown bodies. However, I argue, that prisons should be places of appropriate reform that take into account international human rights standards in order to protect the human rights of prisoners and should be places that are not controlled by capitalism nor profit off of Black and Brown bodies (free labor). According to the UN, imprisonment disrupts relationships and weakens social cohesion within the inmates family and their community. Reform specifically in prison management, pre-trial detention, healthcare and social reintegration are four areas highlighted by the UN where, if further policy was enacted that aligned with global human rights standards and practices, prisons would be places of reform rather than mindless punishment. (United Nations).

REFERENCES

- “Ashley Diamond.” *Center for Constitutional Rights*, 3 Aug. 2020, ccrjustice.org/Ashley-diamond.
- Aspegren, Elinor. “Justice Department Weighs in on Ashley Diamond Lawsuit: Prison Officials Obligated to Protect Transgender Prisoners from Harm.” *USA Today*, Gannett Satellite Information Network, 26 Apr. 2021, www.usatoday.com/story/news/nation/2021/04/25/ashley-diamond-transgender-georgia-justice-department/7376437002/.
- Bedi, Sheila A., et al. “Medical Care for Trans Women in Illinois Prisons Is Cruel and Unusual Punishment.” *Truthout*, Truthout, 1 Nov. 2019, truthout.org/articles/medical-care-for-trans-women-in-illinois-prisons-is-cruel-and-unusual-punishment/.
- Blinken, Antony J. “U.S. Decision to Reengage with the UN Human Rights Council - United States Department of State.” *U.S. Department of State*, U.S. Department of State, 10 Feb. 2021, www.state.gov/u-s-decision-to-reengage-with-the-un-human-rights-council/.
- Briggs, Bill. “For Transgender Prisoners, Hormones Seen as Matter of Life and Death.” *NBCNews.com*, NBCUniversal News Group, 23 Aug. 2013, www.nbcnews.com/healthmain/transgender-prisoners-hormones-seen-matter-life-death-6c10981031.
- Davis, Angela Yvonne. *Are Prisons Obsolete?* Seven Stories Press, 2003
- Dinno, A. (2017, September). Homicide Rates of Transgender Individuals in the United States: 2010-2014. Retrieved August 25, 2020, from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5551594/>
- Gilles, Kate. “Gender-Based Violence: Impediment to Reproductive Health.” *Population Reference Bureau*, 2011, www.prb.org/genderbasedviolencerh/.
- Green, Emily. “Lawyers: Transgender Woman Assaulted, Denied Adequate Hormone Treatment In Ga. Prison.” *90.1 FM WABE*, 27 May 2020, www.wabe.org/lawyers-transgender-woman-assaulted-denied-adequate-hormone-treatment-in-prison/.

- Guilfoos, Kristen. "Texas Allowing Transgender Inmates to Start Hormone Therapy." *Https://Www.Kbtx.Com*, 23 Feb. 2016, www.kbtx.com/content/news/Texas-allowing-transgender-inmates-to-start-hormone-therapy-369852251.html.
- Juan Battle, and Colin Ashley. "Intersectionality, Heteronormativity, and Black Lesbian, Gay, Bisexual, and Transgender (LGBT) Families." *Black Women, Gender Families*, vol. 2, no. 1, 2008, pp. 1–24. *JSTOR*, www.jstor.org/stable/10.5406/blacwomegendfami.2.1.0001. Accessed 4 May 2021.
- Lobel, Jules. "Prolonged solitary confinement and the Constitution." *University of Pennsylvania Journal of Constitutional Law* 11.115, 2008: 2009-19.
- Lydon, Jason, et al. "COMING OUT OF CONCRETE CLOSETS A REPORT ON BLACK & PINK'S NATIONAL LGBTQ PRISONER SURVEY." *Black and Pink Organization*, 2015, https://docs.wixstatic.com/ugd/857027_fcd066f0c450418b95a18ab34647bd15.pdf.
- Madeline Porta +. "NOTE: NOT GUILTY BY REASON OF GENDER TRANSGRESSION: THE ETHICS OF GENDER IDENTITY DISORDER AS CRIMINAL DEFENSE AND THE CASE OF PFC. CHELSEA MANNING." *New York City Law Review*, 16, 319 Summer, 2013. [https://advance-lexis-com.srv-proxy1.library.tamu.edu/api/document?collection=analytical-materials&id=urn:contentItem:5F16-58K0-00KD-H0R5-00000-00&context=1516831](https://advance.lexis-com.srv-proxy1.library.tamu.edu/api/document?collection=analytical-materials&id=urn:contentItem:5F16-58K0-00KD-H0R5-00000-00&context=1516831). Accessed March 1, 2021
- Manson, Joshua. "Transgender Women of Color Face Crushing Rates of Incarceration, Solitary Confinement, and Abuse." *Solitary Watch*, 2019, <https://solitarywatch.org/2019/07/22/transgender-women-of-color-face-crushing-rates-of-incarceration-solitary-confinement-and-abuse/>.
- Maruri, S. (2011). Hormone Therapy for Inmates: A Metonym for Transgender Rights. Retrieved September 08, 2020, *Cornell Journal of Law and Public Policy* Volume 20 Issue 3 Spring 2011, from <https://core.ac.uk/download/pdf/216744167.pdf>
- McCauley, E., Eckstrand, K., Desta, B., Bouvier, B., Brockmann, B., & Brinkley-Rubinstein, L. (2018, February 1). Exploring Healthcare Experiences for Incarcerated Individuals Who Identify as Transgender in a Southern Jail. Retrieved September 08, 2020, from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5831751/>
- National Center for Transgender Equality. (2019). Retrieved August 25, 2020, from https://transequality.org/sites/default/files/docs/resources/FTPS_FR_v3.pdf

- National Center for Transgender Equality. "Tips for Journalists." *National Center for Transgender Equality*, 11 Dec. 2019, <https://transequality.org/issues/resources/tips-journalists>.
- Nations, United. "Prison Reform and Alternatives to Imprisonment." *United Nations: Office on Drugs and Crime*, www.unodc.org/unodc/en/justice-and-prison-reform/prison-reform-and-alternatives-to-imprisonment.html.
- Nguyen, Hillary B et al. "Gender-Affirming Hormone Use in Transgender Individuals: Impact on Behavioral Health and Cognition." *Current psychiatry reports* vol. 20,12 110. 11 Oct. 2018, doi:10.1007/s11920-018-0973-0
- Oberholtzer, Elliot. "The Dismal State of Transgender Incarceration Policies." *Prison Policy Initiative*, 8 Nov. 2017, www.prisonpolicy.org/blog/2017/11/08/transgender/.
- Page, Elliot, and Ian Daniel. "Trans Woman Ashley Diamond Fights for Prison Reform in Georgia." *Viceland*, VICE, Sept. 28AD, 2016, www.vicetv.com/en_us/video/trans-woman-ashley-diamond-fights-for-prison-reform-in-georgia/57eaa58e7e8b6949ad4fdaff.
- Police, Jails & Prisons. (n.d.). Retrieved August 25, 2020, from <https://transequality.org/issues/police-jails-prisons>
- Rafter, Nicole Hahn. "Gender, Prisons, and Prison History." *Social Science History*, vol. 9, no. 3, 1985, pp. 233–247. *JSTOR*, www.jstor.org/stable/1170945. Accessed 3 Apr. 2021.
- Reisner, S., Bailey, Z., & Sevelius, J. (2014). Racial/ethnic disparities in history of incarceration, experiences of victimization, and associated health indicators among transgender women in the U.S. Retrieved August 25, 2020, from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5441521/>
- Simmons-Duffin, S. (2020, June 12). Transgender Health Protections Reversed by Trump Administration. Retrieved August 25, 2020, from <https://www.npr.org/sections/health-shots/2020/06/12/868073068/transgender-health-protections-reversed-by-trump-administration>
- Stroumsa, D. (2014, March). The state of transgender health care: Policy, law, and medical frameworks. Retrieved September 18, 2020, from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3953767/>

“Transgender Rights Toolkit.” *Lambda Legal*, 17 Nov. 2016,
www.lambdalegal.org/publications/trans-toolkit.

Unger, Cécile A. “Hormone therapy for transgender patients.” *Translational andrology and urology* vol. 5,6 (2016): 877-884. doi:10.21037/tau.2016.09.04

U.S Transgender Survey, (2015). Retrieved august 25, 2020, from
<https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

Vitulli, Elias. “Racialized Criminality and the Imprisoned Trans Body: Adjudicating Access to Gender-Related Medical Treatment in Prisons.” *Social Justice*, vol. 37, no. 1 (119), 2010, pp. 53–68. *JSTOR*, www.jstor.org/stable/41336935. Accessed 4 May 2021.