



WORKING WITH TRANSGENDER CLIENTS

FOR THE CASE AND BEYOND

**DEVELOPING CLIENT RELATIONSHIPS
AND NAVIGATING BOP**

**Nicole Lybrand
Charlotte Trial Unit Chief
FPD WDNC**

COMING OUT



NO OFFICIAL EXPERTISE HERE



- Attorney for transgender female clients
- Ally to LGBTQIA+ community



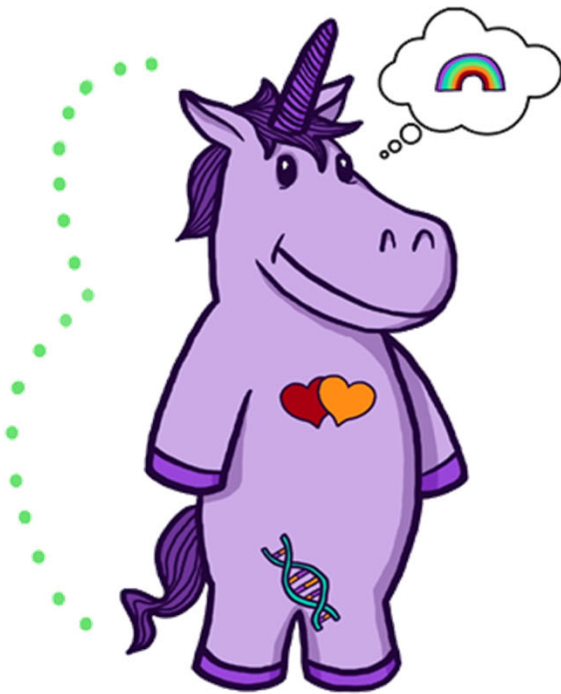
The Transgender Flag

- Created by Monica Helms, a trans woman, in 1999
- Helms describes the meaning of the transgender flag as follows:
“The stripes at the top and bottom are light blue, the traditional color for baby boys. The stripes next to them are pink, the traditional color for baby girls. The stripe in the middle is white, for those who are intersex, transitioning or consider themselves having a neutral or undefined gender. **The pattern is such that no matter which way you fly it, it is always correct, signifying us finding correctness in our lives.**”
- In August 2014, Helms donated the original transgender flag to the Smithsonian National Museum of American History in Washington, DC, as part of a special LGBT collection.

<https://www.pointofpride.org/blog/the-history-of-the-transgender-flag> & <https://www.si.edu/stories/who-designed-transgender-flag>

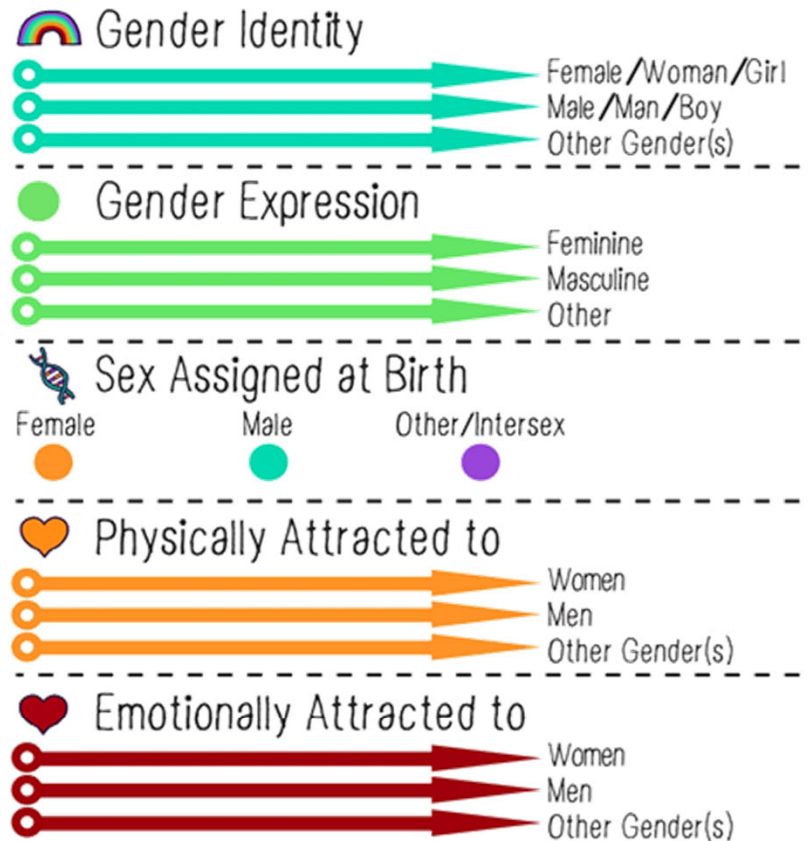
The Gender Unicorn

Graphic by:
TSER
Trans Student Educational Resources



To learn more, go to:
www.transstudent.org/gender

Design by Landyn Pan and Anna Moore



Who I am. My internal identification of a gender(s). It may or may not be the sex I was assigned at birth.

How I communicate my gender to others through my appearance, clothing, actions within my culture.

Based upon sex characteristics, primary and secondary, including genitals, reproductive organs, hormone levels, chromosomes, and genes.

Independent of sex assigned at birth, gender identity, and gender expression.

, -47@ 07B @M

TABLE 1. Terms and definitions in gender identity

GENDER IDENTITY	COMMON DEFINITION*
Cisgender	A person whose gender identity is the same as their sex assigned at birth (e.g., sex assigned at birth was female, and they internally identify as female)
Transgender male	A person whose gender identity is male and who prefers male or gender-neutral pronouns (e.g., he/him/his, they/them/theirs, etc.), but who was assigned female sex at birth. This person identifies as male.
Transgender female	A person whose gender identity is female and who prefers female or gender-neutral pronouns (e.g., she/her/hers, they/them/theirs, etc.), but who was assigned male sex at birth. This person identifies as female.
Gender nonbinary	A person who identifies as neither male nor female and who typically prefers gender-neutral pronouns (e.g., they/them/theirs, ze/hir/hirs, ze/zir/zirs, etc.)
Genderfluid	A person whose gender identity is not fixed in stone, but fluctuates on a daily, weekly, monthly, etc., basis. For example, this person may identify as female one day and male the next day, or may identify as nonbinary some days and male other days. Their identity and pronouns may similarly fluctuate.
Genderqueer	An umbrella term that defines a gender identity that may align with both male and female identities, neither male nor female, or somewhere in between male and female. This term is sometimes considered an umbrella term under which is included gender nonbinary, but the definitions may be variable. ³
Gender nonconforming	A person who does not identify with any particular gender. As gender is a social construct, this person does not identify with the social construct of gender and generally does not conform to any particular gender identity (i.e., not male [cisgender or transgender], not female [cisgender or transgender], not gender nonbinary, not genderfluid). Their pronouns may vary, but gender-neutral pronouns are typically appropriate.

*It is important to reemphasize that gender is a social construct, and thus these definitions are generally representative of the respective gender identities, but these definitions will vary and do not appropriately represent all people. The only definitive way to establish the definition of a person's gender is to ask them.

<https://innovationscns.com/gender-affirming-care-transgender-patients/>



STARTING A RELATIONSHIP

- Introductions

- Set the stage for acceptance: Your position on the team, your name, your preferred name, your pronouns
- “Do you have a preferred name, nickname, or pronouns that you prefer I use?”
- What if there’s push back from the tough ones? “I want to be respectful to all my clients. Tell me what works for you.”



STARTING A RELATIONSHIP



- Mistakes? They happen.
 - Making an effort to use correct names and pronouns and apologizing when mistakes are made go a long way.
 - Continued efforts at getting it right establish rapport and show respect matters to you.

Resource- Language Matters: Gender <https://omh.ny.gov/omhweb/resources/publications/language-matters-gender.pdf>



CULTURAL COMPETENCY AND ASSUMPTIONS



- Appearance does not gender a person; it is Gender Expression
 - Feminine or masculine outward physical appearance should not allow for assumption of gender or pronouns
 - Gender fluidity for some and potential for frequent changes in outward appearance
 - Ask, don't assume you know what is right. With some clients you may have to ask at each contact.

CULTURAL COMPETENCY AND ASSUMPTIONS

- Gender Identity, Gender Expression, and Partner(s)
 - Clients of any gender identity can be attracted (romantically, physically, or both) to folks of any gender identity who express their gender in many ways. Be aware, sensitive, and reflective especially in initial relationship building.
 - Don't assume who you will be interacting with (wife, husband, girlfriend, etc.), mirror the client's language in how they describe their partner, and be aware relationship structures are becoming more openly diverse as well (i.e., polyamory).
 - Tendency towards heteronormative language



CULTURAL COMPETENCY AND ASSUMPTIONS

- **Outing**-the practice of revealing the sexual or gender identity of a person
 - **Clients choose** if they are out and to whom they are out, do not assume you know who
 - **Discuss with clients prior to having contact** with family, friends, witnesses, etc.
 - **What name** and **pronouns** does the client prefer you use when speaking about them to others
 - There may be some that are aware the client is out and others who are not
 - Does the client want you to out them when contacting people who aren't aware of transition
 - How to deal with those contacts who are not accepting or might not be accepting



SMALL SIGNS OF RESPECT (WITH CONSENT)



Recognizing Pride Month
(June)

Recognize International
Transgender Day of
Visibility (March 31st)



LIVING AUTHENTICALLY

- Safety accommodations, house alone, facility (corresponding to gender identity) transfer
- Shower and toileting privacy
- Hygiene products
- Cosmetic products
- Exceptions for hair length, artificial hair, head coverings/scarfs



Treatment Options

What is your/client's ask?

How do we get there?



Gender-Affirming Hormone Therapies

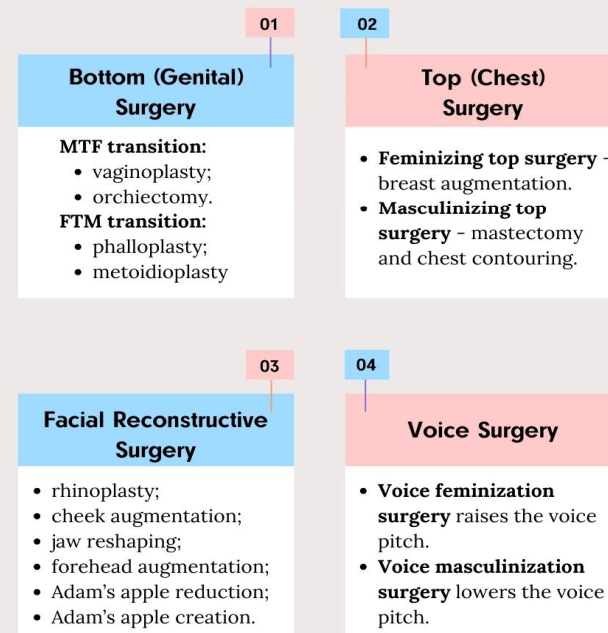
-Feminizing: Estrogen + testosterone blocker

-Masculinizing: testosterone

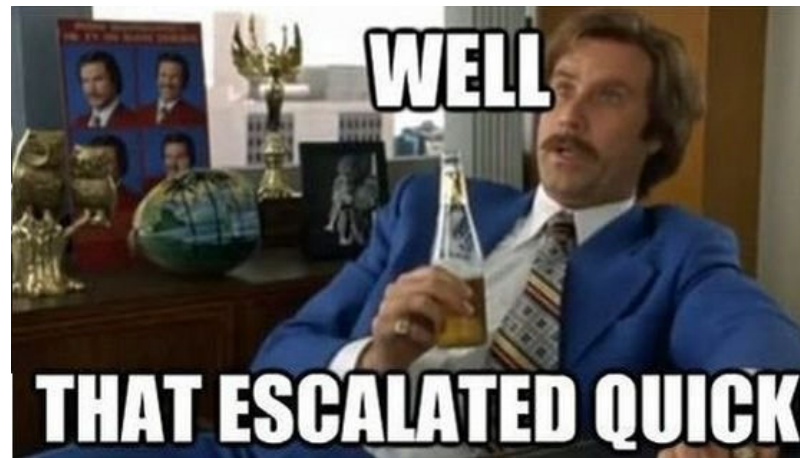


Surgery

TYPES OF SEX REASSIGNMENT SURGERY



Let's litigate!



Front-end case work

Find the existing paper trail

Documents that support your client living in their identified gender:

Medical records

Pharmacy records

Mental Health records

Jail AND Prison records

Create a paper trail

Psychologist or Psychiatrist eval (and maybe endocrinologist for hormone recs)

Collateral interviews (ideally incorporated into the psych report)



Detention Hearing

Consider requesting a continuance to amass records/experts

Work with USMS re: best (safest, most services) possible holding facility

lack of access to necessary care = a reason for release

Call a doctor who provides gender affirming care to testify

File all records as exhibits to your proposed release plan *in advance* of court

Incorporate statistics on dangers of incarceration for trans inmates

*94.3% of trans and gender non-conforming people report suffering abuse in custody
(2022 Lamda Legal Study)



Pre-trial Phase

On bond: look for treatment options in the community.

e.g. Campaign for Southern Equality, Natl Center for trans equality, Funding through local universities

Detained: work with mental health and medical at the jail to secure treatment or document lack thereof.

e.g. have client place sick calls requesting therapy & gender affirming care



The PSR

DOCUMENT. DOCUMENT. DOCUMENT.

Get as many records/diagnoses as possible in the PSR *by the USPO*

Gender dysphoria diagnosis

What is it? Incongruence between one's experienced gender & their gender assigned at birth

Do you need it to get your client care?
Technically no, practically yes



Sentencing

Mitigation

BOP Expert affidavit on how BOP cannot provide required medical care.

Expert on harms specific to trans or gender non-conforming inmates.

Psych expert on how incarceration may effect your client

When the client gets probation



Request for Designation

Medical facility; or

Facility with large population of sex offenders.

e.g. Butner, Carswell, Inglewood, Petersburg, Seagoville, Tucson (USP only)



Post Sentencing Hearing



DO. THE. MOST.

Trans Executive Committee ("TEC")

Composed of: psychologists, health services, correctional services, and reentry division.

Determine client's placement and initial assessment for care.



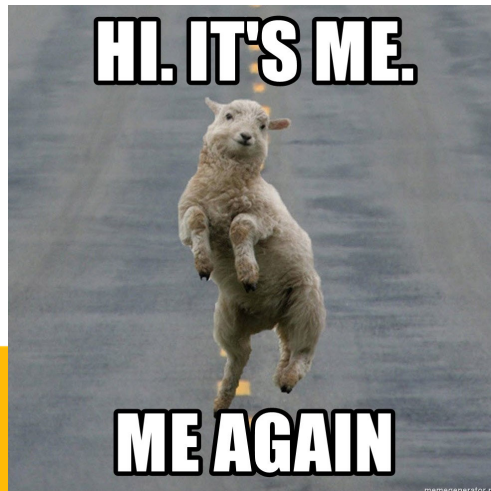
TEC Continued

Ask Judge to recommend client be “**screened for gender affirming care**” *in the judgment*

AUSA email TEC and request review by the committee prior to designation

Get your client’s file to this committee BEFORE client is designated.

Defense counsel email ALL supporting documentation and request review by TEC



What does TEC Consider?

Community medical records (longer history the better)

Incarceration records (highly persuasive)

Mental health records

Prescription records (only legally prescribed hormone treatments are recognized)





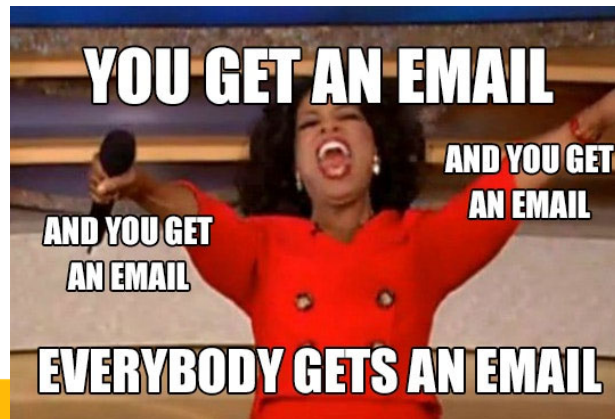
**At BOP? No one...they
don't answer the
phone...**

BOP Contacts

Timethea Pullen, Natl Policy & Program Coord. For Trans Individuals (BOP):

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Email for designation: BOP-CPD-DSC-PolicyCorrespondence-S@bop.gov



They're in BOP...now what?

SENTRY screening code input when they enter the institution requesting additional screening.

Psych evaluates client and – if they agree – enters *permanent* SENTRY code denoting gender identity vs. gender assigned at birth.

Clients can be assigned to either institution housing the gender they were assigned at birth (most common designation) or institution housing their current gender identity.

TEC committee makes this decision/designation

BOP wants to know your client has *lived in this gender* for a number of years.

Wants to *observe* your client in the institutional setting.

No units exclusively for trans or gender non-conforming inmates.

BOP attempts to balance trans inmates equally across institutions.



Thoughtful. Engaged. Respectful. Persistent.

No disciplinaries (initial record when entering can jam you up later).

Participate in all available mental health programming.

Comply with ALL treatment recommendations (including for unrelated conditions).

Program as much as possible.

Be a good citizen and a model inmate.

If client is a sex offender, they must complete/be actively enrolled in all sex offender treatment programming to be considered for any gender affirming care.



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