



Supplement to the testimony of Julia Beck

House Judiciary Committee

H.R. 5, the “Equality Act”

April 2, 2019

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Selected Examples Of Harms From “Gender Identity” Policies Women’s Liberation Front – April 2019

The following are selected examples of material harms to women and girls that have *already* been caused or exacerbated by existing “gender identity” laws and policies in various U.S. states and abroad. Under H.R. 5 (the “Equality Act”), **none of the following examples would have required fraudulent intent – in fact the concept of fraudulent intent is irrelevant under H.R.5.** This is because H.R. 5 explicitly defines “gender identity” as being determined by any person’s self-declared claims about their subjective and changeable “gender identity”—and it further mandates that “gender identity” must displace considerations of sex in all areas of civil rights law, including determining eligibility for jobs in which sex is a bona fide occupational qualification such as jobs that involve the provision of intimate care for disabled or elderly women, the supervision of minors in when they are partially or fully nude, the supervision and intimate care of incarcerated women, and the conduct of bodily searches.

WOMEN’S SHELTERS

State/country: Alaska
Harm by: NOW Canada Society
Victim: Women in Shelter
Source: Klaudia Van Emmerik, Concerns over transgender client at Okanagan shelter, Global News, Mar. 9, 2017

Two women were asked to leave a women’s shelter in Kelowna, British Columbia, after they complained that the shelter required one of them to share a room with a man who claims to be a woman but retains his penis and testicles.

State/country: California
Harm by: State of California, Obama admin. HUD
Victim: Homeless women
Source: Corin Hoggard, Shelter forced women to shower with person who identified as a transgender..., ABC30 Action News, May 23rd, 2018

Nine women homeless women sued the Poverello House in Fresno, CA, because they were forced to share their women’s shelter facilities with a man who claims to be a woman. The women’s lawsuit say that the man “began making lewd comments to the women, specifically saying things about their breasts and other body features as the group was nude. Some of the women also caught her looking at them through cracks in the shower stalls and while they used the restroom.” The women say that the man “showed some of the women nude pictures and videos, including media that showed the transgender woman masturbating.” The women told the Poverello House staff about the harassment, but were told they had to be more accepting of the transgender community.

State/country: Alaska
Harm by: Anchorage Human Rights Commission
Victim: Homeless women
Source: Trudy Ring, Alaska Homeless Shelter's Suit Challenges Trans Protections, The Advocate, Sept. 25, 2018

Downtown Soup Kitchen offers a shelter for homeless women in Anchorage, Alaska. It has been forced to sue to challenge the city's nondiscrimination ordinance, after a man who claims to be a woman filed a complaint with the Anchorage Equal Rights Commission when the shelter would not let him stay in its sleeping rooms with women.

State/country: Canada
Harm by: Christopher Hambrook
Victim: Women in shelter
Source: Sam Pazzano, A sex predator's sick deception, Toronto Sun, February 15, 2014

Christopher Hambrook is a man who claimed to be a woman, who preyed on women at two Toronto shelters. He has been convicted of sexually assaulting a girl as young as 5 years old. His victims include a deaf and homeless Quebec woman and a Toronto survivor of domestic violence.

State/country: Canada
Harm by: Kimberly Nixon
Victim: Women in shelter, women running Vancouver Rape Relief
Source: Vancouver Rape Relief website, Chronology of Events in Kimberly Nixon vs Vancouver Rape Relief Society, June 1, 2009

Vancouver Rape Relief was forced to withstand a decade-long lawsuit filed by Kimberly Nixon, a man who identified as trans, because Nixon complained that VRR should not be allowed to employ only female rape counselors. After spending thousands of dollars VRR was eventually exonerated by the Supreme Court of Canada, which found that surviving girlhood and young womanhood is key to the rape counseling service FRR provides.

State/country: Canada
Harm by: Morgane Oger, formerly Ronan Louis Oger
Victim: Vancouver Rape Relief
Source: Meghan Murphy, Feminist Current, Discontinuation of grant to Vancouver Rape Relief shows trans activism is an attack on women, March 20, 2019

Despite the Canadian Supreme Court ruling that Vancouver Rape Relief has the right to maintain women-only services, a man who calls himself Morgane Oger convinced the Vancouver City Council to discontinue a \$30,000 grant for public education. Meghan Murphy, Feminist Current, Discontinuation of grant to Vancouver Rape Relief shows trans activism is an attack on women, March 20, 2019.

WOMEN'S SPORTS

State/country: Connecticut
Harm by: Connecticut public schools, Andraya Yearwood, Terry Miller
Victim: Selina Soule
Source: Family Research Council, The Hurdles of Genderless Track, March 1, 2019

Selina Soule, other female track athletes Selina Soule was pushed out of qualifying for the New England regional track meets spots by two tran-identified males. She lost the chance to be seen by college recruiters and likely therefore lost potential scholarships.

State/country: USA
Harm by: Rachel McKinnon, formerly Rhys McKinnon; UCI Masters officials
Victim: Dr. Jen Wagner-Assali, other female cyclists
Source: Alex Ballinger, Cycling Weekly, Rachel McKinnon becomes first transgender woman to win track world title, October 17, 2018

Rachel McKinnon is a man who took gold in the women's age 35-44 sprint at the UCI Masters Track Cycling World Championships in 2018. Last week he was briefly suspended by Twitter for saying he wants all women who reject "gender identity" to die in a grease fire, but was restored after LGBTQ advocacy groups pulled strings with Twitter.

State/country: New Zealand
Harm by: Laurel Hubbard, Australian sports authorities
Victim: Iuniarra Sipaia, other women weightlifters
Source: Renee Gerlich, New Zealand is green-lighting gender identity ideology and policy without considering the consequences, Feminist Current, Oct. 30, 2018

A man who calls himself Laurel Hubbard represented New Zealand in women's weightlifting in the 2018 Commonwealth Games. In the Australian International women's weightlifting championships in 2017 he displaced the silver medalist, a Samoan woman, by 42 pounds.

State/country: Australia
Harm by: Hanna Mouncey, Australian women's football
Victim: Australian women footballers
Source: Natasha Chart, Trans-identified male Hannah Mouncey cleared to play football at the state league level in Australia, Feminist Current, Feb. 13, 2018

Callum Mouncey, a trans-identified male who calls himself Hannah. He has been approved by the Australia women's football league to play at the state level, a sport that is similar to rugby, despite having already broken a woman's leg during play.

INCARCERATED WOMEN

State/country: New York
Harm by: NYC, Mayor Bill de Blasio
Victim: Incarcerated women in NYC
Source: NYC Office of the Mayor, Mayor de Blasio Announces Department of Correction Will House Incarcerated Individuals According to Gender Identity... Press Release, April 16, 2018.

In April 2018 New York City Mayor de Blasio announced that the City's Dept. of Corrections will house men who claim to identify as women in women's facilities. The press release said that the City will conduct individualized assessments to "provide for the health and safety of inmates and DOC staff" - but not for the safety of the women forced to be housed with these men.

State/country: Texas
Harm by: US Bureau of Prisons, Peter Langan, "Linda" Thompson
Victim: Incarcerated women
Source: Lauren McGaughy, Trump administration enters into settlement talks over treatment of transgender inmates, Dallas News, March 26, 2018

The US Bureau of Prisons allowed several men who claim to be women to be moved to Carswell, a female-only prison in Fort Worth, TX. The men include Peter Langan, a convicted bank robber and co-founder of the Aryan Republican Army prison gang, and a 60-year old man who robbed a bank specifically in order to be placed in women's prison. Three women housed in Carswell filed a lawsuit in 2017 after the men sexually harassed and exposed themselves to women there.

State/country: UK
Harm by: UK Ministry of Justice, "Karen White" aka Stephen Wood
Victim: Incarcerated women
Source: Nazia Parveen, Guardian, Karen White, 52, admitted sexually assaulting women in female prison and raping two other women outside jail, Oct. 11, 2018

Karen White had already admitted raping two women by was nonetheless placed in women's jail under the UK's transgender prison policy. The prison service removed him after he admitted sexually harassing and assaulting women in the female prison. The decision to house Stephen Wood/Karen White with women was made under the Ministry of Justice's policy that all cases of trans-identified prisoners' requests for housing be considered on a case-specific basis. Under the Equality Act's "gender identity" provisions there is no exception or qualification for male prisoners who claim to identify as women.

State/country: UK
Harm by: UK Ministry of Justice, Martin Ponting
Victim: Incarcerated women
Source: Fair Play for Women, Half of all transgender prisoners are sex offenders or dangerous category A inmates, Nov. 9, 2017; How many transgender

prisoners are there and where are they located? Analysis of 2018 HMPPS
Equality statistics., Dec. 9, 2018

In the UK according to 2018 prison data, there were 22 male prisoners housed in a female prison, including double child rapist Martin Ponting who now calls himself Jessica and is held at Bronzefield women's prison. 2017 data showed that half of male prisoners who claim to be women are convicted sex offenders, compared to 20% in the general male population and 3% in the female population.

State/country: UK
Harm by: UK Ministry of Justice, Peter Laing
Victim: Incarcerated women
Source: Marcello Mega, Transgender murderer Paris Green to have reassignment surgery on NHS, The Times, November 19 2018

Paris Green was found guilty of sexually torturing and murdering a man. He was allowed to serve 18-year minimum sentence in the prison's women's wing, but had to be removed after engaging in sexual activity with women incarcerated there. In November 2018 it was announced he would have genital cosmetic surgery while serving his term, paid by the National Health Service.

PUBLIC FACILITIES

State/country: Idaho
Harm by: Target, Shauna Smith
Victim: Women and girls who shop Target
Source: Rebecca Boone, Judge orders Idaho to give transgender inmate gender surgery, Post Register, Dec. 14, 2018.

After Target announced that it would make its bathrooms mixed-sex based on gender identity, a man who calls himself Shauna Smith was arrested for taking photos of a woman in a Target fitting room.

State/country: UK
Harm by: Jess Bradley
Victim: Women in public
Source: Jake Hurfurt, Britain's first official transgender student officer suspended ..., Mail on Sunday, July 28, 2018

Jess Bradley is a man who identifies as trans. He was Britain's first official transgender students' officer in the National Union of Students, until he was suspended over allegations that he posted photos of himself flashing in a public park, at a bus stop, and at his office desk.

State/country: Pennsylvania
Harm by: Boyertown Area School Dist., Obama administration
Victim: Alexis Lightcap and other minor students of both sexes
Source: WoLF Presses US Supreme Court to Preserve Civil Rights of Women and Girls, Women's Liberation Front website, Dec. 19, 2018

Alexis Lightcap was shocked to find a boy in the girls' bathroom at her high school. School officials told her that he had a right to be there because he identifies as transgender. Her case is before the Supreme Court right now.

CUSTODY

State/country: Ohio
Harm by: Ohio court
Victim: 17 year-old girl and her parents
Source: Jen Christensen, Judge gives grandparents custody of Ohio transgender teen, CNN, February 16, 2018

Parents of a 17 year old girl lost custody of their daughter, who was placed with the girl's grandparents, because the parents refused to allow the girl to inject testosterone. The Hamilton County, Ohio, judge found that the girl has the right to receive high doses of testosterone based on her "gender identity."

MEDICAL

State/country: USA
Harm by: NIH, Johanna Olson
Victim: Children
Source: Chan, Yee-Ming et al., Abstract, The Impact of Early Medical Treatment in Transgender Youth, Aug. 1, 2015; Johanna Olson, May 10, 2017 Annual grant report.

In 2017 the National Institutes for Health gave Johanna Olson, a prominent child transition proponent, a nearly-\$1 million grant to study "psychosocial outcomes" of giving children diagnosed with "gender dysphoria" untested puberty blockers and high dose wrong sex hormones. In May 2017 Olson filed an annual report stating that the study would expand eligibility of participants to children as 8-13 who are receiving opposite-sex hormones.

WOMEN'S FREE SPEECH

State/country: Canada
Harm by: Jonathan/Jessica Yaniv
Victim: 16 women aestheticians
Source: Julie Bindel, Meghan Murphy, Twitter and the new trans misogyny, The Spectator, Nov. 26, 2018

Jonathan Yaniv is a man who calls himself Jessica and has been found online talking about 10-year old girls and tampons. He filed complaints against 16 beauticians who declined to wax his testicles because they wish only to provide services to women, putting their livelihoods at risk.

State/country: UK
Harm by: UK Police
Victim: Posie Parker, Caroline Farrow, Kate Scottow
Source: Second woman is investigated by police over transphobic comment, The Telegraph, March 20, 2019

West Yorkshire police have questioned and warned Kellie-Jay Keen-Minshull, a women's rights activist, and Caroline Farrow, Commentator & journalist, for stating facts on Twitter about trans-identified people and gender identity policies. Charges are still pending against Ms. Keen-Minshull, which were initiated by the Susie Green, head of the gender identity advocacy organization, Mermaids, who complained because Ms. Keen-Minshull stated that Ms. Green had taken her 16-year old son to Thailand to be surgically castrated.

State/country: Canada
Harm by: Lisa Kreut, formerly Ryan Kreut
Victim: Meghan Murphy, Feminist Current
Source: Julie Bindel, Meghan Murphy, Twitter and the new trans misogyny, The Spectator, Nov. 26, 2018

Lisa Kreut is a man who sometimes also calls himself Hailey Heartless, and offers sexual sadism videos and services online. He has targeted lesbians on social media, and targeted advertisers to pull their business from the journalism site Feminist Current.

State/country: UK
Harm by: Athlete Ally
Victim: Martina Navratilova, lesbian and bisexual women and girl athletes
Source: Guardian Sport, LGBT group drops Martina Navratilova over transgender comments, Guardian, Feb. 20, 2019

Martina Navratilova has been removed as an ambassador by Athlete Ally after pointing out that men who claim to be transwomen have an unfair advantage when they play in women's sports.

**Brief of Amicus Curiae Women's Liberation Front In Support of Alexis Lightcap
and other students in Boyertown, Pennsylvania**

Editorial note: the following brief, submitted to the U.S. Supreme Court, sets forth the key legal and factual arguments illustrating how the rights and liberties of women and girls will be harmed by the adoption of "gender identity" as a protected class in civil rights law in place of sex. The brief also identifies the existing readily-available remedies against sex-stereotypes.

No. 18-658

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In The Supreme Court of the United States

JOEL DOE, et al.,

Petitioners,

v.

BOYERTOWN AREA SCHOOL DISTRICT, et al., Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Third
Circuit

BRIEF OF AMICUS CURIAE WOMEN'S LIBERATION FRONT IN SUPPORT OF
PETITIONERS

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INTEREST OF *AMICUS CURIAE*¹

Amicus is the Women’s Liberation Front (“WoLF”), an all-volunteer organization of radical feminists dedicated to the liberation of women by ending male violence, protecting reproductive sovereignty, preserving woman-only spaces, and abolishing sex discrimination. WoLF has nearly 500 members who live, work, and attend public schools, colleges, and Universities across the United States.

WoLF’s interest in this case stems from its interest in protecting the safety and privacy of women and girls and preserving women’s sex-based civil rights.² Those rights have been threatened by recent court decisions and agency policies that embrace the vague concept of “gender identity” in a manner that overrides statutory and Constitutional protections that are based explicitly on “sex.” WoLF previously challenged one such policy that purported to rewrite Title IX of the Civil Rights Act in a “Dear Colleague” letter issued by the U.S. Department of Justice and U.S. Department of Education on May 13, 2016 (“2016 Guidance”).³ *Women’s Liberation Front v. U.S. Department of Justice, et al.*, No. 1:16-cv-00915 (D.N.M. August 11, 2016). WoLF also submitted *amicus* briefs addressing the same question in this Court and in the U.S. Court of Appeals for the Fourth Circuit in the case of *Gloucester County School Bd. v. G.G.*, 137 S. Ct. 1239 (2017) (mem.) (vacating *G.G. v. Gloucester Cty. Sch. Bd.*, 822 F.3d 709 (4th Cir. 2016), and remanding).

Although the 2016 Guidance was withdrawn on February 22, 2017, the threat to women’s civil rights persists. The decision below proclaims that women and girls are no longer recognized under federal law as a discrete category worthy of civil rights protection, but men and boys who claim to have a female “gender identity” are. If allowed to stand, it will mark a truly fundamental shift in American law and policy that strips women of their Constitutional right to privacy, threatens their physical safety, undercuts the means by which women can achieve educational equality, and ultimately works to erase women and girls under the law. It not only revokes the very rights and protections that specifically secure women’s access to education, but does so in order to extend those rights and protections to men claiming to be women. WoLF seeks to empower women and girls to advocate for their rights to privacy, safety, and association before government officials who might not otherwise consider the particular harms women and girls face if sex is redefined to mean “gender identity” under civil rights laws and the Constitution. WoLF urges the Court to grant certiorari in order to confirm that schools and other institutions have the authority and duty to give effect to longstanding sex-based protections under the law.

SUMMARY OF ARGUMENT

There are at least three reasons for granting the Petition for Certiorari.

A. The Court Should Grant Certiorari In Order To Resolve A Circuit Split As To Whether Title IX Employers And Schools May Limit Access To Restrooms And Other Intimate Spaces On The Basis Of Sex.

The Third Circuit held that under Title IX and the Constitution, schools may not limit student access to restrooms on the basis of sex. This holding applies equally to school teachers, administrators, or other employees, because DOE’s regulations expressly extend Title IX’s protections to employees of covered institutions: “No person shall, on the basis of sex, . . . be subjected to discrimination in employment, or recruitment, consideration, or selection therefor . . . under any education program or activity operated by a recipient which receives Federal

financial assistance.” 34 C.F.R. § 106.51(a).⁴ In short, the decision below requires schools to allow male teachers, administrators, and other employees the same unfettered access to women’s restrooms as extended to students on the basis of a self-declared female “gender identity.”

By forbidding schools from keeping male teachers, administrators and other employees out of women’s bathrooms, the decision below conflicts with the Tenth Circuit’s decision in *Etsitty v. Utah Transit Auth.*, 502 F.3d 1215 (10th Cir. 2007). *Etsitty*, a male bus driver whose self-declared “gender identity” was female, was fired by the defendant transit agency because bus drivers use public restrooms on their routes, and *Etsitty* insisted on using women’s restrooms.

Relying on *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989), *Etsitty* claimed that “terminating her because she intended to use women’s restrooms is essentially another way of stating that she was terminated for failing to conform to sex stereotypes.”⁵ *Etsitty*, 502 F.3d at 1224. While courts have generally recognized *Price Waterhouse* “sex stereotyping” employment discrimination claims in cases involving “transgendered” plaintiffs, the Tenth Circuit understood the inherent limits to this doctrine (*id.*):

However far *Price Waterhouse* reaches, this court cannot conclude it requires employers to allow biological males to use women’s restrooms. Use of a restroom designated for the opposite sex does not constitute a mere failure to conform to sex stereotypes.

Ever since this Court’s decision in *Franklin v. Gwinnett County Pub. Sch.*, 503 U.S. 60, 75 (1992), which expressly relied on its Title VII decision in *Meritor Sav. Bank, FSB v. Vinson*, 477 U.S. 57 (1986), to hold that Title IX supported actions for damages, courts have read Title IX in light of Title VII. “This Court has also looked to its Title VII interpretations of discrimination in illuminating Title IX[.]” *Olmstead v. L. C. by Zimring*, 527 U.S. 581, 616 n.1 (1999) (Thomas, J., dissenting). Nowhere is this truer than in the area covered by both statutes, i.e., sex discrimination in educational employment. “The identical standards apply to employment discrimination claims brought under Title VII [and] Title IX[.]” *Weinstock v. Columbia Univ.*, 224 F.3d 33, 42 n.1 (2d Cir. 2000); *Preston v. Commonwealth of Virginia ex rel. New River Cmty. Coll.*, 31 F.3d 203, 206 (4th Cir. 1994).

Thus the Circuit split: The Tenth Circuit held that Title VII allows employers to require employees to use restrooms consistent with their sex, but the Third Circuit says that employers may not do so under Title IX. And while courts disagree as to whether Title IX provides a private right of action for employment discrimination by covered institutions, or whether such claims must be brought under Title VII, the United States may enforce either Title VII or Title IX against an educational institution discriminating in employment on the basis of sex. The decision below thus presents a Circuit split on a pure question of law that needs no further factual development before review in this Court.

B. The Ruling Below Redefines “Sex” In A Manner That Undermines Title IX.

The Court below has completely re-written the definition of the word sex for the purpose of interpreting Title IX and its implementing regulations.⁶ This case presents an opportunity for the Court to affirm the unambiguously-expressed intent of Congress to prohibit discrimination

on the basis of sex under Title IX and the Constitution, in order to remedy centuries of sex-based discrimination against women and girls in the educational arena. Sex and gender (or “gender identity”) are distinct concepts. The word “sex” has meaning – specifically, the distinction between male and female.⁷ Sex is recorded (not “assigned”) at birth by qualified medical professionals, and it is an exceedingly accurate categorization: an infant’s sex is easily identifiable based on external genitalia and other factors in 99.982% of all cases; the miniscule fraction of individuals who have “intersex” characteristics are also either male or female; in vanishingly rare cases individuals are born with such a mix of characteristics that it is difficult to characterize – but they still do not constitute a third reproductive class.⁸

In stark contrast to sex, “gender” and “gender identity” refer stereotypical roles, personalities, behavioral traits, and clothing fashions that are socially imposed on men and women.⁹ There is no credible support for the argument that “gender identity” is innate, has a supposed “biological basis,” or that every human being has a “gender identity.”

The Court below acknowledges as much when it states that “[a] person’s gender identity is their subjective, deep-core sense of self as being a particular gender” – a wholly circular definition.¹⁰ “Gender identity” is simply a belief system that has been invented and adhered to by a small subset of society.¹¹

Legally redefining “female” as anyone who claims to be female results in the erasure of female people as a class.¹² If, as a matter of law, anyone can be a woman, then no one is a woman, and Title IX has no meaning whatsoever. The ruling below effectively erases Title IX.

Gender is simply a set of sex-based stereotypes that operate to oppress female people. Further, to assert that women and girls have a “deeply felt identification” with the sex-based stereotypes that are imposed on them is insulting to women and girls who reject the prison of femininity.

The entire concept of “gender identity” is rooted in the notion that males and females have particular sex-specific ways of feeling and thinking, but scientists have demonstrated time and again that there is simply no such thing as a “female brain” or a “male brain.” This science demonstrates that gender is not innate. It is a collection of sex-based stereotypes that society imposes on people on the basis of sex, where women are understood to like particular clothing and hair styles and to have nurturing, unassuming personalities, whereas men are said to like a different set of styles and to have ambitious, outgoing personalities.¹⁴ This is simply old-fashioned sexism.

C. The Third Circuit Has Completely Re-Written The Strict Scrutiny Test For Evaluating Constitutional Claims Without Input From This Court.

In its decision, the Third Circuit has completely re-written the strict scrutiny test for evaluating a claim that the government has intruded on the fundamental Constitutional right to privacy.¹⁵ This case presents an opportunity for the Court to clarify that when evaluating such a claim, the Court must hold the government to its burden of demonstrating that the action or policy being complained about serves a compelling government interest and that the action or policy is narrowly tailored to accomplish that interest.

ARGUMENT

Sex and “gender” are distinct concepts that cannot be conflated. While some individuals may claim to feel or possess an “identity” that differs from their sex, such feelings have no bearing whatsoever on the person’s vital characteristics, and should have no bearing on the Courts’ application of civil rights law.

A. If “Gender Identity” Is Used To Interpret The Constitutional Right To Privacy And Title IX, Women And Girls Will Lose Their Privacy And Be Put At Even Greater Risk Of Sexual Violence.

Redefining “sex” to mean “gender identity” means that the thousands of colleges, universities, and schools that have women-only facilities, including dormitories, must now allow any male who “identifies as” female or “transgender” to live in them. Thus, women and girls who believed that they would have personal privacy of living only with other females will be surprised to discover that males will be their roommates and will be joining them in the showers. And – like Alexis Lightcap and her fellow students – those girls and their parents will only discover this after they move in because colleges and universities across the country have adopted policies that prohibit administrators from notifying them in advance, on the theory that students have a right to conceal their vital characteristics and to compel schools to instead recognize their subjective “gender identity.” It is truly mind- boggling that informing women that men might have the “right” to share a bedroom with them is an “invasion of privacy,” but it is not an invasion of privacy to invite those men into women’s bedrooms in the first place.

Schools have long provided women-only dormitories and related facilities for female students. For example, Cornell College in Mount Vernon, Iowa, has a proud history of serving women, having been the first college west of the Mississippi to grant women the same rights and privileges as men, and the first, in 1858, to award a degree to a woman. At Cornell College, Bowman-Carter Hall has traditionally been a residence hall for women only.¹⁶ But if sex is redefined to mean “gender identity” under Title IX, then any male person will be legally entitled to live in Bowman-Carter Hall once he claims to identify as a woman.

The same is true at Cornell University, where Balch Hall has long been a women-only residence.¹⁷ But that will end if “sex” is redefined to mean “gender identity,” and the women of Balch Hall will be joined by any man – or group of men – who utters the magic words “I identify as a woman.”

Privacy is one thing; violence is another. The violence that the Respondents seek to do to the definition of “sex” under civil rights laws is reflected in the violence that will result from this action. Without a second thought, schools and universities are mandating that men must be permitted to invade women’s spaces and threaten their physical safety in the places heretofore reserved exclusively for women and girls. That any male can justify his presence in any female-only space by saying “I identify as female” will not escape the notice of those who already harass, assault, and rape tens of thousands of women and girls every day. Data shows that more than 10% of college women experienced sexual assault in a single academic year, with almost half of those women reporting more than one such assault during that time.¹⁸ Moreover, a majority of those assaults were committed by “students, professors, or other employees of the school.”¹⁹

Allowing any male to claim that he has a right guaranteed by federal law to be in women’s most intimate and vulnerable spaces seriously undermines the laws designed to protect

women in these places. For example, in Maryland it is a crime “to conduct visual surveillance of . . . an individual in a private place without the consent of that individual.” Md. Code Ann. Crim. Law § 3-902(c)(1). The statute defines “private place” as “a room in which a person can reasonably be expected to fully or partially disrobe and has a reasonable expectation of privacy” (id. § 3-902(a)(5)(i), such as dressing rooms, restrooms (id. § 3-902(a)(5)(ii)), and any such room in a “school or other educational institution.” Id. § 3-902(a)(5)(i)(6). If any male can assert that he has a legal right to be in a women’s locker room because he identifies as female, it will be impossible to see how either this or similar laws in other states could ever be enforced.

Redefining sex to mean “gender identity” under civil rights laws would also render similar statutes in other states simply inapplicable to these types of crimes. In many states, the relevant statute criminalizes only covert or “surreptitious” observation. For example, District of Columbia law provides that it is “unlawful for any person to occupy a hidden observation post or to install or maintain a peephole, mirror, or any electronic device for the purpose of secretly or surreptitiously observing” in a bathroom, locker room, etc. D.C. Code Ann. § 22-3531(b). Similarly, in Virginia, “It shall be unlawful for any person to use a peephole or other aperture to secretly or furtively peep, spy or attempt to peep or spy into a restroom, dressing room, locker room, [etc.]” Va. Code Ann. § 18.2-130(B).²⁰

But if sex can be self-declared then it is not illegal for a man to walk into a women’s locker room in the District of Columbia or Virginia and openly ogle the women there, because there is nothing “secret or surreptitious about” that action – just the opposite. Redefining sex to mean “gender identity,” as the Court below has done, effectively decriminalizes this predatory sexual activity and gives a get-out-of-jail-free card to any predator who smiles and says, “But I identify as female.”

B. If “Gender Identity” Is Used To Interpret Title IX, Women And Girls Will Lose Preferences Addressing Historical And Systemic Discrimination.

After centuries of second-class treatment in all matters educational, the very preferences used to remedy that history and encourage women’s education – most importantly perhaps, scholarships for women – will, if the word “sex” is redefined to mean “gender identity,” be reduced by the demands of any males who “identify as female.” For example, will Alpha Epsilon Phi, a women’s legal sorority that sponsors the Ruth Bader Ginsburg Scholarship for female law students, now be forced to open its scholarships to males purely on the basis of “gender identity?”

Virtually all schools have endowed scholarships. Princeton, for example, has the Peter A. Cahn Memorial Scholarship, the first scholarship for female students at Princeton, and the Gary T. Capen Family Scholarship for International Women. For graduate students, Cornell University’s School of Veterinary Medicine has at least four scholarships intended to benefit female students.²¹

Given the struggles that women have gone through to become lawyers (see, e.g., Ruth Bader Ginsburg, *The Progression of Women in the Law*, 28 Val. U. L. Rev. 1161 (1994)), it is not surprising that law schools also have established such scholarships. See, e.g., the Joan Keyes Scott Memorial Scholarship, the Lillian Goldman Perpetual Scholarship Fund and the Elizabeth Warke Brenm Memorial Fund at Yale Law School.²²

Nor are such scholarships supporting women confined to private institutions. For example, at the University of Iowa, undergraduate women are supported by the Madeline P. Peterson Scholarship²³ and Ohio University has the Mary Ann Healy Memorial Scholarship.²⁴ This list goes on and on.

Twenty years ago, this Court eloquently described how women's physiology was used as an excuse to deny them education:

Dr. Edward H. Clarke of Harvard Medical School, whose influential book, *Sex in Education*, went through 17 editions, was perhaps the most well-known speaker from the medical community opposing higher education for women. He maintained that the physiological effects of hard study and academic competition with boys would interfere with the development of girls' reproductive organs. See E. Clarke, *Sex in Education* 38-39, 62-63 (1873); *id.*, at 127 ("identical education of the two sexes is a crime before God and humanity, that physiology protests against, and that experience weeps over"); see also H. Maudsley, *Sex in Mind and in Education* 17 (1874) ("It is not that girls have no ambition, nor that they fail generally to run the intellectual race [in coeducational settings], but it is asserted that they do it at a cost to their strength and health which entails life-long suffering, and even incapacitates them for the adequate performance of the natural functions of their sex."); C. Meigs, *Females and Their Diseases* 350 (1848) (after five or six weeks of "mental and educational discipline," a healthy woman would "lose . . . the habit of menstruation" and suffer numerous ills as a result of depriving her body for the sake of her mind).

United States v. Virginia, 518 U.S. 515, 536 n.9 (1996). It is ironic that while women's bodies were once used as an excuse to deny them education, now women's educational opportunities will be curtailed based on the notion that there is no objective way to identify a female body. After all, according to the court below and the Respondents, women are defined solely by self-identification.

The ruling below effectively denies that sex is a meaningful legal category. Yet the text of the Nineteenth Amendment reads, "[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex."²⁵ Surely, everyone knew what a woman was when the law prohibited women from voting; at no point were those disenfranchised women asked whether they identified with the sex-stereotypes or social limitations imposed on women at the time.

C. Women And Girls Will Lose Preferences Under Other Remedial Statutes.

If "sex" is ambiguous in Title IX, then there is no logical reason why "sex" or "female" or "woman" or "girl" is any less ambiguous when used in any other law designed to remedy centuries of discrimination against women.

Nearly thirty years ago, Congress enacted the Women's Business Ownership Act of 1988 to "remove, insofar as possible, the discriminatory barriers that are encountered by women in

accessing capital and other factors of production.” (Pub. L. No. 100-533, § 101), and creating the National Women’s Business Council, of which at least four members would be women. *Id.*, § 403(b)(2)(A)(ii). In 1992, noting that “women face significant barriers to their full and effective participation in apprenticeable occupations and nontraditional occupations,” Congress enacted the Women in Apprenticeship and Nontraditional Occupations Act (29 U.S.C. § 2501(a)), in order to “expand the employment and self-sufficiency options of women” in these areas via grants, technical assistance, and studies. *Id.*, § 1(b); codified at 29 U.S.C. § 2501(b). In 2000, Congress amended the Small Business Act to create the Procurement Program for Women-Owned Small Business Concerns (15 U.S.C. § 637(m)), in order to create preferences for women-owned (and economically disadvantaged women-owned) small businesses in federal contracting. In 2014, Congress again amended the Small Business Act (15 U.S.C. § 637(m)) to include authority to award sole-source contracts under this program. Neither in 1988, nor 1992, nor 2000, nor 2014, nor in any other remedial statute did Congress define “woman,” so presumably these programs will soon become equally available to any man who “identifies” as one.

Just as with Title IX scholarships, allowing men to take advantage of remedial programs and benefits Congress intended for women works to perpetuate the very problems these programs were intended to fix.

While *amicus* is concerned that men will say that they are women for the purpose of helping themselves to benefits Congress intended for actual women, redefining “sex” to mean “gender identity” in Title IX would also affect all other federal statutes that explicitly incorporate Title IX’s definition of “sex discrimination.” For example, the federal government spends billions of dollars a year for “youth workforce investment activities,” “adult employment and training activities,” and “dislocated worker employment and training activities.” 29 U.S.C. § 3181. All of these programs are subject to Title IX’s nondiscrimination provisions. 29 U.S.C. § 3248(a)(1)-(2). The same is also true for Public Health Service block grants to states for general purposes (42 U.S.C. § 300w-7(a)), mental health and substance abuse (42 U.S.C. § 300x-57(a)), maternal and child health (42 U.S.C. § 708(a)), and a myriad of other federal programs.

Finally, *amicus* also note that men might take advantage of the confusion between sex and “gender identity” to avoid particular obligations imposed on them, e.g., selective service: “[I]t shall be the duty of every male citizen of the United States, and every other male person residing in the United States . . . to present himself for and submit to registration[.]” 50 U.S.C. § 3802(a). In the event of war, no doubt demographers will be astonished by the sudden surge in the female population.

D. Civil Rights Protections Should Not Be Based On Subjective Feelings Or On A Propensity To Threaten Or Engage In Self-Harm.

The ruling below rests on the extraordinary claim that a male person who claims to “feel like” a female person must automatically be given access to a host of rights and spaces that were hard-won by women and girls. While the ruling below asserts that “transgender individuals may experience ‘gender dysphoria,’”²⁶ it only defines “transgender” according to ineffable, unverifiable, subjective beliefs, making all the medical evidence cited by the Panel irrelevant. In other words, this is not a case about discrimination against people who have received a mental health diagnosis of “gender dysphoria,”²⁷ it is a case about people who – for any reason or no reason at all – claim to identify as the opposite sex.

Even if the definition of “transgender” in the ruling below required a formal diagnosis of “gender dysphoria,” subjective distress about one’s sex has never previously been recognized as a basis for defining a class of persons protected under civil rights laws. Yet the ruling erases single-sex protections based on the self-reported propensity of an ill-defined class of individuals to threaten or engage in self-harm.²⁸ No law justifies or requires this result.

Moreover, this is misleading and manipulative. There are many groups of individuals with high-levels of self-reported attempts or completed suicide,²⁹ while, conversely, some groups that have historically been subject to sex-based and race-based discrimination exhibit very low rates of suicide and self-harm. Indeed, if civil rights laws were to be interpreted according to suicide rates, white men would be roughly three times as oppressed as Black, Hispanic, or Asian Pacific Islander individuals in the U.S., even more so for white men living in Montana.³⁰ The Court below further recognizes in its ruling the need to be concerned about the mental health and wellness not only of students identifying as transgender, but of lesbian, gay, and bisexual individuals.³¹ If the law cannot recognize sex, then it cannot recognize anyone’s sexual orientation.

E. Replacing Sex With “Gender Identity” Under Civil Rights Law Will Distort Vital Statistics.

Numerous consequences follow from the conflation of sex to mean “gender” or “gender identity.” For example, sex is a vital statistic; “gender” and “identity” are not. Society has many legitimate interests in recording and maintaining accurate information about its residents’ sex, for purposes of identification, tracking crimes, determining eligibility for sex-specific programs or benefits, and determining admission to sex-specific spaces, to name just a few examples. In contrast, there is no legitimate governmental interest in recording a person’s subjective “identity” or giving that identity legal significance in lieu of sex.

Additionally, as demonstrated consistently by the FBI’s Uniform Crime Reporting system and similar state systems, women face a dramatically disproportionate statistical risk of violence, rape, assault, or voyeurism, and in the vast majority of cases women suffer these harms at the hands of men. For crimes reported by law enforcement to the FBI in 2015, men committed over 88% of all murders, 97% of rapes, 77% of aggravated assaults, and 92% of sex offenses other than rape or prostitution.³² Redefining sex to mean “gender identity” would skew basic crime statistics traditionally recorded and analyzed according to sex because police departments traditionally use the sex designation on a driver’s license to record the sex of an arrestee. Males who commit violent crimes against women should not be permitted to obscure their sex by simply “identifying as women.”

CONCLUSION

If the word sex is redefined in a circular manner, if the words “women” and “girls” have no clear meaning; if women and girls have not been discriminated against, harassed, assaulted, and murdered because of their sex; if women are not a discrete legally-protectable category, then one might rightly wonder what women have been fighting for all this time. Women and girls deserve more consideration than the ruling below gives them. WoLF implores the Court to grant the Petitioners’ Petition for a Writ of Certiorari in order to honor the plain text and original intent of Title IX, which is to prohibit discrimination on the basis of sex.

Respectfully submitted,

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¹ None of the parties to this case nor their counsel authored this brief in whole or in part. No person or entity other than WoLF made a monetary contribution specifically for the preparation or submission of this brief. *Amicus curiae* files this brief with the written consent of all parties. All parties received timely notice of *amicus curiae's* intention to file this brief.

² *Amicus* uses “sex” throughout to mean exactly what Congress meant in 1972 when it incorporated the longstanding meaning of that term into Title IX of the Civil Rights Act: The biological classification of human beings as either female (“women”) or male (“men”).

³ See Petition for Certiorari at 2.

⁴ DOE’s authority to promulgate the Title IX employment regulations was upheld in *North Haven Bd. of Educ. v. Bell*, 456 U.S. 512 (1982), and the regulation at issue here (“A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex . . . ;” 34 C.F.R. § 106.33) has a similar counterpart in DOE’s employment regulations: “[N]othing contained in this section shall prevent a recipient from considering an employee’s sex in relation to employment in a locker room or toilet facility used only by members of one sex.” 34 C.F.R. § 106.61.

⁵ Price Waterhouse “sex stereotyping” (now “gender non- conformity”) claims have become the prevailing remedy for transrelated employment discrimination because most courts have held that discrimination based on “transgendered” status, in and of itself, is not sex discrimination under Title VII precisely because “sex” means “male” or “female” but not “transgender.” *Etsitty*, 502 F.3d at 1221; *Ulane v. E. Airlines, Inc.*, 742 F.2d 1081, 1084 (7th Cir. 1984); *Sommers v. Budget Mktg., Inc.*, 667 F.2d 749, 750 (8th Cir. 1982).

⁶ See Petition for Certiorari at 4-5.

⁷ See *Black’s Law Dictionary*, Sex (10th ed. 2014); *MerriamWebster.com*, Male (Dec. 3, 2018); *Merriam-Webster.com*, Female (Dec. 3, 2018); Nat’l Institutes for Health, Genetics Home Reference: X Chromosome (Jan. 2012), available at <https://ghr.nlm.nih.gov/chromosome/X> (last visited Dec. 3, 2018); Joel, Daphna, Genetic-gonadal-genitals sex (3G-sex) and the misconception of brain and gender, or why 3-G males and 3-G females have intersex brain and intersex gender, 27 *Biology of Sex Differences*, No. 3, Dec. 2012, at 1.

⁸ Sax, Leonard, “How Common Is Intersex? A Response to Anne Fausto-Sterling,” *The Journal of Sex Research* 39, No. 3 (2002): 174-78, available at <http://www.jstor.org/stable/3813612>; Dawkins, R., *The Ancestor’s Tale, A Pilgrimage to the Dawn of Evolution*, 135 (Mariner Books

ed. 2005); Nat'l Institutes for Health, Genetics Home Reference: SRY Gene (Mar. 2015), available at <https://ghr.nlm.nih.gov/gene/SRY.pdf>.

⁹ See *Doe v. Boyertown Area Sch. Dist.*, No. 17-3113, 29 (3d Cir. 2018), quoting Whitaker by Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ., 858 F.3d 1034, 1048 (7th Cir. 2017) (“By definition, a transgender individual does not conform to the sexbased stereotypes of the sex that he or she was assigned at birth.”).

¹⁰ See *id.* at 7.

¹¹ See Reilly-Cooper, Rebecca, *Gender is Not a Spectrum* Aeon (June 28, 2016); Fine, Cordelia, *Testosterone Rex* (W.W. Norton & Co. 2017).

¹² See Barrett, Ruth, ed., *Female Erasure* (Tidal Time Publishing, L.L.C. 2016).

¹³ See, e.g., Joel, Daphna, et al., *Can We Finally Stop Talking About ‘Male’ and ‘Female’ Brains?* *The New York Times* (Dec. 3, 2018); Kaplan, Karen, *There’s No Such Thing as a ‘Male Brain’ or a ‘Female Brain’ and Scientists Have the Scans to Prove It*, *L.A. Times* (Nov. 30, 2015), available at <http://www.latimes.com/science/sciencenow/la-sci-sn-no-male-female-brain-20151130-story.html>; MacLellan, Lila, *The biggest myth about our brains is that they are “male” or “female,”* *Quartz* (Aug. 27, 2017), available at <https://qz.com/1057494/the-biggest-myth-about-our-brains-is-that-theyre-male-or-female/>.

¹⁴ See, e.g., *Amicus Brief of the National PTA, et al. in Support of Appellees at 22, Doe v. Boyertown Area Sch. Dist.*, No. 17-3113 (3d Cir. 2018) (quoting a self-described “trans[gender] girl” as stating, “When I was little I loved to play with dolls and play dress up. I loved painting my nails too. Wearing my mom’s high heels was my favorite!”). These stories peddle the offensive stereotype that a child who is a girl must like playing with dolls, dressing up, painting nails, and wearing heels.

¹⁵ See *Petition for Certiorari* at 3-4.

¹⁶ See *Bowman-Carter Hall* (1885), available at <http://www.cornellcollege.edu/residence-life/housing/halls/bowman-carter/index.shtml> (last visited Dec. 3, 2018).

¹⁷ See *Living at Cornell, Balch Hall*, available at <https://living.cornell.edu/live/wheretolive/residencehalls/Balch-Hall.cfm> (last visited Dec. 3, 2018).

¹⁸ U.S. Department of Justice, Bureau of Justice Statistics, *Campus Climate Survey Validation Study Final Technical Report*, January 2016, p. 85, available at www.bjs.gov/content/pub/pdf/ccsvsfr.pdf.

¹⁹ *Id.* at 104.

²⁰ This same condition of the secret or hidden observer applies to voyeurism statutes in at least 15 other states. See Del. Code Ann. tit. 11, § 820 (“peer or peep into a window or door”); Fla. Stat. Ann. § 810.14 (“secretly observes”); Ga. Code Ann. § 16-1161 (“peeping Tom”); Haw. Rev. Stat. Ann. § 711-1111 (“peers or peeps”); Mich. Comp. Laws Serv. § 750.167 (“window peeper”); Miss. Code Ann. § 97-29-61 (“pries or peeps through a window”); Mont. Code Ann. § 45-5-223 (“surreptitious”); Nev. Rev. Stat. Ann. § 200.603 (“surreptitiously conceal . . . and peer, peep or spy”); N.C. Gen. Stat. § 14-202 (“peep secretly”); N.D. Cent. Code § 12.120-12.2 (“surreptitiously”); Ohio Rev. Code Ann. § 2907.08 (“surreptitiously”); R.I. Gen. Laws § 11-45-1

(“window, or any other opening”); S.D. Codified Laws § 22-21-1 (“peek”); Wyo. Stat. § 6-4304 (“looking in a clandestine, surreptitious, prying or secretive nature”).

²¹ See Cornell University College of Veterinary Medicine Scholarship List, available at <https://www2.vet.cornell.edu/education/doctor-veterinary-medicine/financing-your-veterinary-education/policies-funding-sources/college-scholarships/scholarship-list> (last visited Dec. 3, 2018).

²² See Yale Law School Alumni and Endowment Funds, available at <http://bulletin.printer.yale.edu/htmlfiles/law/alumni-andendowment-funds.html> (last visited Dec. 3, 2018).

²³ See Madeline P. Peterson Scholarship for American Indian Women, available at <https://diversity.uiowa.edu/awards/madeline-p-peterson-scholarship-american-indian-women> (last visited Dec. 3, 2018).

²⁴ See Scholarship Library, Mary Ann Healy Memorial Scholarship, available at [http://www.scholarshiplibrary.com/wiki/Mary_Ann_Healy_Memorial_Scholarship_\(Ohio_University_Main_Campus\)](http://www.scholarshiplibrary.com/wiki/Mary_Ann_Healy_Memorial_Scholarship_(Ohio_University_Main_Campus)) (last visited Dec. 3, 2018).

²⁵ U.S. Const. Amend. 19. In addition, surely the founders of the ACLU Women’s Rights Project understood the category of people whose rights they were seeking to protect.

²⁶ See *Doe v. Boyertown Area Sch. Dist.*, No. 17-3113, 5 (3d Cir. 2018).

²⁷ “Gender dysphoria” is a psychiatric condition marked by significant distress at the thought of one’s sex, and “a strong conviction that one has feelings and reactions typical” of the opposite sex. American Psychiatric Association, Gender Dysphoria (discussing the diagnostic criteria contained in the APA’s Diagnostic and Statistical Manual of Mental Disorders (DSM-5)) (5th ed. 2013), available at https://www.psychiatry.org/File%20Library/Psychiatrists/Practice/DSM/APA_DSM-5-Gender-Dysphoria.pdf (last visited Nov. 10, 2018).

²⁸ See *Doe v. Boyertown Area Sch. Dist.*, No. 17-3113 at 5-6, 15 (3d Cir. 2018).

²⁹ See, e.g., Barker, Gary, *Why Do So Many Men Die by Suicide?*, Slate (June 28, 2018), available at <https://amp.slate.com/human-interest/2018/06/are-we-socializing-men-to-die-by-suicide.html?>; Wright, Jennifer, *Why a Pro-Life World Has a Lot of Dead Women in it*, Harper’s Bazaar (June 28, 2018), available at <https://www.harpersbazaar.com/culture/features/amp10033320/pro-life-abortion/>; Ivanova, Irina, *Farmers in America are facing an economic and mental health crisis*, Money Watch (June 29, 2018), available at <https://www.cbsnews.com/news/american-farmers-rising-suicide-rates-plummeting-incomes/>; Rand Corporation, *Invisible Wounds of War* (2008), available at <https://www.rand.org/pubs/monographs/MG720.html>.

³⁰ Suicide Prevention Resource Center, *Racial and Ethnic Disparities*, available at <https://www.sprc.org/racial-ethnic-disparities> (last visited Dec. 3, 2018); American Found. for Suicide Prevention, *State Fact Sheet for Montana*, available at <https://afsp.org/aboutsuicide/state-fact-sheets/#Montana> (last visited Dec. 3, 2018).

³¹ See *Doe v. Boyertown Area Sch. Dist.*, No. 17-3113, 6 n.17 (3d Cir. 2018). Despite the Court’s suggestion during oral argument in the proceedings below that the words “sex” and “opposite sex” are confusing, this Court knows perfectly well what the word “sex” means, as this Court

used the phrase “same-sex” a total of 165 times throughout the Syllabus and the various Opinions in its landmark decision *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015).

³² Dept. of Justice Fed’l Bureau of Investigation, 2015 Crime in the United States, Table 33, Ten-Year Arrest Trends by Sex, 2006–2015, available at <https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/tables/table-33/> (last visited Dec. 3, 2018).

The Medical Scandal that the Mainstream Media Ignores

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Over the past few years, media stories about “transgender” kids have become increasingly common, but critical questions are seldom asked. These children’s identities are portrayed as immutable, while the ideologically-driven medical practices solidifying them are not investigated. Why won’t they report the truth: that these children and their families are victims of ruthless medical practices with no basis in science?

“Journalism can never be silent: that is its greatest virtue and its greatest fault. It must speak, and speak immediately, while the echoes of wonder, the claims of triumph and the signs of horror are still in the air.” – Albert Camus

There is a growing medical scandal in the United States that is harming children and destroying families. It has destroyed mine.

Five years ago, when my 13-year old daughter told me she was transgender, I was shocked by her out-of-the-blue announcement. My reaction was not fueled by prejudice—indeed, I am liberally-minded in my political beliefs—but based on a lifetime of caring for her as an observant and sensitive mother. It simply made no sense.

I sought professional guidance, as I was unsure how to respond to her. Yet therapists were not interested in exploring the possible reasons for her sudden identity. Instead, they told me that I must treat her as my son. I was advised to call her by a male name, refer to her by masculine pronouns, and purchase a binder (a restrictive garment that would flatten her breasts, but also cause tissue damage, and possibly other physical harms) to help her “pass” as a boy. The many therapists that I consulted did not consider any underlying issues, such as peer and media influences, or the fact that over 5% of the students at her school also considered themselves transgender.

I sought help from a gender clinic, ignorantly assuming that she would receive a thorough expert assessment. Instead, her identity as male was immediately affirmed. I was pressured to consent to puberty-blocking drugs, with assurances that they were safe and well-studied. My research later confirmed that [this was not true](#).¹

As I examined the practice of pediatric transgender medical care, I was disturbed by what I learned. Therapists and clinicians are [trained](#)² not to question children’s new identities; in many states and municipalities across the US, this is [against the law](#).³ Even more shocking is the unchallenged medical protocol that alters children’s bodies in serious and irreversible ways.

Drugs are used to block puberty in pre-teens, impacting their future [fertility](#).⁴ Teen boys are treated with [feminizing hormones](#),⁵ while girls [as young as 13](#)⁶ are offered mastectomies, and [at the tender age of 12](#),⁷ they are injected with testosterone. (It was recently revealed that in 2017, the age of testosterone treatment for girls in this [\\$5.7 million taxpayer-funded NIH study](#)⁸ was lowered to [eight years old](#).)⁹

There is no objective test on which to base such invasive medical interventions, nor [a single long-term study](#)¹⁰ that supports their medical necessity. These hormonal treatments and irreversible surgeries are based on [unprovable identities](#),¹¹ resulting from [myriad complex issues](#),¹² that are [likely to change](#)¹³ over time. This is not [evidence-based medicine](#).¹⁴

Clinicians successfully obtain parents' consent to these risky, and likely regrettable, hormonal and surgical treatments. They use false, coercive assurances that they are [lifesaving](#)¹⁵ and [necessary to prevent their children's likely suicide](#).¹⁶ In fact, [serious complications, sterility, and loss of sexual function are the likely immediate outcomes](#)¹⁷ of this medical experiment on children. And the long-term consequences are simply unknown. This is a medical scandal.

Yet few people know anything about this thanks to the failure of the mainstream media.

Over the past few years, media stories about “transgender” kids have become increasingly common, but critical questions are seldom asked. These children's identities are portrayed as immutable, while the ideologically-driven medical practices solidifying them are not investigated. The stories follow a [predictable narrative](#).¹⁸ The children are [sympathetic](#),¹⁹ their medical transitions are [imperative](#),²⁰ and their parents are [celebrated](#)²¹ for their bravery.

In an attempt to reveal the truth behind these feel-good stories, I have written to news outlets and met face-to-face with many journalists. They have heard my anguish as they promised that they will report on this scandal, but they never do. Why won't they report the truth: that these children and their families are victims of ruthless medical practices with no basis in science?

The Washington Post

I began my futile quest to get media attention in January 2017, writing to any journalist who I thought might actually care. One of these was Steven Petrow, *The Washington Post's* “Civilities” columnist. Instead of sending me a thoughtful, private response, he betrayed my confidence: without my knowledge or permission, he used my personal plea as the basis for a future column.

In my original letter to him, I explained how my daughter began to believe that she was transgender after attending a school presentation, how therapists told me not to question her beliefs, urged me to buy her a breast binder, and pushed me to consent to hormonal treatment. I told him how it was impossible to find proper help, and that there are countless parents like me desperate for a journalist to listen and report the truth.

Instead, Petrow selectively quoted from my letter to write this [February 24th, 2017 column](#),²² pushing the very narrative that I had asked him to question. My formal complaint to *The Washington Post* was ignored.

Two weeks later, Petrow hosted this online parent [chat](#)²³ with Brown University gender clinician Michelle Forcier, MD, whose apparent mission was to portray parents like me as ignorant bigots. Forcier dismissed one parent's concern that mastectomies are “drastic,” by calling this “biased language.” Forcier claimed that surgeries have “really changed many trans boys' and men's lives” with “low risks and outcomes for complications and regret” and stated: “We are lucky that many parents understand waiting for [the] arbitrary age of chest surgery for some young teens is cruel and harmful from a physical and psychiatric perspective.”

When questioned about the ethics of putting children on lifetime hormone medication and surgery, Forcier answered:

How ethical is it to negate a person's identity—to tell them you know them better than they do? How ethical is it to deny a person access to medication that is very safe, effective and proven to help. . . . Would you also propose letting a diabetic slip into diabetic ketoacidosis and coma before offering them fluids and or insulin if you suspected a high likelihood of diabetes? Would you wait for an asthmatic to collapse unconscious before offering oxygen and albuterol? Gender care has many safe medical options that in many instances are safer than withholding care.

Last fall, a different *Washington Post* journalist expressed interest in speaking with me. Although I was certain that this would be another wasted effort, I never turn down any request to talk about this issue. We spoke in person for two hours, during which time I shared my daughter's story and showed her my files to prove evidence of the medical scandal. I told her that I doubted her editors would publish any story that did not promote the current transgender narrative. She assured me this would not happen and said that she was a brave journalist. At the end of our time together, I did what I try very hard not to do in front of strangers: I broke down crying. In a follow-up email, she expressed her sympathy and told me the editor approved the story. That was five months ago. She hasn't written a single story about this topic, while *The Washington Post* continues to publish [stories like this](#).²⁴

Silence from Other Major News Outlets

In the past year, other parents and I have talked to two journalists at *The New York Times*. Both were earnest and interested, and they promised they would publish our stories. Yet this proved to be another waste of time. This was especially disturbing, given the NYT's numerous one-sided (appalling) stories like [this](#)²⁵ and [this](#)²⁶ and [this](#)²⁷ and [this](#)²⁸ and [this](#)²⁹. . . .

The same thing has happened countless times with other lesser-known outlets. A journalist contacts me or a parent I know to say they're very interested. They do some digging. They get spooked. They kill the story. Then they ignore us.

Even my husband's friend betrayed me. "John" is a medical news editor. My husband assured me that he would respect our privacy and, as the father of girls, would be personally moved to help. With great apprehension, I told John what happened to our daughter and how frustrating it has been to get the media to report on what is happening to children like mine. After I provided him with extensive written documentation, John told me he was "definitely interested."

I was excited to receive such a positive initial response, but apparently, John changed his mind and didn't have the courage to tell me. Months later, I wrote to John one last time:

We desperately need someone to help us reveal the truth behind this movement, and how every major medical and psychological association has been hijacked by ideology. The implications for children caught up in this are serious. The surgeries euphemistically described as "gender affirming" are irreversibly mutilating young people who—as time goes by—often realize it was a mistake.

Anyway, I am reaching out again in the hope that I might be able to convince you of the importance of this story. Or if not, if you could possibly make an introduction to someone who might be interested.

As you know, this is a personal family issue. I spend every waking hour trying to do anything I can to save my daughter from its grip before she follows through with her plans to medically

transition. Any critical media attention would be so appreciated. I feel like I am running against the clock.

John never replied, even to my husband's follow-up attempts to ask him what happened. (So much for that thirty-year friendship.)

By July 2018, I shifted my focus to investigative journalists. I had amassed quite a collection of evidence that I compiled into lengthy documents to prove the medical scandal. All I needed was one brave journalist. I had done most of the work and wanted to share it freely, so I pitched the story to every Pulitzer Prize-winning investigative journalist (as well as the runners-up).

Once again, no one could be bothered to respond.

To Spread the Truth

It's not just a problem of journalists who refuse to report and/or editors who won't let them. My posts on online forums have been censored as well. My comment on the College Confidential discussion board (about what happens to young trans-identifying college students) was removed immediately. I was permanently banned from the site within minutes. My comment on [this story](#)³⁰ in *The Washington Post* was deleted hours after it posted. The folks at [Supporting Emotional Needs of the Gifted](#)³¹ blocked me from their Twitter page. My offenses: merely attempting to spread the truth.

In the end, I decided to go "outside the mainstream" and approached Ryan Anderson at the Heritage Foundation. He agreed to host [a politically left-leaning panel](#)³² where, for the first time, [stories of children who have been harmed by "gender identity" medical practices](#)³³ were read out loud. The audience learned about a school "where several students were already on hormones and one had a mastectomy at the age of 16." They learned how parents who do not support their child's gender identity risk being reported to Child Protective Services and losing custody of their children . . . and how a minor child underwent a double mastectomy and radical hysterectomy as a minor, without her parents' consent. The audience was visibly disturbed and shocked.

[This](#)³⁴ was how NBC News reported on the event. (The original libelous article was revised in response to numerous online and formal complaints. Both versions ignored the personal testimony of indefensible medical harms to children.)

Last month, Anderson hosted [another panel](#)³⁵ at Heritage, *The Medical Harms of Hormonal and Surgical Interventions for Gender Dysphoric Children*. A mother of a trans-identifying daughter spoke publicly for the first time as she pleaded: "Transgender-identifying children need our compassion and they need our help. They need responsible adults to gently question their beliefs, not blindly affirm them. They need proper therapy and guidance, not drugs and surgeries." Panelist Dr. Michael Laidlaw echoed her concerns as he described the dangers of hormonally treating children and stated emphatically: "We are giving very harmful therapies on the basis of no objective diagnosis." Dr. Marian Rutigliano testified to the active silencing of the medical community, while detransitioner [Walt Heyer shared his personal story](#)³⁶ of regret and the tragic consequences of medical transition.

And once again, the only media outlets that covered this story were [conservative](#).³⁷ Indeed, why is it up to *National Review* to publish the groundbreaking [investigative pieces](#)³⁸ that were once

the purview of 60 Minutes and the formerly esteemed national newspapers of record? Since when did medical harms to children become a right-wing-only issue?

Meanwhile, very few Americans know the truth about these dangerous, untested medical interventions that are used to treat transgender-identifying children and that therapists in many states are compelled by law to affirm these kids' identities.

Why do they not know this? Because the mainstream media have remained silent.

Last month, I met with other parents in Washington, DC to begin a national grassroots movement, the [Kelsey Coalition](#).³⁹ Our transgender-identifying children (boys, girls, minors, and young adults) have been harmed by physicians, therapists, and clinics throughout the US. We have decided that since the mainstream media have yet not investigated this medical scandal, we will have to do this job ourselves. We encourage others to join us.

KATHERINE CAVE

Katherine Cave is a member of the Kelsey Coalition, a national group of parents whose transgender-identifying children have been harmed by physicians, therapists, and clinics throughout the US. Gender clinicians convinced her to support her daughter's transition until she realized the dangers of identity-based medicine and gender identity ideology. Katherine Cave is a pseudonym to protect her daughter's privacy.

¹ <https://www.statnews.com/2017/02/02/lupron-puberty-children-health-problems/>

² <https://www.apa.org/practice/guidelines/transgender.pdf>

³ http://www.lgbtmap.org/equality-maps/conversion_therapy

⁴

<https://www.tandfonline.com/doi/abs/10.1080/15265161.2018.1557288?src=recsys&journalCode=uajb20>

⁵ <https://www.nbcbayarea.com/news/local/Transgender-Kids-Eligible-for-Earlier-Medical-Intervention-Under-New-Guidelines-423082734.html>

⁶ <https://jamanetwork.com/journals/jamapediatrics/article-abstract/2674039>

⁷ <https://www.ncbi.nlm.nih.gov/pubmed/29056436>

⁸ <http://grantome.com/grant/NIH/R01-HD082554-01A1>

⁹ https://docs.wixstatic.com/ugd/3f4f51_a929d049f7fb46c7a72c4c86ba43869a.pdf

¹⁰ <https://bjgp.org/content/69/681/170>

¹¹ <https://www.economist.com/open-future/2018/07/03/gender-identity-needs-to-be-based-on-objective-evidence-rather-than-feelings>

¹²

https://www.researchgate.net/publication/268879198_Young_people_with_features_of_gender_dysphoria_Demographics_and_associated_difficulties

¹³ <https://www.thestranger.com/features/2017/06/28/25252342/the-detransitioners-they-were-transgender-until-they-werent>

¹⁴ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3789163/>

¹⁵ <https://vimeo.com/185178522>

¹⁶ <https://4thwavenow.com/2015/08/03/the-41-trans-suicide-rate-a-tale-of-flawed-data-and-lazy-journalists/>

<https://www.google.com/url?q=https://www.thepublicdiscourse.com/2018/01/20810/&ust=155437968000000&usg=AFQjCNFheaW6WXkvjQP4ynXq5u7r-oBFzw&hl=en>

¹⁸ <https://www.nationalgeographic.com/magazine/2017/01/editors-note-gender/>

¹⁹ <http://www.nbc12.com/story/38251743/court-rules-in-favor-of-transgender-student-who-wanted-to-use-boys-bathroom/>

²⁰ <https://www.nbcnews.com/nightly-news/video/one-doctor-explains-the-journey-for-kids-who-are-transitioning-431478851632?v=railb&am;v=0>

²¹

https://www.etonline.com/news/163373_9_inspirational_stories_of_transgender_kids_their_supportive_parents

²² https://www.washingtonpost.com/lifestyle/style/civilities-lets-remember-when-we-talk-transgender-law-were-talking-about-our-kids/2017/02/24/da62f9d0-fa10-11e6-bf01-d47f8cf9b643_story.html?utm_term=.0f35d0362e54

²³ <https://live.washingtonpost.com/civilities-with-steven-petrow-20170307.html>

²⁴ https://www.washingtonpost.com/lifestyle/style/its-a-boy-its-a-girl-for-some-parents-learning-their-babys-sex-is-a-disappointment/2018/12/12/8aef32c0-f8be-11e8-8d64-4e79db33382f_story.html

²⁵ <https://www.nytimes.com/2018/10/15/well/family/helping-pediatricians-care-for-transgender-children.html>

²⁶ <https://www.nytimes.com/2018/11/24/opinion/sunday/vaginoplasty-transgender-medicine.html>

²⁷ <https://www.nytimes.com/2018/10/22/health/transgender-trump-biology.html>

²⁸ <https://www.nytimes.com/2018/02/20/us/gendercool-transgender.html>

²⁹ <https://www.nytimes.com/2018/12/04/style/pansexual-daughter-transgender-parenting.html>

³⁰ https://www.washingtonpost.com/news/parenting/wp/2018/07/09/why-i-had-a-hard-time-calling-my-transgender-child-they-and-why-im-doing-it-anyway/?utm_term=.347c679bbdfd

³¹ <https://www.sengifted.org/>

³² <https://youtu.be/HMj9MOuRswc>

³³ <https://www.thepublicdiscourse.com/2019/02/49686/>

³⁴ <https://www.nbcnews.com/feature/nbc-out/conservative-group-hosts-anti-transgender-panel-feminists-left-n964246>

³⁵ <https://www.heritage.org/gender/event/the-medical-harms-hormonal-and-surgical-interventions-gender-dysphoric-children>

³⁶ <https://sexchangeregret.com/>

³⁷ <https://www.christianpost.com/news/testosterone-being-given-to-8-y-o-girls-age-lowered-from-13-doctors.html>

³⁸ <https://www.nationalreview.com/magazine/2019/04/22/the-trans-child-as-experimental-guinea-pig/>

³⁹ <https://www.kelseycoalition.org/>