

Right Wing Watch: FRC misrepresents New York State protections for trans youth in custody

By Marti Abernathey

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Article

On June 20th, the Associated Press released an article entitled “New transgender policy at New York juvenile jails“. The article details New York State’s decision to allow transgender youth in juvenile detention facilities to be treated as members of their identified gender.

The Family Research Council commented on the article later that day in a brief blurb entitled “NY Prison: Closet Supporters of Cross-Dressing” which appeared on their Washington Update. Predictably, they grossly misrepresented New York’s policy, twisting the statements in the AP article.

According to the FRC, ” As part of the ‘anti-discrimination’ policy, New York is dedicating taxpayer dollars to providing transgender kids with both a male and female wardrobe.”

This is a misrepresentation of the following paragraph in the original AP article: “All residents must wear a uniform, but the policy allows transgender youth to wear a uniform of the opposite sex, including underwear of their choice. Each facility must have underwear for both sexes. Borges said OCFS spent about \$4,500 to stock its facilities.”

While FRC implies that each of the 30 transgender youths will be supplied with complete wardrobes of both genders, the AP article makes it clear that each individual youth will have only one wardrobe. AP continues, “...most clothing requests will be referred to the special committee to ensure their legitimacy...”. Thus, while all juvenile jails will now stock both male and female undergarments, they are presumably not required to have a large number of undergarments on hand- just enough that clothing requests approved by a committee can be granted. As for the purported burden on New York taxpayers, according to the the United States Census Bureau, the estimated population of New York State in 2006 was 19,306,183. 76.6% of New York residents are over 18 years of age. This means that each adult New Yorker paid less than one cent to clothe transgender teens.

FRC continues, “In addition to their clothes, officers are required to call these inmates by whatever name they choose...” True, but officers are already required to call all teens in custody- cisgender as well as transgender- by whichever name they choose. As AP states, “While all residents may ask to be called by a preferred first name rather than their legal one, the policy says males who believe they are female must be called ‘she’ and females who believe they are male must be referred to as ‘he.’ Staff must use the preferred name and pronoun in any documents they file.” [my emphasis]

In other words, the new policy affects pronoun usage, not preferred names. And contrary to what the

FRC would claim, being referred to by gender-appropriate pronouns is not a “special right”. The majority of youth in custody, who are cisgender, already enjoy the right to be referred to by pronouns congruent with their gender identity- because in their case, their gender identity conforms to their biological sex. The new policy merely extends this right to a previously excluded group.

Most disturbingly, FRC completely ignores the reason that the new policy was implemented- the increased risk of mistreatment faced by trans youth in juvenile facilities, perpetrated both by staff and by other inmates, is well-documented. Here are some examples from “Justice for all?“, a report published in 2001 by the Urban Justice Center.

“...a young transgendered girl sentenced to a juvenile facility on robbery charges was arbitrarily labeled a sex offender by staff, made to wear clothes designating sex offenders in the facility, and told to participate in sex offender therapy.” (p. 11)

“Another transgendered girl was placed in isolation at every facility she attended, since staff believed that she would inappropriately touch other residents.” (p. 12)

“One transgendered youth who spent three weeks in a DJJ facility was placed in the infirmary, despite the fact that she insisted consistently that she wanted to remain in the general population like everyone else. The same youth has been living in the observation room at an OCFS facility for three months as of January 2001, whereas other residents spend at most one week in observation.” (p. 33)

“...one transgendered youth described her experience, ‘Most people [in here] are stupid. They treat me like I’m not human. They call me ‘faggot’ and tell me I have no life.’ She continued to relate how, at the limited-secure OCFS facility where she is currently placed, she is regularly verbally abused and taunted by other residents.” (p. 36-37)

“One transgendered girl told of a situation in detention in which one boy hit her over the head while others pulled her hair. There were no staff people around, and so when she told a staff person of the incident, the staff person said there was nothing she could do.” (p. 37)

The purpose of New York’s new nondiscrimination policy is to protect trans youth from harassment- from being punished not only for their crimes (typically “survival crimes” such as theft and prostitution, committed by youths who run away from or are “thrown away” by abusive parents or foster homes), but for their sense of themselves as male or female. The rights to use their chosen names and appropriate pronouns, and to present as the gender with which they identify, will protect them from psychological distress. Being granted private sleeping quarters and showering facilities will protect their physical safety.

FRC apparently doesn’t care that the new policy will keep vulnerable teenagers from being incorrectly treated as sex offenders or physically assaulted. According to them, “The only difference that these concessions are going to make is in the widespread encouragement of special rights for cross-dressing teens.” (The right not to be physically and psychologically tortured sure is special, isn’t it?)

Their recommended solution? “...these disturbed young people need psychotherapy aimed at helping them to accept their biological sex.”

Actually, the AP article strongly implies that the trans teens are already receiving mental health care: “Under the policy, transgender youth may request placement based on gender identity. Those requests

will be heard by a special committee composed of behavioral health and medical services experts as well as administrators.” [my emphasis] The therapy, however, will likely focus on reducing comorbid conditions including depression, not be “helping them to accept their biological sex”. Why? Because “reparative therapy” doesn’t work. Transition does. [See Cabaj and Stein, 1996, p. 758-759: ...Sexual reassignment including hormone therapy and surgery has been shown to be an effective treatment for a large number of these [gender dysphoric / transsexual] patients who otherwise would exist in constant emotional distress and socioeconomic despair...]

From FRC’s misrepresentation of the new New York policy and their neglect to mention the harassment faced by trans youth, it is clear that they have no real interest in the teens’ well-being. They see these vulnerable young people only as fodder to use to inflame their supporters against equal protection for LGBT citizens.

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