Editor:

In their recent article, "Illuminating Sociocultural and Ethnocultural Consciousness in Forensic Practice," Griffith and colleagues make a call to action for forensic practitioners to become more aware of social and ethnocultural factors affecting their lives and the lives of the persons they evaluate. The authors state that we "must attend more closely to the effects of sociocultural and ethnocultural experiences on ourselves and our evaluees" (Ref. 1, p 263). I would like to take their thoughtful proposal one step further: it is imperative that forensic psychiatrists and the forensic psychiatry community actually do something to change the lives of the people with whom we work.

In a world where institutionalized racism, exposed and undeniable, causes vulnerable persons of color with mental disorders to be incarcerated in large numbers in our jails and prisons,[2,3] it is the forensic psychiatrist who is in the best position to understand, to act, and to create change. It is the forensic psychiatrist who knows the patient, the system, and the law and is thus able to intervene in what are often complex clinical and legal predicaments of the persons and populations with whom we work.[4]

It is time to step past the neutrality we were trained to maintain; as ethical professionals, we can no longer be bystanders when so much harm is being done in and by the systems and institutions of which we are a part. We must move our field to action, where neutrality maintains its place, but where we can also consider ourselves to be leaders in creating solutions to one of the most important problems of our time: the over-incarceration of vulnerable people with mental disorders.

There are a growing number of forensic psychiatrists who are already actively engaged in this type of change and cultural shift. We are finding ways to use the law and our clinical expertise to benefit people and populations, turning outpatient competency restoration programs into community housing opportunities for the homeless, or expanding jail clinic interventions to include collaboration with justice partners to divert persons into treatment programs.[5]

Forensic psychiatry as service, like other specialties of medicine, must be our new culture. As our field grows with more young, aware, and diverse physicians, let us not lose them to our traditional approach. Let us modernize our field to include expert service, not for legal ends alone, but also for social justice. Let us bring our knowledge and skills to the courtrooms, jails, prisons, and community to benefit people and assist the professionals who work with them. Let us create and operate programs and services that meet the needs of the patients involved in the justice system. There is no better medical specialty prepared to do this than our own.[1]

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Editor:

I thank Dr. Berlin for starting a conversation with his article "Legal, Mental Health, and Societal Considerations Related to Gender Identity and Transsexualism."[1] Dr. Berlin notes that forensic psychiatrists will be increasingly asked to provide expertise related to gender dysphoria, along with the mental health and legal implications of gender self-identification. Dr. Berlin, however, did not much explore the tradeoffs involved in legal recognition of gender self-identification. The impact of these tradeoffs is largely unknown, as gender identity is relatively new as a concept and only recently recognized within regulatory and legal frameworks.

Dr. Berlin did demonstrate that human reproductive biology and sexual expression are complex. Despite this, biological sex is clear in well over 99% of humans.[2] Furthermore, biological sex is deeply engrained within human culture, laws, and psychology.[3] In contrast, determining gender identity appears more ephemeral. Potter *et al*.[4] defined three dimensions of gender identity: felt gender, gender contentedness, and gender

conformity. Each of these three dimensions itself is complex and often fluid. The biological correlates, etiology, and influences on gender identity development remain largely unknown. Thus, if legal systems move to make self-reported gender identity a legal principle, multiple basic questions will require more data, research, and scholarly debate. Some of the questions which need to be explored are:

> Would protections for a broader category of "gender nonconforming expression" be a more inclusive and logical legal principle than rights specifically related to a self-report of feelings of gender dysphoria?
>
> In cases where women's sex-based rights conflict with claims of gender identity-based rights, such as in sports, bathrooms, therapeutic shelters, and prisons, what are the rationales for, and potential harms associated with, the legal system removing existing precedents of allowed sex-based protections for biological females?
>
> Biological sex does not change, but gender self-identification does. How should legal and regulatory systems cope with the fluid nature of gender self-identification?
>
> Should governments and legal systems record both markers, biological sex and gender self-identification? Under which circumstances should either be used?

With so many core unanswered questions, forensic psychiatrists currently have limited firm data on which to base their opinions. On questions related to gender, many people default to ideological or political theories,[5] and forensic psychiatrists are not immune to such cultural influences. Thus, better support for open inquiry and free exchange is needed to explore the implications of gender self-identification. As an organization, the American Academy of Psychiatry and the Law could model rigor and thoughtful exchange via invited columns from varied perspectives, debates, and a call for articles to explore these issues of fundamental importance and profound disagreement. Again, I thank Dr. Berlin for starting this conversation.

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In Reply

Editor:

I agree with Dr. Kaliebe that there should be a thoughtful exchange of ideas, hopefully based upon empirical evidence, regarding matters relevant to transgender persons. There is still much more that can be learned. That said, there is a great deal that is already clear.

The term "gender identity" had been introduced into the professional literature approximately 60 years ago by Dr. John Money. It is not a new concept. Dr. Kaliebe refers to that concept as "gender self–identification," suggesting that biological sex does not change but that gender self–identification does. In most instances, however, gender self–identification does not change. The vast majority of cisgender persons (individuals whose subjective feelings of gender identity correspond with their external birth anatomy) never experience doubt about their own gender. Similarly, the vast majority of transgender persons (individuals whose subjective feelings of gender identity are in diametrically opposed conflict with their external birth anatomy) never experience doubt about their own gender.

Describing to others one's own subjective experiences is a uniquely human capacity. Ordinarily it is not, as suggested by Dr. Kaliebe, an "ephemeral" process. For example, most persons can accurately describe to others the nature of their own sexual orientation. In the vast majority of cases, if the individual disclosing is being honest, associated behaviors will correspond with self-reported mental desires and experiences. Just as some persons who characterize themselves as "bisexual" may appear to be "fluid" in their interactions with men and women, some individuals whose feelings of gender identity may not be exclusively either cisgender or transgender may also appear to be "fluid" in their self-perceptions and behaviors. Still, the vast majority of persons do not experience fluidity of gender identity.

It is well documented that transgender persons have existed for as long as history has been recorded,