



DC Trans Coalition  
3112 Park Place NW  
Washington, DC 20010

**RE: DCTC Supports the NPRE Commission's Recommendations; Docket No. OAG-131**

April 6, 2010

Attn: Attorney General Eric Holder  
Office of the Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Attorney General Eric Holder:

On behalf of the DC Trans Coalition (DCTC)'s members and supporters, we are writing to express our organization's unequivocal support for the standards developed by the National Prison Rape Elimination Commission, and urge you to codify them without undue delay. The DCTC is an all-volunteer, community-based organization of transgender, transsexual and gender non-conforming (hereafter trans) people and their allies, dedicated to the protection and advancement of the rights of the entire trans community living in and around the District of Columbia.

**Background**

These standards are of particular importance to the DCTC due to the severe difficulties and rampant human rights abuses trans individuals experience when incarcerated. A disproportionate level of trans individuals experience incarceration due to systemic inequalities, discrimination and heightened likelihood of encountering interpersonal violence. Trans people are more likely to be kicked out of their homes, forced to drop out of school, turned away from shelters and other social services, and have difficulty finding legal employment or being able to pay for health care.<sup>1</sup> This means that trans people are at a heightened risk of being arrested for "quality of life" crimes like sleeping in public or for "economic" crimes like engaging in sex work.

Unfortunately, very few institutions maintain records that acknowledge trans people at all, let alone file reports documenting the incidences of prison rape against them. However, based on individual testimony, prison visitations, pen pal projects and community activism,

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<sup>1</sup> For more information detailing the problems trans individuals experience in detention, including detailed reports with testimony, statistics and more, please be sure to visit the following organizations on the web: The [Transgender Law Center](#), [Sylvia Rivera Law Project](#), [Just Detention International](#), the [ACLU National Prison Project](#) and [Transgender, Gender Variant and Intersex Justice Project](#) all have [Transgender Law Center](#), [Sylvia Rivera Law Project](#), [Just Detention International](#), the [ACLU National Prison Project](#) and [Transgender, Gender Variant and Intersex Justice Project](#).

and a number of reports produced by community, academic and legal organizations, we know that the conditions faced by trans people in jails, prisons and other detention facilities are extremely severe across the board<sup>2</sup>. When trans victims of prison rape are released, they carry severe trauma and health problems back into their communities.

Trans people face a disproportionate risk of experiencing prison rape and its negative consequences. This is largely because, while incarcerated, trans people are often:

- **Housed in Gender Inappropriate Facilities** where they are more likely to experience harassment, sexual assault and violence, based solely on their legal sex or genitalia, with no regard to how they identify, live their life, or where they would be safest.
- **Sexually Assaulted** and consistently subjected to verbal harassment and frequently raped or coerced into sex by fellow inmates, guards and officials.
- **Exposed to Increased Risk of STI and HIV** due to frequent rape and sexual coercion.
- **Subjected to Abusive Strip Searches** regularly conducted in a sexually inappropriate or degrading manner, and often in front of other prisoners.
- **Psychologically Abused** by not being referred to by the correct name or pronoun, denied appropriate clothing and toiletries, and punished for expressing the gender congruent with their identity.
- **Excessively Placed in Isolation** to “prevent violence” against them. Often kept in protective custody for 23-hours per day; cut off from human contact, commissary, phone privileges.
- **Denied Trans-Related Health Care** because transitioning is falsely deemed “cosmetic” and not medically necessary; thus, trans prisoners may be denied access to endocrinologists, psychiatrists and others involved in their care. This can be traumatic for the physical and mental health of trans people, causing deep depression and physical withdrawal symptoms similar to those experienced by any other abrupt change in a person’s physiology. Cutting off access to hormones can also complicate blood pressure and lead to other serious problems. It can also stunt or forever ruin a transition that is not yet completed, leaving the trans person with semi-developed traits or mixed external gender cues that can be devastating to their sense of identity and make them targets for violence inside and outside of prison.
- **Unable to Obtain Competent General Health Care** because of a lack of access to professionals and resources that are familiar and experienced with the very particular needs of trans patients. Even when receiving treatment for other health concerns, such as gynecological or testicular cancer exams, doctors who are unfamiliar or judgmental with trans patients may not deliver adequate treatment.
- **Denied Access to Rehabilitation Programs** such as drug rehab, work release, educational and other recreational or job opportunities, because of stereotypes and prejudices about trans people.

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<sup>2</sup> *It’s War in Here: A Report of the Treatment of Transgender and Intersex People in New York State’s Men’s Prisons*. Sylvia River Law Project. 2007. <http://srlp.org/files/warinhere.pdf>.  
*Move Along: Policing Sex Work in Washington, D.C report*. Different Avenues. 2007. [http://www.incite-national.org/media/docs/4668\\_toolkitrev-sexwork.pdf](http://www.incite-national.org/media/docs/4668_toolkitrev-sexwork.pdf).

- **Presented with Few Re-Entry Programs** after release that are prepared to assist trans people in finding steady, well-paying jobs and housing, which may force them back into the underground economy where they must engage in survival crimes such as sex work, thereby increasing the chance that they will be arrested again and perpetuate the cycle of incarceration.

### **Community Response in DC**

In an effort to respond and limit the vulnerability of trans prisoners detained in DC's two jails, local trans communities joined together to present a [list of demands](#) for the DC Department of Corrections to address some of these concerns. At the heart of our demands was the belief that *we know where we are safest*, and thus housing assignments should reflect the individual situation of every trans person who is incarcerated. There is no single "blanket solution" to where we should be housed. The current policy to prevent the rape of trans individuals in many jurisdictions is indefinite administrative segregation, where trans individuals are kept in a solitary cell and often shackled in a manner indistinguishable from punitive lockdown. Though this may deter a trans prisoner from being assaulted, it is effectively stopping rape by a de facto policy of punishing the survivor, leading to increased threat of self-harm and depression.

In DC, we asked for more options for housing, guaranteed access to hormones and other medical treatment, and an end to the use of enforced protective custody and abusive strip searches. After year-long negotiations, the DC Department of Corrections finally issued an improved policy on [Gender Classification and Housing](#). For your reference, a summary of this policy is enclosed. Obviously, not all of our demands were met, but it represents significant progress and raises the standard for how trans people are dealt with by the correctional system.

### **Recommendations**

We hope that this overview can provide you with a basic understanding of the severity of the abuses routinely inflicted upon trans people who are incarcerated. The present system for preventing sexual abuse in detention is broken, and trans individuals often feel the brunt of this. For the trans community and for many others, it is urgent that we adopt the National Standards to Prevent, Detect, and Respond to Prison Rape.

As Congress recognized when it unanimously passed the Prison Rape Elimination Act of 2003, sexual abuse in detention is preventable. The standards under review have the potential to become the most important tool so far in the effort to end this terrible abuse, but every day that we don't have these measures in place, hundreds of people - including trans individuals - will be raped behind bars, even though we know how to keep them safe.

In the 1994 *Farmer v. Brennan* US Supreme Court case, a trans woman incarcerated in a male prison complained that the prison administration had shown "deliberate indifference" to the repeated sexual abuse she faced. The Supreme Court declared that the prison has a duty under the Eighth Amendment to provide humane conditions of confinement, including

the obligation to ensure that inmates receive adequate food, clothing, shelter, and medical care, and are protected from violence at the hands of other prisoners. Placing an individual who presents herself and lives her life as female in a male unit is practically ensuring that she will be raped. To fully eliminate sexual abuse in detention, correctional systems must also acknowledge that trans individuals are at a heightened risk and that protecting them from abuse will require flexible housing policies that prioritize their safety. The obligation to prevent sexual abuse requires correctional systems to end the practice of making housing placement decisions based solely on genitalia, or excessively relying on protective custody and administrative segregation.

The standards under review are an extremely important step toward fixing this problem. No matter how big or how small, all corrections facilities must institute basic policies and practices to keep inmates safe. The final standards should include a broad definition of prisoner rape, acknowledging vulnerable prison populations including trans individuals. Whatever form sexual abuse takes, it is always wrong; unchecked harassment frequently leads to more serious abuse. Morally, we must end the rape of those we detain without delay.

Moving forward, we encourage you to defer to the expertise relied upon by the Commission in its exhaustive research and review process, and not to spend additional resources duplicating its efforts. If the standards are not implemented swiftly and fully, we will have missed an historic opportunity to address one of this nation's most urgent human rights crises.

On behalf of the DCTC, we ask that you enter these comments into the public record for Docket No. OAG-131.

Sincerely,

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**Enclosed: DC Department of Corrections' Gender Classification & Housing Policy (as Summarized by the DC Trans Coalition)**

In February of 2009 the D.C. Department of Corrections (DOC) issued a new policy for how it will treat transgender people at the D.C. jail. It's called *Program Statement 4020.3 Gender Classification and Housing*. Below is a summary of the policy so you can know your rights (and defend them) if you should end up at D.C. jail. Here's a breakdown of the policy:

- **Intake.** At intake into the jail, any inmate identified as transgender will be referred to the Transgender Committee for a decision about housing. The Committee will interview the inmate, and based on the interview and a review of the inmate files, the Committee will decide whether to place the inmate in the male or female unit, in general population or protective custody. Prior to the Committee's decision, the inmate will be held in protective custody of the unit of the gender identified when the person was transferred to DOC custody.
- **Safety.** Staff has an obligation to keep inmates safe from harm and abuse, from other inmates or staff. Transgender inmates are recognized by DOC as potential targets for abuse and should have their safety concerns taken seriously and acted on.
- **Searches.** Any transgender inmate who is strip searched will be strip searched in private, not in front of other inmates or unnecessary staff.
- **Respect.** Staff must respect all inmates and not harass or discriminate against transgender inmates. Corrections staff are to refer to inmates by their last name only and not use gender specific pronouns or names for ANY inmate.
- **Clothing.** DOC will issue clothing to inmates according to the unit they are placed at – male (jumpsuit) or female (pants and shirt). Medical staff will decide if a transgender woman placed in the male unit will be issued a bra.
- **Hormones.** DOC medical staff will continue a transgender inmate on their hormone dosage, consistent with a medical evaluation and consultation with the inmate's doctor. An inmate who has not been on hormones, or who was not taking hormones from a doctor, can request hormone therapy from medical staff, that will evaluate the inmate and make a decision.

This list is only an overview; if you have any questions, please feel free to contact us. You can also read the full text of the [DOC's Program Statement \(http://dctranscoalition.files.wordpress.com/2009/07/docpolicy2-20-09.pdf\)](http://dctranscoalition.files.wordpress.com/2009/07/docpolicy2-20-09.pdf).