



www.theTaskForce.org

Washington, DC

1325 Massachusetts Avenue, NW
Suite 600
Washington, DC 20005
Phone: 202.393.5177
Fax: 202.393.2241

New York, NY

80 Maiden Lane
Suite 1504
New York, NY 10038
Phone: 212.604.9830
Fax: 212.604.9831

Los Angeles, CA

8704 Santa Monica Boulevard
Suite 200
West Hollywood, CA 90069
Phone: 310.855.7380
Fax: 310.358.9415

Cambridge, MA

1151 Massachusetts Avenue
Cambridge, MA 02138
Phone: 617.492.6393
Fax: 617.492.0175

Miami, FL

3510 Biscayne Boulevard
Suite 206
Miami, FL 33137
Phone: 305.571.1924
Fax: 305.571.7298

Minneapolis, MN

810 West 31st Street
Minneapolis, MN 55408
Phone/Fax: 612.821.4397

May 10, 2010

Honorable Eric H. Holder, Jr.
Attorney General of the United States
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

RE: Docket No. OAG-131; AG Order No. 3143-2010
National Standards to Prevent, Detect, and Respond to Prison Rape

Dear Attorney General Holder:

I am writing to express the strong support of the National Gay and Lesbian Task Force (the "Task Force") for the recommended national standards for the prevention, detection, response, and monitoring of sexual abuse developed by the National Prison Rape Elimination Commission (the "Commission") and to recommend that several areas be improved.

Founded in 1973, the Task Force is the nation's oldest lesbian, gay, bisexual and transgender (LGBT) civil rights and advocacy organization. We work to advance LGBT equality by training activists, equipping state and local organizations with the skills needed to organize broad-based campaigns to defeat anti-LGBT referenda and advance pro-LGBT legislation, and building the organizational capacity of our movement. Our Policy Institute, the movement's premier think tank, provides research and policy analysis to support these efforts.

We have long recognized the abuse and discrimination encountered by LGBT people in the nation's jails, prisons and juvenile and immigration detention facilities. In March 2006, our Policy Institute released a report entitled "Prison sexual abuse and LGBT prisoners" which is appended to this letter. The report looked at existing data, studies and news reports and made the following conclusions:

- Prisoners who are gay, transgender, or perceived to be gay or gender nonconforming, are at high risk of sexual abuse in prison;

- Same-sex rape is a widespread problem in prisons;
- Prison officials are often unaware of the extent of the problem;
- Victims of rape in prison face many barriers to reporting their abuse; and
- Rape can cause physical and psychological harm, as well as transmit deadly and debilitating diseases.

A little more than three years later, the Commission based its proposed standards on virtually identical conclusions. Now, nearly another year has passed. During this long period of inaction, the pervasive problem of sexual abuse in detention facilities has continued unabated. The time to act is now.

Several organizations with which we work closely - including the National Center for Lesbian Rights, the National Center for Transgender Equality and Lambda Legal - have submitted extensive comments on the proposed standards and the three questions contained in the Advance Notice of Proposed Rulemaking. We wholeheartedly support our colleagues' thoughtful comments.

We join with our colleagues in urging you to adopt the proposed standards as soon as possible.

At the same time, there are several areas within the standards that need to be improved and we ask you to consider the following and approve the standards with the following changes:

Transgender Specific Issues. The Task Force has a particular interest and expertise in transgender issues. In 2001, we started our Transgender Civil Rights Project and over the last nine years, the project has played a role in virtually every major local, state and federal policy and legislative advance for transgender people. Our comments in this area are grounded in this expertise.

Over the years, we have frequently encountered the same fears, concerns and misunderstanding now being expressed by correctional professionals in regards to the treatment of transgender detainees. We have consistently found that with education and training, these issues largely disappear.

New information demonstrates that sexual abuse affects transgender detainees disproportionately based on the individual's race and ethnicity. A nationwide survey conducted by the Task Force and the National Center for Transgender Equality shows that, while sexual assault is a problem across all racial lines for transgender individuals, the problem is more pronounced for both African American and Latino people:

- 32 percent of African American transgender detainees reported being sexually assaulted by another detainee;
- 21 percent of Latino transgender detainees reported being sexually assaulted by another detainee; and
- Overall, 13 percent of transgender detainees reported being sexually assaulted by another detainee.

Survey participants responded with similarly disturbing, though admittedly less prevalent, problems of sexual assault at the hands of correctional personnel:

- Nine percent of African American transgender detainees reported being sexually assaulted by a correctional officer or staff;
- Seven percent of Latino transgender detainees reported being sexually assaulted by a correctional officer or staff; and
- Overall, six percent of transgender detainees reported being sexually assaulted by a correctional officer or staff.

The disproportionate impact of sexual assault in detention settings against transgender individuals also impacts male-to-female transgender individuals disproportionately, with 17 percent of male-to-female survey participants reporting being sexually assaulted by another inmate as compared to two percent of female-to-male detainees.

The proposed standards would allow transgender women in detention facilities to be searched by male staff, notwithstanding having breasts and a feminine appearance. This practice invites abuse, as documented in testimony before the Commission. **Transgender and intersex inmates should be asked to specify the gender of staff they feel can most safely search them.** This approach is currently used by the District of Columbia Police Department, the New York State Office of Children and Family Services, and numerous jurisdictions in Canada and the United Kingdom.

We also strongly urge the standards be improved to include a clear requirement that strip and visual body cavity searches of any inmate be conducted only for legitimate, contraband-related purposes. Searches of inmates for the sole purpose of determining genital status should be prohibited.

Because research shows that sexual abuse of transgender inmates frequently occurs disproportionately in showers, all facilities should provide transgender and intersex inmates private access to showers, separate from other inmates.

Training and Education (TR): We are very concerned that none of the related TR Standards or Assessment Checklists specifically reference LGBTI-specific issues. Given the hugely disproportionate rates of sexual abuse against members of our community, this is an egregious oversight. The needs of LGBTI (where “I” stands for intersex) and gender-nonconforming inmates are specifically included in the Screening for Risk checklist (SC2) and should be similarly included in the TR checklists.

The omission is compounded by the failure of the proposed standards to list mandatory topics to be covered in training under the standard. We recommend that the standards require all staff and vendor training programs to include the topics listed in Appendix B of the National Prison Rape Elimination Commission’s report.

Screening for Risk of Sexual Victimization and Abusiveness (SC) and Assessment and Placement of Residents (AP). An inmate’s own perception of vulnerability in the screening of male and female inmates must

be in screening instruments for all facilities, including those used for female inmates and juvenile residents. Moreover, the corollary standards for lockups (**PP-4**) should contain the same risk assessment checklist as in **SC-1**.

Because some LGBTI inmates may be fearful of consequences for disclosing their sexual orientation/gender identity, we also recommend clarifying that inmates may not be disciplined for their response or lack of response to screening questions.

Segregation of Vulnerable Inmates. The juvenile standards need to be brought into conformity with the adult standards ((**SC-2** and **AP-2**) in the following ways: (a) the prohibition on segregating vulnerable inmates needs to be included in juvenile standard **AP-2**; (b) juvenile standard **AP-1** needs to clearly provide, as do the adult standards, that sexual orientation, gender identity, and gender nonconformance are indicators for risk of victimization and not for sexually abusive conduct; and (c) residents' own perceptions of their vulnerability should be included as an indicator of their risk of victimization, as is provided in the adult standards.

To be fully effective, **SC-2** should clearly prohibit classification based solely on birth gender, and should explicitly require that facilities make an individualized determination as to whether a transgender inmate will be housed in a men's or women's facility. In community corrections, as in other settings, **SC-2** should provide that risk of victimization should not limit access to programs and opportunities to the extent possible.

Medical and Mental Health Care (MM). The MM standards are sorely lacking because they do not require the medical or mental health staff have any training on dealing with sexual abuse or evidence collection, generally, or the specific issues/challenges faced by LGBTI survivors or survivors of same-sex abuse, specifically. (The TR standards do not address this issue, either.) Because sexual abuse in detention facilities is so common, the standards should require all medical and mental health staff to have basic training in this area, including more specificity about when a forensic examination should be obtained.

Data Collection and Review (DC). The checklists also include "sexual orientation/gender identity dynamics" to help gauge, prevent and respond to anti-LGBTI bias behind acts of sexual abuse.

Cross-Gender Supervision: Because data shows that a significant percentage of sexual abuse is perpetrated by staff members of the opposite sex, we strongly support standard **PP-4** (**PP-5** for Lockups). We understand there is considerable pushback from the correctional industry on this point and we urge you not to yield.

Rather than limiting cross-gender supervision in *all* areas where inmates disrobe or perform bodily functions – the norm in most other western countries – the final recommended standard only prohibits *actually viewing* inmates of the opposite gender who are nude or performing bodily functions and performing body cavity, strip and pat searches on inmates of the opposite sex. The standard also makes exceptions to this requirement in cases of emergencies or other extraordinary or unforeseen circumstances. These requirements can be met with low-cost solutions.

PP-4's basic limitations on cross-gender viewing and searches represent the bare minimum necessary to protect LGBTI and other vulnerable inmates from staff sexual abuse.

Consensual Sexual Activity Between Inmates. The singular reason PREA was enacted was to address sexually *abusive* behavior. Consequently, the PREA standards should not be used to deal with consensual sexual contact. All four sets of standards should distinguish clearly between sexual abuse, which should always fall under the purview of these standards, and consensual sexual activities between inmates, which a facility may prohibit, but should not treat as sexual abuse. This would help to distinguish between the serious harms and trauma of sexual abuse that PREA is intended to prevent, and a facility's interest in preventing sexual activity between inmates. It would also ensure that facilities do not further penalize and pathologize same-sex sexual activity.

Because the majority of residents in juvenile facilities are minors, the standards should specify the limited circumstances under which juvenile facilities can treat voluntary sexual contact between residents as abuse. In most states, the age of consent is 16, and in all but a handful of states, minors 14 or older can consent to sexual contact with others who are close to them in age. In addition, many juvenile facilities house youth over the age of 18. Considering that many residents of juvenile facilities are old enough to consent to sexual activity with other similarly-aged youth, changes to the proposed standards are required.

The Adult, Lock-Up, and Community Corrections standards define sexually abusive penetration to include only *nonconsensual* sexual penetration and penetration involving an inmate who is unable to consent or refuse. However, the juvenile standards require that facilities treat *any* sexual penetration between residents as sexual abuse, regardless of whether the activity is voluntary and the residents involved are legally able to consent. As a result, (a) facilities would have to use their limited resources investigating and filing reports for sexual activity that would not be considered sexual abuse in any other setting; and (b) residents involved in substantiated reports of *non-abusive* sexual penetration would be treated the same as residents found to be perpetrators of actual sexual abuse. This is plain injustice and will fall disproportionately on LGBTI youth.

The inclusion of the words "**who is unable to consent or refuse**" in the definition of resident-on-resident sexually abusive contact could be read to require juvenile facilities to treat some voluntary sexual activity between residents as sexual abuse solely based on the age or relative ages of the youth involved. We urge you to take the following steps to prevent a misapplication of the standards to cases of voluntary sexual contact between similarly aged youth:

- The standards should clarify that a state's age of consent laws are controlling and, therefore, the standards do not apply to voluntary sexual contact between minors who, under the laws of that state, can legally consent to engage in such contact.

- Standard **OR-1** should state explicitly that it does not expand facilities' mandatory reporting requirements beyond a state's definition of child abuse (as most states do not consider statutory rape between youth to be child abuse).
- Standard **DI-2** should discourage the use of harsh sanctions to punish similarly-aged youth who engage in voluntary, but legally non-consensual, sexual contact. Specifically, facilities should not treat these youth as sexually aggressive, violent, or deviant, or attempt to change their sexual orientation. In addition, interventions for "victims" and "perpetrators" of voluntary sexual contact should not be more punitive than those for sexual contact that is forced, coerced, or violent.

Standard **TR-1** should require that facilities provide training for employees that covers the topics in the three above recommendations.

Conclusion

If adopted, the Commission's proposed standards represent a long-overdue response to sexual abuse of individuals in adult prisons and jails, immigration detention, lock-ups, community corrections, and juvenile facilities, generally, and LGBTI people specifically. They are urgently needed and we urge you to promulgate the standards with our recommended modifications without delay.

Thank you for your consideration.

Sincerely,



Rea Carey
Executive Director

Prison sexual abuse and LGBT prisoners

By Sean Cahill

Prisoners who are gay, transgender, or perceived to be gay or gender nonconforming, are at high risk of sexual abuse in prison

- In male facilities, gay men, particularly those exhibiting stereotypically “effeminate” characteristics and male-to-female transgender people (transgender women who were born male), are extremely vulnerable to sexual abuse.^{1, 2}
- One study, for example, found that 41% of gay men were sexually assaulted in prison, as opposed to 9% of heterosexual men.³ This same study found that 53% of a sample of 80 self-identified homosexual prisoners in a medium-security California prison had experienced sexual harassment and/or threats.⁴
- James Robertson, professor of corrections at Minnesota State University, Mankato, has reviewed a number of studies of male-male rape in prison dating back to the 1960s. Nearly all present non-consensual sex and rape as widespread in prisons. One found such abuse more prevalent in state prisons than in federal prisons.⁵
- Many male inmates consent to sexual acts against their will to avoid violence, apparently feeling there are no other options.⁶
- *The New York Times* reported in 2004 on the case of Roderick Johnson, a gay man forced into “daily sex acts” of sexual slavery in a Texas prison:

“The Crips already had a homosexual that was with them,” Mr. Johnson explained. “The Gangster Disciples, from what I understand, hadn’t had a homosexual under them in a while. So that’s why I was automatically, like, given to them.” According to court papers

¹ Mariner, J. (1999). *No escape: Male rape in U.S. prisons*. New York: Human Rights Watch. p. 71.

² *Roderick Keith Johnson, v. Gary Johnson*, 385 F.3d 503, 512 (5th Cir. 2004)

³ Wooden, W. & Parker, J. (1982). *Men behind bars*. New York: Plenum Press. p. 18.

⁴ Wooden & Parker (1982). Cited in Robertson, J. (1999). Cruel and unusual punishment in United States prisons: Sexual harassment among male inmates. *American Criminal Law Review* 36(1). Journal article retrieved online through LexisNexis; no page numbers available.

⁵ Robertson (1999).

⁶ Man, C. & Cronan, J., (2001/2002) Forecasting sexual abuse in prisons: The prison subculture of masculinity as a backdrop for “deliberate indifference.” *Journal of Criminal Law & Criminology*. 92. 153.

and [Johnson's] own detailed account, the Gangster Disciples and then other gangs treated Mr. Johnson as a sex slave. They bought and sold him, and they rented him out. Some acts cost \$5, others \$10... "I was forced into oral and anal sex on a daily basis... Not for a month or two. For, like, 18 months."⁷

- T.J. Parsell, now board chair of Stop Prisoner Rape, was sentenced to prison in Michigan at age 17 for armed robbery. His first day in jail, Parsell was drugged and gang raped. "When they were done, they flipped a coin to see which one I belonged to," Parsell said.⁸
- In 1973 Stephen Donaldson, a Quaker peace activist, was arrested and held for two nights in a Washington, D.C. jail for trespassing at the White House to protest the U.S. policy in southeast Asia. During his brief stay in jail Donaldson was gang-raped approximately 60 times by numerous inmates.⁹
- Placing transgender women in men's prisons because they have not surgically altered their genitalia places them far too often into a "virtual torture chamber of incessant sexual humiliation."¹⁰
- In women's facilities, lesbians and other women who are seen as transgressing gender boundaries are often at heightened risk of sexual torture and other ill treatment. Actual or perceived sexual orientation was found to be one of four categories that make a female prisoner a more likely target for sexual abuse, as well as a target for retaliation when she reports that abuse.¹¹

Same-sex rape is a widespread problem in prisons

Prison rape has been called "America's oldest, darkest, yet most open secret."¹²

- A 2000 study of prisoners in four Midwestern states found that approximately one in five male inmates reported pressured or forced sex while incarcerated. About one in ten male inmates reported that they

⁷ Liptak, A. (2004, October 16). Ex-inmate's suit offers view into sexual slavery in prisons. *New York Times*. A1. Cited in Ries, D. (2005). *Journal of Law & Policy*. 915-916.

⁸ Associated Press (2006, January 17). Disputed study: Prison rape, sexual assault rare. Accessed January 20, 2006, from <http://www.msnbc.msn.com/id/10896343/>

⁹ Bruning, F. (1995, April 23). A former inmate speaks out about rape in U.S. prison system. *Seattle Times*, A16. Cited in Man, C., & Cronan, J. (2001, fall/2002, winter). Forecasting sexual abuse in prison: The prison subculture of masculinity as a backdrop for "deliberate indifference." *Journal of Criminal Law and Criminology*. 92(127). 18.

¹⁰ Rosenblum, D. (2000) "Trapped" in Sing Sing: Transgendered prisoners caught in the gender binarism, *Michigan Journal of Gender Law*, 6(499): 517.

¹¹ Curtin, M. (2002). Lesbian and bisexual girls in the juvenile justice system. *Child and Adolescent Social Work Journal*, 19(4): 285-301.

¹² Man, C.D. & Cronan, J.P. (2001/2002). Forecasting sexual abuse in prison: The prison subculture of masculinity as a backdrop for "deliberate indifference." *Journal of Criminal Law & Criminology*. 92(127-128).

had been raped.¹³ Another study showed that in women's prisons, rates of sexual coercion varied from six percent to as high as 27%.¹⁴

- Twenty-six years ago, in a dissent to the case *U.S. vs. Bailey* in which he was joined by Justice William Brennan, U.S. Supreme Court Justice Harry Blackmun wrote:

“The complaints that this Court, and every other American appellate court, receives almost daily from prisoners about conditions of incarceration, about filth, about homosexual rape, and about brutality are not always the mouthings of the purely malcontent... The atrocities and inhuman conditions of prison life in America are almost unbelievable; surely they are nothing less than shocking. A youthful inmate can expect to be subjected to homosexual gang rape his first night in jail, or, it has been said, even in the van on the way to jail. Weaker inmates become the property of stronger prisoners or gangs, who sell the sexual services of the victim.”¹⁵

- According to the Prison Rape Elimination Act, “experts have conservatively estimated that at least 13% of the inmates in the United States have been sexually assaulted in prison.”¹⁶ The conservative *National Review* reports that this figure, equivalent to 12,000 rapes, represents more rapes than are reported annually against women in New York City, Los Angeles, Philadelphia, Boston, San Diego, and Phoenix combined.¹⁷
- “[I]t is widely believed that sexual harassment such as intimidation, propositions, extortion, assault and rape runs rampant in the prison system,” according to Olga Giller, editor-in-chief of the *Cardozo Women's Law Journal*. Giller cites a number of studies to back up her claim.¹⁸
- A 1982 Federal Bureau of Prisons study reported that 9-20% of federal inmates, especially new or homosexual inmates, were victims of rape. The study also reported that 30% of federal prison inmates engaged in homosexual activity while incarcerated.¹⁹

¹³ Struckman-Johnson, C. & Stuckman-Johnson, D. (2000). Sexual coercion rates in seven midwestern prisons for men. *The Prison Journal*. (80): 379.

¹⁴ Struckman-Johnson, C. & Stuckman-Johnson, D. (2002). Sexual coercion reported by women in three Midwestern prisons. *Journal of Sex Research*. 39(3). Journal article retrieved online through Academic Search Premier, no page numbers available.

¹⁵ United States vs. Bailey, 444 U.S. 394 (1980). Dissenting opinion of Mr. Justice Blackmun, joined by Mr. Justice Brennan. Accessed January 20, 2006, from <http://www.healylaw.com/cases/bailey1.htm>

¹⁶ The Prison Rape Elimination Act. (2005). 42 U.S.C. 15601(2).

¹⁷ Lehrer, E. (2003, June 2). A blind eye, still turned: Getting serious about prison rape. *National Review*. 10.

¹⁸ Giller, O. (2004, summer). Patriarchy on lockdown: Deliberate indifference and male prison rape. *Cardozo Women's Law Journal*, 10(659). Accessed January 20, 2006, from <http://www.spr.org/en/academicarticles/giller.html>

¹⁹ Nacci, P. & Kane, T. (1982). Sex and sexual aggression in federal prisons. Washington, DC: Federal Bureau of Prisons. Cited in Kantor, E. (2003). HIV transmission and prevention in prison. San Francisco: University of California. Accessed January 25, 2006, from <http://hivinsite.ucsf.edu/InSite?page=kb-07-04-13#S14X>

- Stop Prisoner Rape, a Los Angeles-based national advocacy group, was contacted by 507 survivors of prison rape from 2002 through January 23, 2006. Most of these contacts take the form of letters from prisoners. Of these 507 self-reported survivors of prison rape:
 - 413 are men (81.5%)
 - 63 are woman (12.5%)
 - 26 are transgender (6%)
 - 98 (19%) identified as gay, lesbian, bisexual or transgender.²⁰

Who is at most risk

Human Rights Watch reported a number of characteristics which can make prisoners more likely to be raped:

These include youth, small size, and physical weakness; being white, gay, or a first offender; possessing “feminine” characteristics such as long hair or a high voice; being unassertive, unaggressive, shy, intellectual, not street-smart, or “passive”; or having been convicted of a sexual offense against a minor...prisoners with several overlapping characteristics are much more likely than other inmates to be targeted for abuse.²¹

Giller notes that “[r]ace and sexuality intersect at the heart of prison rape.”

An anonymous ex-prisoner painfully recounted the role that race played in his sexual assault recalling, “[s]ince I’m light skinned the first dudes that raped me were blacks who thought I was white. After word got out that I was black, they left me alone but then the whites took me off. After that I was a ‘black’ punk and passed on to whites.”²²

Prison officials are often unaware of the extent of the problem

According to Human Rights Watch, many prison officials do not understand or acknowledge the extent of prison sexual abuse:

Prison authorities, unsurprisingly, generally claim that prisoner-on-prisoner sexual abuse is an exceptional occurrence rather than a systemic problem. Prison officials in New Mexico, for

²⁰ Personal communication with Kathy Hall-Martinez, executive director, Stop Prisoner Rape, January 24, 2006.

²¹ Mariner, J. (2001). *No escape: Male rape in U.S. prisons*. New York: Human Rights Watch. p. 5.

²² Anonymous. The story of a black punk. In Sabo, D. et al. (eds.) (2001). *Prison masculinities*. Philadelphia: Temple University Press. 127. Cited in Giller (2004). 3. Accessed January 20, 2006, from <http://www.spr.org/en/academicarticles/giller.html>

example, responding to our 1997 request for information regarding “the ‘problem’ of male inmate-on-inmate rape and sexual abuse” (the internal quote marks are theirs), said that they had “no recorded incidents over the past few years.” The Nebraska Department of Correctional Services informed Human Rights Watch that such incidents were “minimal.”²³

Victims of rape in prison face many barriers to reporting their abuse

Many of those subjected to such abuse are reluctant to report their experiences, fearing retaliation by both prisoners and staff, and having justifiably little faith in receiving the appropriate relief. When instances are reported or claims filed, victims are frequently subjected to further abuse, ignored, or told that the incident was their fault or that they deserved what happened to them.

- Those who report rapes are often not believed or told that they consented. They are often accused of being gay, the implication being that if they were gay they wanted it.²⁴ When prisoners known to be gay or transgender report prison rape they are often told that they enjoyed the act, and that it was consensual. Others have reported that if they do not have physical evidence of an attack (e.g. wounds, scratches), their claims are not believed and considered unsubstantiated by prison authorities. Prisoners who report rape are not protected from other inmates, who may retaliate against the prisoner for being a “snitch.”^{25, 26}
- Punishment for prisoner rape is rare.²⁷

Rape can cause physical and psychological harm, as well as transmit deadly and debilitating diseases

Human Rights Watch documented a wide range of physical effects of prison rape that depend on whether it was accompanied by a violent attack (beating etc.), whether there was anal penetration, and whether a lubricant was used:

Prisoners with whom Human Rights Watch is in contact have suffered rape-related injuries ranging from broken bones to lost teeth to concussions to bloody gashes requiring dozens of stitches. A few, like former Texas inmate Randy Payne, were killed during sexual assaults.²⁸

²³ Mariner (2001). 4.

²⁴ Letter to Human Rights Watch from J.G., Florida, September 4, 1996. Mariner (2001).

²⁵ Lee, A., (2003) Nowhere to go but out: The collision between transgender & gender-variant prisoners and the gender binary in America’s prisons. Berkeley: Boalt Hall School of Law. 14. Posted on Sylvia Rivera Law Project website, accessed January 20, 2006, from http://www.srlp.org/documents/alex_lees_paper2.pdf

²⁶ Roderick Keith Johnson, v. Gary Johnson, 385 F.3d 503, 512 (5th Cir. 2004)

²⁷ Mariner (2001). 151.

²⁸ Ibid. 110-111.

Survivors of rape in prison often leave prison in a state of “extreme psychological stress, a condition identified as rape trauma syndrome.”²⁹ Other conditions often brought on by the experience of prison rape include low self-esteem, shame, depression, nightmares, self-hatred, suicidality, uncontrollable anger, and violence.³⁰ In fact, the psychological problems caused by being raped while in prison likely play a major role in ex-prisoners’ frequent difficulties reintegrating into society upon release. They could be a major factor in high recidivism rates.

Prison rape also exposes victims to serious risk of life-threatening disease. A prison rape can impose an “unadjudicated death sentence” because of the risk of contracting HIV/AIDS.³¹ Inmates confined in state and federal prisons have AIDS at 5 times (.5%) and HIV at 4 times (2.3 to 2.98%) that of the U.S. population. Syphilis has been found among 2.6 to 4.3% of all prisoners, while hepatitis C is even higher with 17 to 18.6% of all prisoners infected.³²

- Approximately 25% of the United States population living with HIV passes through the correctional system annually.³³
- New York prisons held about one quarter of all inmates known to be HIV positive as of the end of 2000.³⁴
- Without official access to latex barriers, prisoners use ineffective makeshift devices, like rubber gloves and used plastic wrap, in attempts to practice safer sex.³⁵

Sean Cahill, Ph.D., directs the National Gay and Lesbian Task Force Policy Institute. Research assistance was provided by Alain Dang, Julien Chyten-Brennan, and Travis Proulx.

Published: March 2006

Founded in 1973, the National Gay and Lesbian Task Force Foundation (the Task Force) was the first national lesbian, gay, bisexual and transgender (LGBT) civil rights and advocacy organization and remains the movement's leading voice for freedom, justice and

²⁹ Ibid. 112.

³⁰ Ibid.

³¹ Mariner, (2001). Cited in Robertson, J. (2003). Rape among incarcerated men: Sex, coercion and STD's. *AIDS Patient Care and STD's*. 17(8): 423-430.

³² National Commission on Correctional Healthcare. (2002). *The health status of soon-to-be-released prisoners: A report to Congress*. Available at http://www.ncchc.org/pubs_stbr.html. Cited in Robertson (2003).

³³ Spaulding, A., Stephenson, B., Macalino, G., Ruby, W., Clark, J., & Flanigan, T. (2002). Human immunodeficiency virus in correctional facilities: A review. *Clinical Infectious Diseases*. 35: 305-312. Cited in Braithwalte, R. L. & Arriola, K.R.J. (2003). Male prisoners and HIV prevention: A call for action ignored. *American Journal of Public Health*. 93(5): 759-763.

³⁴ Maruschak, L., (2002, October). *HIV in prisons, 2000*. Washington, DC: U.S. Department of Justice, Office of Justice Programs. NCJ 196023.

³⁵ Mahon, N. (1996). New York inmates' HIV risk behaviors: The implications for prevention policy and programs. *American Journal of Public Health*. 86(9): 1211-5.

equality. We work to build the grassroots political strength of our community by training state and local activists and leaders, working to strengthen the infrastructure of state and local allies, and organizing broad-based campaigns to build public support for complete equality for LGBT people. Our Policy Institute, the community's premier think tank, provides research and policy analysis to support the struggle for complete equality. As part of a broader social justice movement, we work to create a world that respects and makes visible the diversity of human expression and identity where all people may fully participate in society. Headquartered in Washington, D.C., we also have offices in New York City, Los Angeles, Cambridge, Mass., and Miami.