



Comments on the U.S. Department of Justice Hearings on Sexual Victimization in U.S. Prisons, Jails, and Juvenile Correctional Facilities—January 6, 2013

The National Center for Transgender Equality (NCTE) is pleased to submit these brief comments in connection with the January 8 hearings on Sexual Victimization in U.S. Prisons, Jails, and Juvenile Correctional Facilities. Lesbian, gay, bisexual, transgender, and intersex (LGBTI) people make up a significant percentage of those detained in jails, prisons, and juvenile justice facilities. Research on sexual abuse in these settings consistently documents the heightened vulnerability of LGBTI people to sexual victimization at the hands of facility staff and other inmates. The sexual abuse of LGBTI people violates their basic human rights and the government's constitutional obligation to provide safe and humane conditions of confinement, as well as impeding the likelihood of a successful transition back into the community.

Addressing the crisis of widespread sexual abuse behind bars requires a comprehensive approach that includes changing institutional cultures and policies at all levels and in every facet of an institution's operations. No single policy or discrete set of policies will suffice to address this epidemic. Full implementation of the PREA Standards in their entirety is essential, as are rigorous auditing, oversight and enforcement by the Department.

Implementing policies that address the unique vulnerabilities of LGBTI prisoners—such as those recently adopted by the Harris County Sheriff Department—is a critical part of this comprehensive approach. Many of these policy provisions are clearly required by PREA, though few institutions have so far taken steps to implement them. While the Federal Bureau of Prisons has not yet taken steps to meaningfully implement these policies in its own facilities, the *Policy Review and Development Guide: Lesbian, Gay, Bisexual, Transgender, and Intersex Persons in Custodial Settings* recently published by the National Institute of Corrections has provided valuable guidance to other institutions.

If fully implemented, these policies can play an essential role in protecting particularly vulnerable individuals. Like other sexual abuse prevention policies, these policies require a commitment to institutional culture change, and require careful monitoring to ensure they are adequately carried out. In particular, it is critical that in making individualized determinations regarding whether transgender prisoners should be placed in female or male housing, the institution does not rely on stereotypes or assumptions based on a prisoner's birth sex or anatomy. Instead, any presumption should be in favor of housing that is consistent with the prisoner's gender identity and the prisoner's own view of where they would be most safely housed.

Like any specific policy, LGBTI-specific policies alone are no substitute for a comprehensive approach to addressing the high rates of sexual abuse seen in facilities like the Harris County Jail, but instead must be a part of that approach. LGBTI-specific policies such as those adopted by Harris County are one of many indispensable elements in any institution's efforts to address this urgent and complex

problem, and as such are critical to any discussion of the topic. NCTE has been pleased to provide input to Harris County and other jurisdictions on these issues, and we look forward to continuing to work with other jurisdictions and organizations around the country to end sexual abuse behind bars.

Sincerely,

A handwritten signature in black ink, appearing to read "Mara Keisling". The signature is fluid and cursive, with a long, sweeping horizontal stroke at the end.

Mara Keisling
Executive Director