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## DOJ Standards Protect Transgender Inmates from Rape and Abuse

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In May, the U.S. Department of Justice (DOJ) released landmark National Standards to Prevent, Detect and Respond to Prison Rape. The announcement was met with little fanfare. But for the transgender community, who will directly benefit from these critical provisions, the announcement was hailed as a victory.

"The safety of trans people behind bars is of particular concern because too often trans people are incarcerated only because they are transgender or because of how they've been forced to live because of being trans," said NCTE executive director Mara Keisling.

More than 216,000 youth and adults are sexually abused in prisons, jails and juvenile detention facilities each year.

"We have an obligation as civilized people to protect the people we incarcerate," Keisling said in a NCTE statement issued immediately after the DOJ announced the new standard.

In the National Transgender Discrimination Survey, seven percent of respondents reported being locked up at some point in their lives due to their gender identity. These rates skyrocketed for Black (41 percent) and Latino/a (21 percent) people.

A new report by the DOJ in May confirmed that LGBT people face shocking rates of sexual abuse; an analysis of that report by the NCTE shows that more than one in three transgender former inmates was sexually abused. Studies have shown that trans women are 13 times more likely than others to be sexually

assaulted while incarcerated.

NCTE officials say these statistics point to a grave failure to protect individuals from abuse.

"If the DOJ statistics are true, the problem can only be more pervasive for transgender inmates. And combining the trauma of sexual abuse with inadequate medical and health care may lead to other poor health outcomes like depression, substance abuse and increased HIV infections that all take a heavy toll on survivors and their families," said NCTE Policy Council Harper Jean Tobin.

Keisling believes that if the new standards are fully implemented, they will help to keep trans inmates safer than before, at least in terms of sexual assault.

**"Combining the trauma of sexual abuse with inadequate medical and health care may lead to other poor health outcomes like depression, substance abuse and increased HIV infections," said NCTE Policy Council Harper Jean Tobin.**

NCTE officials said the organization provided the DOJ with recommendations so that the new standards would include critical provisions for the operation of prisons and the treatment of transgender and gender nonconforming inmates.

But some critical gaps still remain. NCTE reports the new standards fail to fully and immediately cover facilities dedicated to housing individuals detained for immigration purposes. Without these standards, transgender and other immigrant detainees remain at risk for abuse.

But under a May 17 memorandum issued by President Barack Obama, the Department of Homeland Security (DHS) and the Department of

Health and Human Services (HHS) are required to develop their own standards to implement the Prison Rape Elimination Act (PREA), over the next eight months.

In response to the president's memorandum, NCTE called upon DHS and HHS to act swiftly within the 120-day deadline to promulgate rules that are equal to the new standards, set forth by the DOJ.

Congress unanimously passed PREA in 2003, and according to NCTE officials, a Congressionally appointed commission and the DPJ held hearings and three separate public comment periods to develop these standards. Officials said that LGBT survivors and advocates weighed in at every step of the process, and NCTE worked with other LGBT advocates including the American Civil Liberties Union, the National Center for Lesbian Rights, the Transgender Law Center, Immigration Equality, the Sylvia Rivera Law Project, the National Gay and Lesbian Task Force and others to jointly file more than 100 pages of comments regarding the standards throughout the past two years.

The final standards apply to all prisons, jails, police lock-ups, juvenile detention centers and community confinement facilities nationwide that accept federal funds. Federal prisons must comply immediately, while all other facilities have one year to comply. Violators could face federal funding penalties.

"NCTE and other advocates will continue to work with the Department of Justice and the Administration to ensure swift implementation of these standards, and work to ensure that immigrant detainees are protected from sexual abuse," said NCTE spokesperson Vincent Paolo Villano.

The National Center for Transgender Equality is a national social justice organization devoted to ending discrimination and violence against transgender people through education and advocacy on national issues of importance to transgender people.

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Shaun Knittel is an openly gay journalist and public affairs specialist living in Seattle. His work as a photographer, columnist, and reporter has appeared in newspapers and magazines throughout the Pacific Northwest. In addition to writing for EDGE, Knittel is the current Associate Editor for Seattle Gay News.

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