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## Sentenced

# to rape

*LGBT inmates face unusually high risk of sexual assault in prison*

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It's been 60 years since the United Nations General Assembly issued the Universal Declaration of Human Rights, affirming the inherent dignity and inalienable rights of all people. Yet prisoners are often denied the most basic protections of the law. Rape is still a brutal reality in prison, a problem that disproportionately affects LGBT inmates.

In 2003, Congress unanimously passed the Prison Rape Elimination Act (PREA), creating federal mandates to fight sexual assault in prisons. But its implementation has been slow. This year, the Bureau of Justice Statistics conducted the first national survey of violence in the corrections system. It found sexual orientation to be the single greatest determinant for sexual abuse in prisons 18.5 percent of homosexual inmates reported sexual assault, compared to 2.7 percent of heterosexual prisoners. Though PREA aims to reduce these figures, prisoners and their advocates have been waiting on its official guidelines, which are set for release in 2009.

In an attempt to address California's challenges in protecting LGBT inmates, California Sen. Gloria Romero held an informational meeting Dec. 11 in San Francisco, bringing together former LGBT prisoners, advocates, experts, and representatives from the California Department of Corrections and Rehabilitation (CDCR).

"Nobody has it easy in prisons, and LGBT persons in particular experience unique kinds of harassment, discrimination, and violence when incarcerated," said Masen Davis, executive director of the Transgender Law Center.

Inherent flaws in our social institutions result in a disproportionate number of LGBT prisoners. Discrimination in employment, housing, and healthcare often force members of the LGBT community, particularly transgender individuals, to turn to the street economy to support themselves. A survey by the Transgender Law Center found that fewer than half of transgender adults held a full-time job, and one in five have experienced homelessness since becoming transgender (see "Transjobless," 3/15/06). These factors greatly increase the instance of criminal activity in the LGBT community. The Center for Health Justice reports that more than two-thirds of male-to-female transgender San Franciscans have been incarcerated; in six other major urban areas, one in four gay men had been incarcerated.

Once LGBT individuals enter the California prison system, says Linda McFarlane, deputy executive director of Just Detention International, they are 15 times more likely to experience sexual assault than the general population. In addition, she said, prison staff more often fail to protect these inmates than others, and are more likely to believe that assaults are consensual.

"There seems to be a belief among some corrections officers that rape is unavoidable in prison," McFarlane said. "It's been asked more than once in training sessions that if transgender inmates are at such risk, why are they still allowed to be transgender within the prison environment?"

Alex Lee, a co-director of the Transgender, Gender Variant, and Intersex Justice Project, read a statement from Bella Christina Borrell, a 56-year-old transgender inmate: "Female transgender prisoners are the ultimate target for sexual assault and rape. In this hyper-masculine world, inmates who project feminine characteristics attract unwanted attention and exploitation by others seeking to build up their masculinity by dominating and controlling women."

Of course, there are policies in place that should protect inmates from each other. PREA stipulates that sexual assault

during incarceration can constitute a violation of the Eighth Amendment to the US Constitution, and mandates that facilities employ a zero-tolerance policy toward abuse. However, like many things in life, the theory and practice have little in common.

"We've heard multiple times about officers openly expressing a belief that gay and transgender inmates cannot be raped, that they deserve to be raped due to their mere presence in the environment, or that if they are raped it's simply not a concern," McFarlane said.

Joe Sullivan of the California Department of Corrections and Rehabilitation said policy dictates that gay or transgender status alone does not warrant specific housing arrangements. He said the department prefers to integrate inmates in a setting that most closely resembles what they will be returning to after being paroled. When they arrive in prison, inmates are evaluated using a system called Compass, which is a set of guidelines to determine each person's specific needs. During this time, inmates are able to state whether they feel they need special arrangements.

"It's a framework that is followed by the staff at institutions," Sullivan said. "Some of the things I heard today suggest that how the framework is interpreted is one of the issues we'll have to go look into and do some further training on."

It has been suggested that the previously used designations Category B and SOR (sexual orientation), which include guidelines for "effeminately homosexual" men, might aid CDCR in their classification process. However, as Sullivan stated, the prison system's evaluation procedure largely ignores these special circumstances.

"The classification process is gender-neutral," Sullivan said. "We try to address the individual's specific needs, as opposed to having a policy for a group or a class of people. We really don't distinguish between transgender and non-transgender inmates."

While this policy is certainly egalitarian, it ignores the extreme vulnerability of LGBT inmates, something many prisoners don't realize until after they've been victimized. Then, all too often, they are placed in isolation cells usually reserved as punitive measures.

"If they have been a victim of a sexual assault, they can be and will be single-celled, at least for the period of time that we go through investigating the allegations," Sullivan said. "We try to do it in an expedient manner, so that the victim is not the one sitting in administrative segregation."

The panelists all agreed that eliminating sexual violence against the LGBT community requires some of our most precious resources: time, energy, and money. In the past, the general rule has been to increase spending for prisons while simultaneously reducing funds for social programs like housing, employment, and health care, which all have a lot to do with the amount of crime in the first place.

Advocates recommend that an effective classification system must be implemented. First, corrections officials have to acknowledge that factors like an inmate's sexual orientation or transgender status put them at an exceptionally high risk for violence. Second, steps must be taken to reduce the instances of harassment, abuse, and sexual assault suffered by inmates. Female transgender inmates must be issued sports bras and should be allowed to shower separately from the general population to curb humiliation and predation. If an assault occurs, victims should not be placed in punitive custody, the complaint must remain confidential, and assailants cannot be allowed the opportunity to retaliate. Finally, corrections officers should have to participate in an extensive training program to help them deal with these factors.

Bambi Salcedo, a transgender ex-convict who now works with transgender youth at Children's Hospital Los Angeles put it simply: "We have to realize that homosexual and transgender inmates must be treated with dignity in the correctional system."

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