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PSYCHOLOGICAL  
ASSOCIATION

August 6, 2018  
Hugh J. Hurwitz  
Acting Director  
Federal Bureau of Prisons  
320 First Street, NW  
Washington, DC 20534

Dear Director Hurwitz:

On behalf of our organizations dedicated to improving the behavioral health of our nation, we are writing to express our concerns about recent revisions to the Transgender Offender Manual of the Federal Bureau of Prisons (BoP). Specifically, we are troubled by the removal of specific language stating that “The Transgender Executive Council will recommend housing by gender identity when appropriate,” with the new guidelines now specifying that the Transgender Executive Council will use undefined “biological sex” (which presumably refers to sex assigned at birth) to determine inmate housing, with gender identity utilized to determine housing only “in rare cases.”

We understand the need to maintain safety and security in federal prisons and appreciate that BoP must balance the needs of transgender inmates with other priorities. Furthermore, we are grateful that some transgender people under BoP supervision may still in certain cases be assigned to a facility based on their self-identified gender.

However, the updated guidance moves in the wrong direction. Overreliance on the undefined term “biological sex” is problematic because it ignores the complexity of the medical spectrum of sex, including the natural variation in gender identity. Hence, it is contradictory to the scientific and clinical literature to categorize people based solely on their “biological sex” without consideration of their gender identity. Moreover, ignoring gender identity - so profound to a person’s sense of self - is a discriminatory and harmful act that brands an already vulnerable group with stigma and makes them a target for abuse.

We understand that BoP must manage the safety and security of all individuals in their custody. The fear of housing transgender women with cisgender women may stem in part from rumors that transgender women are likely to commit violence against cisgender women (similar to the argument against gender-appropriate bathroom access). But this is an unfortunate myth. Rather, transgender people are at higher risk for being the target of prejudice, discrimination, and violence themselves, which has significant negative implications for their physical, mental, and social well-being. Furthermore, experiences detrimental to their well-being are heightened in correctional facilities, where, compared to approximately 2% of the overall prison population, 24% of transgender people have reported sexual victimization, due in part to being housed in gender-inappropriate facilities. Making it harder for individuals to be housed in facilities that correspond with their gender identity will make it more likely that they will suffer further discrimination and violence.

Based on these findings, we are concerned that this new policy will risk placing BoP out of compliance with the Prison Rape Elimination Act. This law makes assigning a transgender prisoner to housing,



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programs, or other services based solely on sex assigned at birth, without serious consideration of likelihood of harm to individuals, a violation of federal law.

We strongly encourage BoP to more seriously consider gender identity when making housing decisions and revert to the previous language in the Transgender Offender Manual. Please contact Gabriel Twose, Ph.D., in the Public Interest Directorate of the American Psychological Association ([gtwose@apa.org](mailto:gtwose@apa.org)) if we can provide further information to guide your important work.

Sincerely,

American Art Therapy Association  
American Association for Marriage and Family Therapy  
American Association for Psychoanalysis in Clinical Social Work  
American Foundation for Suicide Prevention  
American Group Psychotherapy Association  
American Psychiatric Association  
American Psychological Association  
Association for Ambulatory Behavioral Healthcare  
Campaign for Trauma-Informed Policy and Practice  
Clinical Social Work Association  
Council on Social Work Education  
Desert AIDS Project  
Drug Policy Alliance  
Eating Disorders Coalition  
Global Alliance for Behavioral Health and Social Justice  
Mental Health America  
NAADAC, the Association for Addiction Professionals  
National Alliance to Advance Adolescent Health  
National Association of County Behavioral Health & Developmental Disability Directors  
National Association for Rural Mental Health  
National Association of Social Workers  
National Health Care for the Homeless Council  
National Register of Health Service Psychologists  
Legal Action Center  
Project Inform  
Treatment Communities of America