

|  |
| --- |
| **Submission to the United Nations Human Rights Committee:**  **List of Issues Prior to Reporting**  **United States (2019)**  1640 Rhode Island Ave., N.W.  Washington, D.C. 20036  *web*: www.hrc.org  *phone:*  202/628-4160  *fax:*  202/347-5323 |

***Prisons and Detention Facilities***

LGBTQ people are particularly vulnerable to abuse when they enter institutionalized settings. The United States holds just five percent of the world’s population, but incarcerates twenty-five percent of people in prisons and jails – roughly 2.2 million adults. The Department of Justice’s Bureau of Justice Statistics (BJS) found that 12.2% of LGB prisoners reported sexual victimization by another inmate, and 5.4% reported sexual victimization by staff. For transgender prisoners the rates were 24.1% and 16.7%, respectively. In contrast, among non-LGBTQ prisoners 1.2% reported sexual victimization by another inmate, and 2.1% reported sexual victimization by staff. The most common response to sexual violence is to place the victim in administrative segregation or protective custody.

The U.S. Immigration and Customs Enforcement (ICE), a division of the Department of Homeland Security (DHS), and the Bureau of Prisons (BOP), a division of the Department of Justice (DOJ), establish the standards of treatment for transgender detainees and prisoners. However, neither ICE nor BOP consistently provide proper medical treatment to transgender detainees who wish to begin or to continue medical treatment in the course of their gender transition process. In addition, transgender detainees and prisoners are not consistently housed consistent with their gender identity in sex-segregated facilities. Transgender detainees and prisoners must be housed consistent with gender identity and allowed to begin, to continue, and to progress with all necessary psychological and medical transition related care.

1. What measures are being taken to reduce rates of violence against LGBTQ prisoners?
2. At what rate are LGBTQ people placed into administrative segregation and protective custody compared to the prison population as a whole? Please disaggregate the data based on sexual orientation and gender identity. What policies have been put in place to reduce the rates of administrative segregation?
3. How are transgender prisoners being housed? How are transgender detainees being housed? If distinctions are being drawn between transgender people for housing determinations, what formal or informal policies and guidance are being used to make those determinations?
4. What steps are being taken to ensure that transgender prisoners have access to both psychological and medical transition related care? What steps are being taken to ensure that transgender detainees have access to both psychological and medical transition related care? What formal or informal policies or guidance is in place for making determinations about transition related care?

***Discrimination***

Despite significant steps towards equality, many LGBTQ Americans continue to lack basic legal protections in the state where they live. The current patchwork of LGBTQ civil rights laws protects millions of people, but leaves millions more subject to uncertainty and potential discrimination that impacts their safety, their family, and their very way of life. This degrades individual dignity and prevents many families from developing the stability and financial security that is essential to success.

For more than two decades, the federal courts have trended towards interpreting the sex nondiscrimination provisions of US law to apply to discrimination against LGBTQ people. However, beginning in February 2017, federal agencies began change course by rejecting the well-supported understanding of law. In February 2018, a Department of Education Spokesperson confirmed that the Department would neither investigate nor take remedial action on complaints filed by transgender students who have been denied access to restrooms that are consistent with their gender identity. The Department of Justice has formally argued that LGBTQ people should not be understood to be protected by sex nondiscrimination laws. Failure to provide protection to LGBTQ people under federal sex nondiscrimination laws is in contravention of the decision by six federal circuit courts and directly related precedent from the Supreme Court of the United States

1. What measures are being taken to end discrimination against LGBTQ people at the national level?
2. How many complaints of discrimination on the basis of sexual orientation and gender identity have been received by each agency with a mechanism for reporting or investigating discrimination including the Department of Justice, the Department of Education, the Department of Health and Human Services, and the Equal Employment Opportunity Commission? What is the nature of those complaints? How is each agency responding to complaints of discrimination by LGBTQ people? How are federal court determinations that discrimination on the basis of sexual orientation and gender identity are forms of sex discrimination factored into determinations regarding how to handle complaints?
3. Are federal funds continuing to be provided to entities that have policies that are discriminatory towards LGBTQ people either as employees or recipients of services? Are federal funds continuing to be provided to entities that have complaints of discrimination on the basis of sexual orientation and/ or gender identity lodged against them? If so, does that continuation of funding differ from decisions made regarding continuing of funding for entities with complaints of discrimination lodged against them for other characteristics such as sex, race, or disability?
4. Have any entities requested permission or a waiver to be able to discriminate against LGBTQ people and continue to receive federal funds? If so, how many and what type of entities? Was permission or a waiver granted?

***Health Care***

*Health Disparities*

As a result of systemic discrimination and increased risk for poverty, LGBTQ people continue to face stark health disparities. LGBTQ people are more likely to lack health insurance coverage and have difficulty accessing care. Many also fail to receive preventative care or diagnostic tests like mammograms or pap smears, fearing discrimination or simply because they can't afford it. Evidence has also shown that lesbian and bisexual women have increased rates of breast and cervical cancer, due in part to lack of screening and early diagnosis. LGBTQ people also face higher rates of obesity, substance abuse, and tobacco use. Transgender people continue to face significant barriers to healthcare access and report startlingly high rates of discrimination and refusal of care from health care providers. It is essential that healthcare facilities treat transgender people with respect, recognize patients’ gender identity, and provide equal access to gender appropriate facilities while providing treatment. Major medical establishments and organizations have made clear that such access is not just an issue of civil rights, but public health.

1. What measures have been taken to reduce health care disparities for LGBTQ people?
2. How many and what nature of complaints have been submitted to the US Department of Health and Human Services (HHS) by LGBTQ people experiencing discrimination in health care? How has HHS responded to these complaints?
3. Explain what outreach has been done to the LGBTQ community to ensure take up of health insurance.

*HIV/AIDS*

According to the CDC of the approximately 50,000 people who become infected with HIV every year two-thirds are among gay and bisexual men. Transgender women also face new infection rates almost 34 times that of other women. The rate of new infections is actually increasing, with the highest rate of new infections among African American men ages 13-24. It is imperative that the federal government support evidence-based science prevention efforts.

1. What steps are being taken to reduce the rates of new infections? How will use of and access to Pre-Exposure Prophylaxis (PrEP) be integrated into a plan to address stemming the rates of infection?

***Foster Care and Adoption***

While data on the prevalence and experiences of LGBTQ youth in foster care is limited, research to date has demonstrated that LGBTQ youth are over-represented in foster care and they face a greater likelihood of being placed in group home settings. Many LGBT youth enter foster care after experiencing rejection, abuse, and/or neglect by their families of origin because of their LGBTQ status. In other words, these youth have been rejected by their families because of an aspect of who they are – their sexual orientation, gender identity, or gender expression. Far too many of these LGBTQ youth then go on to experience further rejection at the hands of incompetent or biased caseworkers, social workers, foster parents, and staff or peers in group homes.

This abuse and harassment all too often pushes LGBTQ youth out of these homes. Once on the street, LGBTQ youth are at an increased risk for victimization, substance abuse, and arrest for engaging in survival crimes including sex work.

1. What efforts are underway to insure that homes serving LGBTQ youth are safe and affirming for lesbian, gay, bisexual, transgender and queer youth? Are there specific policies or practices in place to insure that transgender or gender expansive youth are accommodated based on their gender identity?
2. There are a shortage of affirming foster/adoptive families for LGBTQ youth and therefore, LGBTQ youth may be over-represented in group homes as a "default" placement; what is being done to insure that foster parents are trained on the needs of LGBTQ youth, and screening of prospective foster parents includes an assessment of whether they can provide an affirming environment for an LGBTQ child?

*The Human Rights Campaign is America’s largest civil rights organization working to achieve equality for lesbian, gay, bisexual, transgender and queer people. HRC envisions a world where LGBTQ people are embraced as full members of society at home, at work and in every community.*