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Mayor de Blasio Announces Department of Correction Will House Incarcerated Individuals According to Gender Identity, Working with City Human Rights Commission to Maintain Transgender Housing Unit

April 16, 2018

NYC Commission on Human Rights worked with NYC Department of Correction on policy reforms to house inmates safely and according to their gender identity in compliance with federal, state, and local laws

NEW YORK—Mayor de Blasio today announced that the NYC Department of Correction will house inmates consistent with their gender identity. In addition, DOC is working with the NYC Commission on Human Rights to maintain the Transgender Housing Unit as an additional safe housing option for transgender inmates. DOC will also continue to conduct individualized risk assessments of inmates when assigning safe and gender-affirming housing options to provide for the health and safety of inmates and DOC staff.

Today's announcement follows recent efforts by CCHR to ensure that DOC's housing policies are consistent with Executive Order No. 16, issued by Mayor Bill de Blasio in March 2016, which requires that City agencies permit people to use single sex facilities consistent with their gender identity, as well as applicable state and federal law. CCHR is giving DOC six months to implement this policy in a recent modified exemption to DOC. New York City becomes one of the first major cities in the nation to commit to housing inmates according to their gender identity.

"It's the city's responsibility to protect the rights and safety of all New Yorkers, and that means protecting transgender individuals in city jails as well. New York City is one of the first major cities to commit to taking this step, and it's crucial to ensuring all our facilities are welcoming and safe for all New Yorkers, no matter their gender identity," said **Mayor de Blasio**.

“With today’s announcement, New York City takes another important step to protect the rights, dignity and safety of transgender and gender non-conforming people, and it is our hope that cities across the country will follow our lead,” said **First Lady Chirlane McCray**. “Keeping transgender and gender non-conforming New Yorkers safe, wherever they are, is the City’s responsibility– whether they are in city custody or walking through their own neighborhoods.”

“No one should feel unsafe for being who they are. Housing incarcerated individuals consistent with their gender identity is not only about dignity and respect but an important recognition of the unique challenges and vulnerabilities transgender and gender non-conforming individuals face in corrections facilities nationwide,” said **Chair and Commissioner of the NYC Commission on Human Rights Carmelyn P. Malalis**. “We are proud that today’s announcement shows NYC’s strong commitment and leadership to protect the rights and safety of transgender and gender non-conforming individuals and we look forward to continuing our work with the Department of Correction and advocacy organizations to implement these policies which are paramount to ensure inmates can engage in steps to rebuild their lives.”

“The department is committed to safely housing inmates in a way that considers an individual’s transgender identity and maintaining a humane and safe jail system for all New Yorkers,” said **DOC Commissioner Cynthia Brann**.

Susan Sommer, General Counsel for the Mayor's Office of Criminal Justice, said, "This announcement advances New York City's commitment to protecting transgender people in custody and making our correctional facilities safer for everyone. This is an honorable moment in our City."

In recognizing the rights of transgender and gender non-conforming inmates to be housed safely and according to their gender identity, New York City continues its leadership in the fight for LGBTQ equality. In contrast, many U.S. cities and states force transgender and gender non-conforming inmates into solitary confinement or house inmates according to their gender assigned at birth, putting them at higher risk for physical and sexual violence.

In March 2016, Mayor de Blasio issued Executive Order No. 16 which required City agencies to allow employees and members of the public to access City single-sex facilities consistent with their gender identity without being required to show identification, medical documentation, or any other form of proof or verification of gender. While the DOC initially received a temporary and partial exemption from CCHR from the requirements of this EO as they relate to housing, CCHR modified its exemption this week after further analysis and with input from DOC.

In its modified exemption, CCHR finds that DOC must provide housing to inmates consistent with their gender identity unless the outcome of an individualized safety assessment as required by The Prison Rape Elimination Act (PREA) or the expressed preferences and safety concerns of the inmate require alternate housing. PREA is a federal law passed in 2003 to address sexual violence in prisons which requires correctional institutions to make individualized assessments of all inmates to determine the safest place to house them. Factors considered in an individualized assessment include whether inmates are perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; their previous experience of sexual assault; their own perception of vulnerability; their gender identity and whether they identify as male, female, or non-binary; and any prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse.

CCHR’s modified exemption gives DOC six months to implement this policy. Over the next six months, DOC will provide bi-monthly progress reports to CCHR.

Today's announcement is a part of New York City's broader effort to protect and advance the rights of transgender and gender non-conforming individuals. In addition to the Mayor's Executive Order No. 16, CCHR:

- issued legal enforcement guidance in 2015 to make clear what constitutes gender identity and gender expression discrimination under the NYC Human Rights Law, making it one of the strongest laws in the nation in protecting the rights of transgender and gender non-conforming individuals;
- launched "Look Past Pink and Blue: Be You NYC", the first-ever municipal media campaign on equal bathroom access;
- vigorously investigates claims of gender identity discrimination citywide. Gender-based discrimination made up the third largest area of complaint at the Commission in 2017; and
- implements citywide training, created jointly with The LGBT Center in early 2016, on trans identity and best practices for working with transgender and gender non-conforming communities. CCHR has so far trained 24 City agencies, businesses, non-profit and law enforcement entities citywide.

For more information on the Commission and to report gender identity discrimination, visit [NYC.gov/HumanRights](https://nyc.gov/HumanRights) or call 718-722-3131.

"Housing people in accordance with their gender identity will increase safety and dignity in the jails and will help bring DOC into compliance with the Board's Minimum Standards on the prevention of sexual abuse. We applaud the City's renewed commitment to these efforts. The Board's recent report on the DOC Transgender Housing Unit shows the urgent need for additional safe housing options for transgender people in custody and makes recommendations for improved conditions and operations in the unit," said **Martha King, Executive Director of the NYC Board of Correction**.

"There's no reason why transgender inmates shouldn't be allowed the option to reside in housing based on their gender identity" said **Assembly Member David I. Weprin, Assembly Correction Committee Chair**. "Transgender rights are human rights and by denying these basic rights in any place, including our jails and prisons, we perpetuate a cycle of injustice that must come to an end."

Assembly Member Daniel O'Donnell said, "Today's announcement by the New York City Department of Correction and the Mayor is a major advancements toward affirming the rights of transgender New Yorkers and ensuring dignity in all circumstances. These measures are a testament to this city's commitment to human rights. As the first city in the country to take this step, we once again serve as a beacon of progressive potential to the entire nation. I thank the Mayor, Commissioner Brann, and all others involved in committing to these gender-affirming policies."

"I applaud the Commission on Human Rights and the Department of Correction for a decision that prioritizes safety and security in city jails. Incarcerated individuals housed based on identity can feel safe being themselves," said **Council Member Powers, Chair of the Criminal Justice Committee**.

"Housing detainees consistent with their gender identity acknowledges their basic humanity and is the right thing to do," said **Council Member Daniel Dromm, Chair of the Finance Committee**. "This development marks a big step forward for human rights in our city. It is my hope that this progressive reform will serve as a model for cities across the nation who seek to make similar policy advancements. While we still have much to do in order to make our jails places of rehabilitation, I am pleased we are moving in the right direction. I will continue to work with the administration to help transform NYC's correctional facilities for the better."

“As a member-based organization rooted in the experiences and knowledge of our transgender, gender non-conforming, and intersex clients, we know all too well the dangers and indignities our members experience in prisons and jails,” said **Director of Prisoner Justice Project at the Sylvia Rivera Law Project, Mik Kinkead**. “We applaud the Commission’s efforts working with the NYC Department of Correction to ensure they make these much-needed changes and treat transgender, gender non-conforming, and intersex individuals with dignity and respect.”

“Housing people consistent with their gender identity is a significant step toward ensuring the safety and dignity of transgender prisoners in New York,” said **New York Civil Liberties Union Executive Director Donna Lieberman**. “Transgender and gender non-conforming people, particularly transgender women of color, experience harassment and violence in jails and prisons at much higher rates than others. With the first written policy of its kind, New York City can lead the way for better conditions for inmates of all gender identities nationwide.”

“We applaud the Commission’s leadership in protecting the rights of the transgender community,” said **Tina Luongo of The Legal Aid Society**. “People of transgender and gender non-conforming experience are among the most vulnerable in our jails and prisons. It is imperative that cities across the U.S. follow the New York City’s lead, by housing people according to their gender identity, and by providing them with safe housing alternatives, such as the Transgender Housing Unit, so that they many live safely and with dignity.”

“This policy is a big step forward for New York City,” said **Lambda Legal CEO Rachel B. Tiven**. “Going to jail is scary enough – and for transgender women incarcerated in men’s facilities around the country, it can be horrific. Lambda Legal applauds the NYC Commission on Human Rights for helping the Department of Correction make jails safer for transgender New Yorkers.”

“Today’s announcement is a long overdue but significant step to ensure that the dignity and identity of transgender New Yorkers will be affirmed once in detention,” said **Human Rights Commissioner and Healthcare and Management Consultant, Carrie Davis**. “No New Yorker — regardless of their gender identity — should be punished further and placed at higher risk of harassment, abuse or assault just because they have been retained in custody.”

The Center applauds Mayor de Blasio for addressing the crucial issue of safety that TGNC community members face when incarcerated and housed in facilities that aren't consistent with their gender identity," said **Glennnda Testone, Executive Director of NYC's LGBT Community Center**. "This represents a significant step forward in creating systems that protect TGNC people, instead of putting their lives in constant danger.

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