
Fact Sheet

Department of Justice Statement Regarding the *Rights of Transgender Prisoners*

Background

- Ashley Diamond, a Black trans woman, who is currently incarcerated at the Coastal State Prison (an all-men’s facility in Garden City, Georgia) sued the Georgia Department of Corrections in November 2020.
- Diamond filed a motion for preliminary judgement demanding transfer to a women’s facility for the remainder of her sentence to avoid sexual assault.
- Diamond requested (1) to be able to shower privately, (2) a ban on male correctional officers conducting strip searches of her, and (3) medically necessary care related to her transition.

Statement Made by the DOJ

- If Diamond’s allegations are found to be true, the Georgia Department of Corrections has violated the Eighth Amendment of the U.S. Constitution by subjecting her to cruel and unusual punishment by way of these deprivations.
- The failure to keep transgender prisoners safe from substantial risk of serious harm or provide them with adequate medical care qualifies as cruel and unusual punishment under the Eighth Amendment.¹
- Prison officials have an obligation to protect all prisoners from sexual abuse and assault by assessing risks to each individual prisoner and taking reasonable steps to keep them safe.
 - This includes housing inmates in facilities that align with their gender identity and providing medical care related to transitioning.
- The United States has a strong interest in ensuring that prison conditions are constitutional and in protecting the rights of LGBTQ+ individuals. President Biden previously issued an Executive Order recognizing the right of all people to be “treated with respect and dignity” and to “live without fear” regardless of their gender identity or sexual orientation.

Why This is Important:

- According to the National Center for Transgender Equality, 21% of trans women have been incarcerated at some point during their life. Around 47% of Black trans people have been incarcerated which is exacerbated by disproportionate poverty and discrimination.²
- Transgender people are nearly ten times more likely to be sexually assaulted by their fellow inmates and five times more likely to be sexually assaulted by prison facility staff.³
- This stance by the Department of Justice is an important step in guaranteeing the rights of transgender individuals.

*Prepared by Kate George, Intern, OAESV

¹ Farmer v. Brennan, 511 U.S. 825, 828 (1994)

² National Center for Transgender Equality, *A Blueprint for Equality: Prison and Detention Reform* (2012).

³ The Report of the 2015 United States Transgender Survey (2016).