

September 24, 2024

The Honorable Bob Ferguson
Attorney General, Washington
1125 Washington Street SE
Olympia, WA 98504



FOUNDATION
AGAINST
INTOLERANCE
& RACISM

Sent via email

Dear Attorney General Ferguson:

We are writing to express serious concerns about sex-based discrimination in Washington Department of Corrections (DOC) facilities and to urge immediate action to ensure the safety of female inmates. These concerns stem from reports by current and recently released inmates from the Washington Corrections Center for Women (WCCW) of rape, sexual assault, physical assault, and emotional harm due to forced cohabitation with male prisoners.

We raised these issues in a letter to Secretary Strange on July 30, 2024, and met with members of her leadership team on August 29, 2024. We appreciate the ongoing dialogue with DOC leadership and are hopeful for a satisfactory resolution.

In our discussions with DOC officials, it became clear that certain policy changes, which could alleviate many concerns, are feasible but require your approval. These changes are not only legally defensible but also do not conflict with the DOC's settlement agreement with Disability Rights Washington (DRW).

Before outlining our requested changes, we want to share firsthand accounts from WCCW female inmates who are experiencing harm due to male prisoners being housed at the facility. Since late July, 21 female inmates have filed complaints through the Resolution Request process, detailing disturbing incidents, including:

- A female inmate forcibly housed with a male prisoner who sexually harassed and groped her.
- A disabled inmate in a wheelchair who was physically attacked by a male prisoner.
- A female inmate with fibromyalgia whose condition worsened due to stress from being housed with a male inmate.
- Several women reporting voyeuristic behavior by male inmates while they shower or change, leading to fear, embarrassment, and stress.
- A female inmate who described feeling terrified and experiencing physical symptoms like shaking and irregular heart rhythms due to being housed with a male.

- A female inmate with PTSD triggered by proximity to male inmates, stemming from past trauma.
- Another inmate now on anxiety medication after enduring repeated sexual advances from a male prisoner.

These harms stem from undeniable realities: only females can become pregnant, males are generally larger and stronger than females, males commit violent crimes at significantly higher rates than females, and the vast majority of female inmates have experienced prior physical or sexual abuse by males. These facts result in a disproportionate risk of harm to female inmates compared to male inmates, highlighting the discriminatory nature of current DOC policies.

Furthermore, the DOC's recent policies are facially discriminatory. For instance, the Preferences Request form, used to request gender-affirming housing and other accommodations, is only available to transgender, nonbinary, or intersex inmates, excluding cisgender inmates from similar requests.

Our goal is to secure the right for all female inmates to choose to be housed with other females only. We are prepared to pursue legal action if necessary. In the meantime, we propose two immediate policy changes that are compliant with anti-discrimination laws and the DRW settlement agreement:

1. Modify the Preferences Request form to include options for "Cisgender woman" and "Cisgender man," allowing cisgender inmates to request gender-affirming housing.
2. Implement a policy prohibiting any male inmate convicted of a violent or sexual crime against a woman or child from being housed at WCCW, regardless of gender identity. This policy is legally sound as it is based on an individual's prior convictions and security concerns such behavior raises, not based on the individual's gender identity.

We are confident that you agree no inmate should forfeit their right to physical and emotional safety upon being incarcerated. While the DOC has accommodated the rights of transgender, nonbinary, and intersex inmates, it is clear these accommodations have eroded the rights and safety of cisgender female inmates, resulting in discrimination.

We respectfully urge you to approve these policy changes and direct the DOC to implement them immediately. This will better protect female inmates and reduce the DOC's risk of liability for sex-based discrimination.

Sincerely,

Leigh Ann O'Neill

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cc: Cheryl Strange, Secretary of the Department of Corrections
Deborah J. Wofford, Deputy Assistant Secretary of the Department of Corrections
Melissa Andrewjeski, Assistant Secretary, Prisons Division
Charlotte Headley, Superintendent, WCCW
Donald Holbrook, Assistant Secretary, Prisons Division
Tim Lang, Senior Assistant Attorney General, Corrections Division
The Honorable Jay Inslee, Governor, Washington State