

United States Senate

WASHINGTON, DC 20510

May 11, 2026

The Honorable Todd Blanche
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

The Honorable William K. Marshall III
Director
Federal Bureau of Prisons
320 First St, NW
Washington, DC 20534

Dear Acting Attorney General Blanche and Director Marshall:

In February 2026, the Federal Bureau of Prisons (BOP) issued a new policy statement that bans the provision of gender-affirming care for individuals with gender dysphoria. This was yet another hateful Trump administration action aimed at the transgender community. We call on the BOP to withdraw this and all other Trump administration policy changes that target transgender people in its custody and instead prioritize the health, safety, and dignity of this vulnerable population.

Gender dysphoria is a medically recognized condition in which a person experiences clinically significant distress or impairment due to a mismatch between their gender identity and assigned sex.¹ Variations in gender expression are not a new occurrence. Records of people expressing their gender in ways different than their socially recognized sex date back at least to ancient Rome.² For 45 years, the American Psychiatric Association has classified gender dysphoria as a diagnosis in its Diagnostic and Statistical Manual of Mental Disorders.³ Left untreated, gender dysphoria is associated with elevated rates of depression, self-harm, and suicidality.⁴ Moreover, anti-transgender discrimination and social stigma can lead to adverse

¹ Am. Psychiatric Ass'n, Diagnostic and Statistical Manual of Mental Disorders (5th ed., text rev. 2022), <https://doi.org/10.1176/appi.books.9780890425787>.

² Marc-Antoine Crocq, *How Gender Dysphoria and Incongruence Became Medical Diagnoses – A Historical Review*, 23 *Dialogues Clin Neurosci* 44 (2022), <https://pmc.ncbi.nlm.nih.gov/articles/PMC9286744/>.

³ Am. Psychiatric Ass'n, Diagnostic and Statistical Manual of Mental Disorders (5th ed. 2013), <https://www.psychiatry.org/psychiatrists/diversity/education/transgender-and-gender-nonconforming-patients/gender-dysphoria-diagnosis>.

⁴ Cornell University, *What Does the Scholarly Research Say about the Effect of Gender Transition on Transgender Well-Being?* (2018), <https://whatwewknow.inequality.cornell.edu/topics/lgbt-equality/what-does-the-scholarly-research-say-about-the-well-being-of-transgender-people/>; Jody L. Herman et al., *Suicide Thoughts And Attempts Among Transgender Adults: Findings from the 2015 U.S. Transgender Survey*, UCLA School of Law (Sept. 2019), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Suicidality-Transgender-Sep-2019.pdf>; Ming Kyung Lee et al., *The Impact of Gender Affirming Medical Care During Adolescence on Adult Health Outcomes Among Transgender and Gender Diverse Individuals in the United States: The Role of State-Level Policy Stigma*, 11 *LGBT Health* 111 (2024), <https://pubmed.ncbi.nlm.nih.gov/37788397/>; Diana M. Tordoff et al., *Mental Health Outcomes in*

mental and physical health outcomes.⁵ Studies further show that transgender individuals—including nonbinary, intersex, and gender diverse persons—who are unable to access gender-affirming care face alarmingly high levels of psychological distress and suicidality.⁶ The health and safety of transgender individuals thus depend on their receiving support and medical care that aligns with their gender identity.

On the first day of his second term, President Trump signed an Executive Order (“EO”) banning the delivery of gender-affirming medical care to transgender people in federal custody.⁷ On February 21, 2025, the BOP issued a memo to implement President Trump’s EO, requiring BOP staff to “refer to individuals by their legal name or pronouns corresponding to their biological sex,” banning the use of funds for any “items that align with transgender ideology,” and suspending clothing accommodations, pat search accommodations, and support programs offered to transgender individuals.⁸ In a second memo, issued one week later, the BOP banned the use of federal funds for “any medical procedure, treatment, or drug for the purpose of conforming an inmate’s appearance to that of the opposite sex.”⁹ These changes have resulted in the denial—or threatened denial—of hormone treatment and gender-affirming accommodations for transgender individuals in BOP custody.¹⁰ Last year, in two separate lawsuits, a federal court preliminarily enjoined the BOP from restricting access to gender-affirming accommodations to plaintiffs.¹¹ But litigation is ongoing. In one of the cases, the D.C. Circuit lifted the injunction and remanded the case to the district court for further proceedings, leaving the door open for future injunctive relief.¹² Despite the ongoing litigation, the BOP recently issued guidance that, if implemented, would destroy prior protections and place transgender people at risk of grave harm.

Transgender and Nonbinary Youths Receiving Gender-Affirming Care, 5 JAMA Network (2022), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2789423>.

⁵ Walter O. Bockting et al., *Stigma, Mental Health, and Resilience in an Online Sample of the US Transgender Population*, 103 Am J Public Health 943 (2013), <https://pmc.ncbi.nlm.nih.gov/articles/PMC3698807/>; Kristen Ogarrio et al., *Forms of Transphobia and Their Influence on Health Outcomes Among Transgender, Nonbinary, and Gender Diverse Individuals: A Global Systematic Review*, International Journal of Transgender Health 1 (2025), <https://pmc.ncbi.nlm.nih.gov/articles/PMC5025345/>.

⁶ Jody L. Herman & Kathryn K. O’Neill, *Suicide Risk and Prevention for Transgender People: Summary of Research Findings*, UCLA School of Law (2021), <https://williamsinstitute.law.ucla.edu/publications/trans-suicide-risk-prevent-summary/>.

⁷ *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, 90 Fed. Reg. 8615 (Jan. 20, 2025), <https://www.federalregister.gov/documents/2025/01/30/2025-02090/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal>.

⁸ U.S. Dep’t Just., Fed. Bureau Prisons, *Compliance with Executive Order Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government* (Feb. 21, 2025), <https://www.courtlistener.com/docket/69717615/1/1/kingdom-v-trump/>.

⁹ U.S. Dep’t Just., Fed. Bureau Prisons, *Memorandum for Chief Executive Officers re: Executive Order 14168 Compliance* (Feb. 28, 2025), <https://www.courtlistener.com/docket/69717615/1/2/kingdom-v-trump/>.

¹⁰ Plaintiffs’ Status Report, *Kingdom v. Trump*, No. 25-cv-691 (D.D.C. Dec. 22, 2025), ECF No. 107, https://storage.courtlistener.com/recap/gov.uscourts.dcd.278186/gov.uscourts.dcd.278186.107.0_3.pdf.

¹¹ Order Granting Preliminary Injunction, *Doe v. McHenry*, No. 25-cv-286 (D.D.C. Feb. 12, 2026), ECF No. 101, <https://www.courtlistener.com/docket/69593824/101/doe-v-mchenry/>; Order Granting Plaintiffs’ Motion for Renewed Preliminary Injunction, *Kingdom v. Trump*, No. 25-cv-691 (D.D.C. Feb. 12, 2026), ECF No. 114, <https://www.courtlistener.com/docket/69717615/114/kingdom-v-trump/>.

¹² Per Curiam Judgment, *Doe v. Blanche*, No. 25-5099 (D.C. Cir. Apr. 17, 2026), ECF No. 1208841655, <https://storage.courtlistener.com/recap/gov.uscourts.cadc.41908/gov.uscourts.cadc.41908.01208841655.0.pdf>.

On February 19, 2026, the BOP escalated its attacks, issuing a program statement titled, “Management of Inmates with Gender Dysphoria.”¹³ It prohibits incarcerated people from receiving gender-affirming care, even if paid for with private funds. This practice forces incarcerated people to discontinue care, regardless of medical recommendations.

In the program statement, the BOP also announced it would replace all forms of gender-affirming support with psychotherapy.¹⁴ Although expert organizations like the American Psychiatric Association and American Psychological Association¹⁵ recommend affirming psychotherapy as part of a personalized treatment plan for gender dysphoria, so-called “conversion therapy”—designed to change sexual orientation or gender identity or expression—is associated with worsened psychological distress and suicide attempts.¹⁶ Given the BOP’s actions to limit gender-affirming care and its efforts to align all policies with the “biological reality of sex,”¹⁷ we are concerned that the BOP intends to treat gender dysphoria with some form of harmful conversion therapy.¹⁸ The BOP program statement also directs all other medical and psychiatric conditions to be addressed before gender-affirming psychotherapy is offered.¹⁹ However, psychiatric comorbidities, such as depression and anxiety, are exacerbated by untreated gender dysphoria, thus making it impossible to effectively treat these diagnoses separately.²⁰

The BOP’s recent actions are especially concerning given that transgender people face a heightened risk of violence while incarcerated.²¹ In the Department of Justice’s (“DOJ”) National Inmate Survey, conducted between 2011 and 2012, 40 percent of transgender persons reported having been sexually victimized while in detention in the preceding year, a rate ten times higher

¹³ U.S. Dep’t Just., Fed. Bureau Prisons, Management of Inmates with Gender Dysphoria (Feb. 19, 2026), <https://www.documentcloud.org/documents/27279642-526001-management-of-inmates-with-gender-dysphoria/>.

¹⁴ U.S. Dep’t Just., Fed. Bureau Prisons, *supra* note [13]. [Feb. 19, 2026 Memo]

¹⁵ American Psychiatric Association, Gender Affirming Therapy, <https://www.psychiatry.org/psychiatrists/diversity/education/transgender-and-gender-nonconforming-patients/gender-affirming-therapy>; American Psychological Association, APA Policy Statement on Affirming Evidence-Based and Inclusive Care for Transgender, Gender Diverse, and Nonbinary Individuals, Addressing Misinformation, and the Role of Psychological Practice and Science (Feb. 2024), <https://www.apa.org/about/policy/transgender-nonbinary-inclusive-care.pdf>.

¹⁶ Jack L. Turban et al., *Association Between Recalled Exposure to Gender Identity Conversion Efforts and Psychological Distress and Suicide Attempts Among Transgender Adults*, 77 JAMA Psychiatry 68 (Sept. 11, 2019), <https://jamanetwork.com/journals/jamapsychiatry/fullarticle/2749479>; *The Lies and Dangers of Efforts to Change Sexual Orientation or Gender Identity*, Human Rights Campaign, <https://www.hrc.org/resources/the-lies-and-dangers-of-reparative-therapy>.

¹⁷ *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, 90 Fed. Reg. 8615 (Jan. 20, 2025), <https://www.federalregister.gov/documents/2025/01/30/2025-02090/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal>; U.S. Dep’t Just., Fed. Bureau Prisons, Memorandum for Chief Executive Officers re: Executive Order 14168 Compliance (Feb. 28, 2025), <https://www.courtlistener.com/docket/69717615/1/2/kingdom-v-trump/>; U.S. Dep’t Just., Fed. Bureau Prisons, *supra* note [13]. [Feb. 19, 2026 Memo]

¹⁸ U.S. Dep’t Just., Fed. Bureau Prisons, *supra* note [13]. [Feb. 19, 2026 Memo]

¹⁹ *Id.*

²⁰ Danyon Anderson et al., *Gender Dysphoria and Its Non-Surgical and Surgical Treatments*, 10 Health Psychol Res., 10(3) (Sept. 23, 2022), <https://pmc.ncbi.nlm.nih.gov/articles/PMC9501960/>.

²¹ Rachel Engelberg et al., *Challenges Unique to Transgender Persons in US Correctional Settings: a Scoping Review*, 100 J Urban Health 1170 (Dec. 2023), <https://pubmed.ncbi.nlm.nih.gov/37851317/>.

than their cisgender counterparts.²² Moreover, studies indicate that transgender individuals also face harassment and physical violence at disproportionate rates.²³ In 2012, the DOJ issued standards requiring confinement facilities to prevent, detect, and respond to prison rape, as mandated by the Prison Rape Elimination Act (“PREA”).²⁴ Recognizing the unique risks that transgender individuals face, the standards prohibited BOP staff from conducting genital inspections and required officials to consider gender identity when assigning inmate housing, conducting pat downs, and overseeing routine activities such as showering and dressing.²⁵ For many years, these protections served as critical safeguards for transgender people in federal custody.

Unfortunately, the Trump administration’s DOJ and BOP have recently reversed course, rolling back enforcement of these standards and invariably placing transgender inmates at heightened risk for physical and sexual assault and harassment.²⁶ In December 2025, DOJ instructed auditors to stop considering gender identity when evaluating facilities for compliance with PREA standards.²⁷ The BOP also removed gender identity from its data collection²⁸ and omitted sexual orientation and gender identity from the 2025 Sexual Victimization in Prisons report,²⁹ which will make measuring harms nearly impossible. And the BOP dismantled the Transgender Executive Council,³⁰ a decision-making body led by the Bureau’s Women and Special Populations Branch, to which individuals could appeal for accommodations.³¹ These changes leave incarcerated transgender people at greater risk of harm, eliminate tracking to measure that harm, and remove the main avenue for recourse.

The BOP professes to hold accountability, respect, and compassion among its core values, and its stated mission is to “foster a humane and secure environment.”³² But the agency has repeatedly enacted policies that strip transgender individuals of their gender identity and dignity. This includes requiring staff to refer to transgender individuals by pronouns that “align

²² Valerio Baćak, *Looking Back: Victimization of Transgender Persons and the Criminal Legal System*, 113 Am J Public Health 1043 (Oct. 2023), <https://pmc.ncbi.nlm.nih.gov/articles/PMC10484126/>.

²³ Annette Brömdal et al., *Whole-incarceration-setting Approaches to Supporting and Upholding the Rights and Health of Incarcerated Transgender People*, 20 Int J Transgend. 341 (Aug. 2019), <https://pmc.ncbi.nlm.nih.gov/articles/PMC6913601/>.

²⁴ U.S. Dept’ Just., *Justice Department Releases Final Rule to Prevent, Detect, and Respond to Prison Rape* (May 17, 2012), <https://www.justice.gov/archives/opa/pr/justice-department-releases-final-rule-prevent-detect-and-respond-prison-rape>.

²⁵ Prison Rape Elimination Act National Standards, 28 C.F.R. § 115.1 (2012).

²⁶ U.S. Dept’ Just., Office Just. Programs, National PREA Standards Alignment with Executive Order 14168 (Dec. 2, 2025), <https://www.truthdig.com/wp-content/uploads/2025/12/doj-memo-to-prea-auditors.pdf>.

²⁷ *Id.*

²⁸ Lauren Bouton & Elana Redfield, *Removal of Sexual Orientation and Gender Identity from Federal Data Collections January 2025 to January 2026*, UCLA School of Law (Feb. 2026), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Federal-SOGI-Data-Collection-Feb-2026.pdf>.

²⁹ U.S. Dept’ Just., Office of Just. Programs, *Sexual Victimization in Prisons Reported by Inmates, 2023-2025*, (revised Dec. 12, 2025), <https://bjs.ojp.gov/document/svpri2324.pdf>.

³⁰ U.S. Dep’t Just., Fed. Bureau Prisons, *supra* note [13]. [Feb. 21, 2025 Memo]

³¹ U.S. Dept’ Just., *The Report of the Attorney General Pursuant to Section 16(b)(ii) of Executive Order 14074: Department of Justice Planned Steps to Address Conditions of Confinement in Federal Detention Facilities*, <https://www.justice.gov/archives/olp/file/1293286/dl?inline>.

³² Fed. Bureau Prisons, *BOP Announces New Mission, Vision and Core Values*, https://www.bop.gov/news/pdfs/bop_mission_vision_core_values.pdf.

with their biological sex” rather than gender identity and to confiscate gender-affirming items, such as undergarments, clothing, cosmetics, and wigs.³³ These policies risk triggering mental health crises, including increased suicidality, among incarcerated people with gender dysphoria.

The BOP’s repeated guidance to roll back gender-affirming protections—despite a federal court order finding that the BOP’s actions to discontinue gender-affirming care are likely unlawful³⁴—generate confusion about the current state of regulations and convey the BOP’s indifference to court orders and the rule of law. By stripping away appropriate medical and psychiatric care, safety protections, and measures to provide dignity, the BOP is exposing transgender individuals to significant harm.

Transgender people already face serious discrimination; further subjecting them to draconian and dehumanizing policies is unnecessary and cruel. To help us and the public better understand the BOP’s policies affecting transgender individuals, we request answers in writing to the following questions no later than May 21, 2026:

- 1) Does the BOP plan to monitor and assess the impacts of recent policies that eliminate gender-affirming medical and psychiatric care? If so, how? If not, why not?
- 2) Since January 20, 2025, how many transgender, non-binary, intersex, and gender diverse individuals have been transferred to a different facility to meet the EO’s goal of housing individuals “according to their biological sex?” How is the BOP protecting, monitoring, and assessing the safety of individuals who have been or will be transferred?
- 3) Has the BOP directed its staff to take a particular approach in psychotherapy to treat gender dysphoria? If so, please describe it and provide any relevant memos, protocols, and training materials.
- 4) Given that the BOP has stopped enforcing PREA regulations related to gender identity and collecting data on gender identity, how will the BOP protect the physical and emotional health and safety of incarcerated transgender individuals? How does the BOP plan to monitor and assess the impact of eliminating protections against sexual violence for this population?
- 5) Does the BOP plan to institute a specific process by which transgender individuals may seek assistance or lodge complaints regarding harms they experience from the recent BOP policies and actions implementing President Trump’s EO? If so, please describe the process and provide any relevant memos and protocols. If not, please explain why the BOP will not be instituting this process.
- 6) Describe the specific criteria the BOP intends to use to determine whether it will allow a “social accommodation” for gender dysphoria. In particular, please explain: (a) the rationale for banning certain items from men’s prisons but not women’s prisons (e.g., wigs), and (b) how the BOP intends to monitor the use of an item for gender dysphoria versus for other social or medical needs, such as the use of hair removal tools.

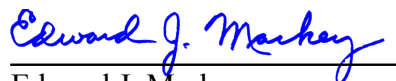
Since taking office, the Trump administration’s BOP has implemented harmful and cruel policies targeting transgender people in its custody. We urge the BOP to reverse that damaging guidance

³³ U.S. Dep’t Just., Fed. Bureau Prisons, *supra* note [13]. [Feb. 19, 2026 Memo]

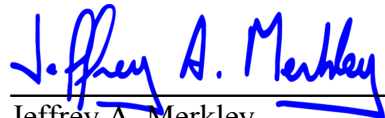
³⁴ Memorandum Opinion, *Kingdom v. Trump*, No. 25-cv-691 (D.D.C. June 3, 2025), ECF No. 67, <https://www.courtlistener.com/docket/69717615/67/kingdom-v-trump/>.

and implement policies that protect, rather than injure, transgender individuals. Only then can the BOP adhere to its mission to foster a “humane and secure environment” for all.

Sincerely,



Edward J. Markey
United States Senator



Jeffrey A. Merkley
United States Senator



Mazie K. Hirono
United States Senator