

WHRC USA appreciates the opportunity to share with you our concerns. In addition, I would be happy to answer any questions you might have about the necessity of protecting the sex-based rights of women and girls. Please contact me at [info@womensdeclaration-usa.com](mailto:info@womensdeclaration-usa.com) if I can be of further assistance.

Sincerely,

Vajra Ma  
Chair, Women's Human Rights Campaign USA

claim that some men and boys are, in fact, women and girls, either because they outwardly conform to feminine stereotypes or because they claim an inner conformity to such stereotypes. Neither of these standards in any way demonstrates that any man is actually a woman, nor that any boy is actually a girl, and so the claim of “gender identity” lacks any basis in reality.

We observe, again with alarm, that entities both public and private are in the process of eroding women’s and girls’ sex-based rights, and, particularly, in eliminating women’s and girls’ single-sex spaces, in deference to men’s and boys’ desire to “identify” as women and girls and to enter spaces that were intended for the exclusive use of women and girls in order to protect their bodily privacy and safety. Examples of this include the opening of women’s and girls’ restrooms, locker rooms, and changing rooms to men and boys and the inclusion of men and boys in women’s and girls’ single-sex sports.

The EO contains an important constraint: The mandate for federal agencies is to include coverage of gender identity “*so long as the laws do not contain sufficient indications to the contrary.*” With the heads of agencies required to consult with you in their reviews, we urge you to consider that most, if not all, of the policies, rules, guidance, etc. developed by federal agencies relating to legal protections based on “sex” are implementing laws which were established for sex-based protections and, particularly, were developed to ensure women and girls could fully participate in society - in education, in public life, in employment, etc. - and in so doing would have the support and backing of federal law. Inclusion of undefined, unknowable, subjective “gender identity” more often than not will undermine the goals of these laws.

In implementing President Biden’s executive order, we urge you to ensure the safety of female inmates housed in federal custody, and female employees of the Bureau of Prisons. The women who comprise just 7% of the federal prison population are more likely than their male counterparts to have a history of trauma and abuse. Allowing men who identify as women to transfer to a women’s facility endangers the female inmate population and female prison staff.

A California inmate study from 2009 found that male inmates who claim a ‘transgender’ identity” were more frequently classified as sex offenders than were other men in prison. Specifically, 20.5% were registered sex offenders compared with 14.6% of the general male prison population.<sup>1</sup> Official statistics on male inmates who claim a ‘transgender’ identity” in the UK indicated they were five times more likely to carry out sexual attacks than other inmates.<sup>2</sup> In 2020 multiple female inmates in Illinois accused a man housed with them of harrassment, assault, and rape, resulting in a lawsuit against the staff of the prison.<sup>3</sup> For women to be safe, they need single-sex (not single-”gender identity”) facilities.

In addition, the country relies on the FBI and the Dept. of Justice to compile up-to-date and accurate crime statistics. When it comes to sexual assaults, men are the majority of perpetrators, and women and girls comprise the majority of their victims. Reclassifying these crimes by “gender identity” would render these statistics meaningless.

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<sup>1</sup> Where the Margins Meet: A Demographic Assessment of Transgender Inmates in Mens Prisons, Sexton, et al., University of California--Irvine.

<sup>2</sup> <https://www.thetimes.co.uk/article/seven-sex-attacks-in-womens-jails-by-transgender-convicts-cx9m8zqpg>

<sup>3</sup> <https://news.wttw.com/2020/02/19/lawsuit-female-prisoner-says-she-was-raped-transgender-inmate>



## Women's Human Rights Campaign

1 West 6th St., #102  
Medford, OR 97501  
March 4, 2021

Monty Wilkinson, acting Attorney General  
Office of the Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

To the Honorable Monty Wilkinson:

As Chair of the Women's Human Rights Campaign USA, I am writing to express my organization's concern regarding President Biden's Executive Order 13988, 86 C.F.R. 7023 (2021), on Preventing and Combatting Discrimination on the Basis of Gender Identity or Sexual Orientation, and to ask that it be implemented in such a way that does not conflict with the sex-based rights of women. We have not, as a country, taken the time to carefully evaluate exactly what the impact will be on women of defining the word sex to include "gender identity." We must now take this opportunity to have this important conversation.

The Women's Human Rights Campaign (WHRC) is a global nonpartisan group of volunteer women dedicated to protecting women's sex-based rights, and WHRC USA is the U.S. chapter of WHRC. Our volunteers include academics, writers, organizers, activists, lawyers, and health practitioners. The Declaration on Women's Sex-Based Rights was created by the founders of WHRC to lobby nations to maintain language protecting women and girls on the basis of sex rather than "gender" or "gender identity." The Declaration, which has more than 2,000 signatories in the United States and more than 15,000 worldwide from 129 countries, re-affirms women and girls' sex-based rights and challenges the discrimination we experience from the replacement of the category of sex with that of "gender identity."

President Biden's executive order instructs heads of all federal agencies to ensure that all statutes and regulations that prohibit sex discrimination also address discrimination on the basis of sexual orientation as well as on the basis of "gender identity." As an organization concerned with the sex-based rights of women, WHRC USA advocates for the rights of lesbians alongside the rights of all other women. We are, therefore, supportive of efforts to end discrimination on the basis of sexual orientation. We are, however, opposed to the concept of "gender identity," and particularly to the conflation of "gender identity" with sex. Since sexual orientation means same sex attraction, not same "gender identity" attraction, such a conflation essentially erases sexual orientation as a distinct category. This is profoundly homophobic.

According to the United Nations, the word "gender" refers to "the roles, behaviors, activities, and attributes that a given society at a given time considers appropriate for men and women." For women, who have suffered for millennia from the constraints society has imposed upon us, gender is hardly something to be preserved or protected. Further, "gender identity" is a concept that has no coherent meaning and is not defined in the EO. By definition, the only "identity" that can be conferred by "gender" is a sex stereotype.

We observe an alarming trend in which the term "gender identity" has come to be used as the basis of the