

Know Your Rights Manual for the Transgender Community:

Criminal Law

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INTRODUCTION

This information was compiled by a law student and pre-law interns at the National Lawyers Guild, San Francisco, using statutory law, case law, and the work of numerous legal and non-legal organizations across the country. While the information here is up to date through July 2009, it is possible that substantive changes have been made to the laws since it was last updated. Please keep this in mind while using this resource. Source and reference information will be provided for most of the content in this manual to help you verify that the information is still good before relying on it.

This manual was created for use by transgender community members and allies, by service providers who work with the transgender community, and by attorneys and legal workers who provide advocacy and legal services to members of the transgender community. For purposes of this manual, the word “transgender” is used as an umbrella term that includes transgender, gender variant, and intersex people who are at any point of self-identification or physical transition. Occasionally, the text will refer to individuals as “he or she” or “his or her.” This reference does not indicate that a statement applies exclusively to persons who identify as male or female, but instead is used for legibility and accessibility. This manual itself does not constitute legal advice; instead, it is meant to serve as a resource to help understand the landscape of transgender law in a particular area, and to help connect readers with the current information needed to verify law or navigate a particular situation. Although we hope that this manual assists service providers and community members in locating information and resources, it is important to note that only licensed attorneys are authorized to give legal advice. If you have a question of law that is outside of the scope of information provided in this manual, you may wish to consult or refer your client to an attorney or, if you are a client, to contact one of the legal support agencies listed in the resource guide in the back. Many of the organizations listed in the resource guide provide referrals to attorneys who are familiar with transgender law and working with the transgender community.

USING THIS MANUAL

This manual was created to be a first-stop reference for lawyers, service providers, and community members who need legal information about a transgender-specific issue or question of law. For ease of use, the content has been divided by common problems or needs. Case law, statutes, print and web resources, and other service organizations can be found embedded throughout the manual, referenced in the footnotes, and listed in the directory at the back of this manual. This resource was created by and for people in the San Francisco/Bay Area, and therefore much of the information is specific to California and San Francisco/Bay Area resources and law. We hope that this manual will be a helpful resource to readers outside of California because it includes information that is nationally relevant. However, it is important that non-California readers pay close attention to what information appears to be specific to California or the Bay Area, and not presume that the local information contained in this manual will transfer to other cities and states. Non-California readers are encouraged to use the national resources listed in the directory at the back to locate up-to-date information about the laws and precedent in their state or city.

BASIC RIGHTS

Both citizens and non-citizens alike have rights under the United States Constitution. The Fifth Amendment gives every person the right to remain silent – that is, to not answer questions asked by a police officer or government agent. The Fourth Amendment restricts the government’s power to enter and search a person’s home or workplace, although there are many exceptions and new laws have expanded the government’s power to conduct surveillance, as well as the authority for the police to search a person or belongings. The First Amendment protects a person’s right to speak freely and to advocate for social change. However, the Department of Homeland Security (DHS) can legally target someone based on political activities if that person is a non-citizen and can be deported. These Constitutional rights are absolute, and cannot be suspended – even during wartime.¹

¹ *Know Your Rights*, (2004) New York: National Lawyers Guild

INTERACTIONS WITH POLICE OFFICERS²

Stops and Searches on the Street

Much of what could potentially transpire between a police officer and someone on the street is governed by the Fourth Amendment, including when an officer may stop someone and what that officer has the authority to do after stopping someone. Even if it appears that a person has been stopped by an officer for no reason, this is often hard to prove, as the officer only needs to meet a relatively easy requirement in order to stop an individual. Although an officer is prohibited from stopping someone solely based on gender presentation, an officer only needs to have a “reasonable suspicion” that someone is engaged in or about to be engaged in criminal activity in order to stop an individual.³ The San Francisco Police Commission has adopted resolutions explicitly prohibiting officers from using gender presentation as a factor to meet this “reasonable suspicion” requirement.⁴ Regardless, even if a person is doing nothing illegal, it is fairly easy for an officer to claim that he or she felt suspicious.

Under the Fourth Amendment and California law, the police need a reasonable suspicion that a person is armed and dangerous in order to search their person.⁵ This type of search is referred to as a “frisk,” or a “pat down.” The purpose of a frisk is for the officer's safety and therefore can only be done in search of weapons, and not in search of drugs. An officer may pat down a person's clothing, which may include patting area over or near the chest, buttocks, or genitals. Grabbing at or near genitalia, however, simply to establish a person's “true sex” is inappropriate and potentially unlawful, depending on the jurisdiction. Even if the police have no other grounds for suspicion, hostility or aggressive behavior may be enough for them to justify a search. It is important that the person being stopped continues to assert that they do not consent to the search; this help ensure that any evidence found will be inadmissible in court if the officer's search is later ruled to have been illegal.

Treatment and Pronouns

Arrestees often report that police officers do not consistently treat citizens with respect. Acknowledging this reality, it can be difficult for detainees to know how to increase their chances of being treated respectfully, especially in regards to pronoun use for transgender detainees. However, some jurisdictions have written policies that require police officers to follow certain standards. San Francisco laws and policies expressly create a standard that requires avoiding harsh, profane or uncivil language, and addressing the public using pronouns and titles of respect appropriate to the individual's self-identified gender. Officers are instructed to respectfully ask individuals for clarification if uncertain of what pronoun to use; “e.g. 'do you prefer to be referred to as 'she' or 'he'?'”⁶ This means that a person arrested in San Francisco is entitled to be treated in accordance with a self-identified gender, regardless of anatomy, legal name, or gender marker. If interacting with a police officer who is using the wrong pronoun, the detained person can correct this by saying to the officer, “I prefer to be referred to by female/male pronouns.” In other municipalities, it should be argued that such treatment is necessary to maintain the rights and dignity of the detainee. The law does not necessarily protect people against improper pronoun usage when the mistake is inadvertent. A persistent refusal to address a detainee in accordance with his or her gender identity, however, could be an actionable offense in a municipality such as San Francisco with a policy regarding pronoun use in place.

Identification

After making a stop, an officer might ask the person for identification. In California, the refusal or failure of a

² *Know Your Rights*, (August 2004) New York: National Lawyers Guild; *Know Your Rights*, (2006) Midnight Special Law Collective

³ Cal. Pen. Code § 833.5

⁴ *Standards for Interaction with Transgender Communities*, (December 2003) SFPD Department Bulletin 03-246

⁵ Cal. Pen. Code § 833

⁶ *General Rules of Conduct*, SFPD General Order 2.01, #14; SFPD Department Bulletin, 03-243, 12/22/2003

person to submit an identification upon request cannot be the sole cause for arrest or detention, except where the driver of a motor vehicle refuses to produce a drivers license upon request.⁷ In other words, unless an individual is pulled over while driving, it is legal to refuse to produce identification, and an officer may not threaten arrest in order to make a person comply.⁸ Individuals can also refuse to provide other personal information, such as address or immigration status. If arrested, an individual is not obligated to provide identification, but may be released more quickly if a name is provided, unless the individual is driving a vehicle, in which case refusing to provide identification can result in charges.

In some states, including New Mexico and Nevada, refusing to give a name can be cause for being detained or arrested. Regardless of the laws in a particular state, Police do not always follow the law, and refusing to provide your name may make an officer suspicious and lead to a person being arrested anyway. If an individual fears that providing a legal name would lead to arrest or harassment, such as having a legal name that is obviously not congruent with gender presentation, that person can claim the right to remain silent and, if arrested, this fact can be helpful later. Individuals should not give any name that is not a legal name, as providing a false name can be considered a crime, and even if the name given is the only name that person uses, it could still potentially be considered a false name for purposes of charging the individual.

Questioning

Everyone has the right to talk to a lawyer before deciding whether to answer questions. If a person does agree to be interviewed, that individual has the right to have a lawyer present. The lawyer's job is to protect a person's rights. Once a detainee requests a lawyer, the officer must stop trying to question the detainee, and the individual should make any further contact through the lawyer. If the person does not have a lawyer, the individual can still request to speak with one before answering questions. A detainee or arrestee should remember to get the name, agency and telephone number of any investigator who visits, and give that information to the lawyer. The government does not have to provide a free lawyer unless the person is charged with a crime, but the National Lawyers Guild or another organization may be able to help find a lawyer for free (pro bono) or at a reduced rate.

Some people might worry that insisting on remaining silent, requesting a lawyer, or refusing a search will make an officer more suspicious. This is not necessarily the case. Silence can demonstrate to officers an awareness of rights, thus providing additional incentive for the officers to follow procedural rules to avoid accusations of misconduct. As the *Miranda* Warning states, "anything you say can be used against you in a court of law." Arrestees often believe that explaining the situation will help resolve the problem, but it is impossible to know how statements made in front of an officer will be interpreted later, often in ways that will harm the arrestee rather than helping. The safest approach is for detainees or arrestees to calmly repeat that they wish to remain silent and do not consent to a search of their person or of their vehicle.⁹

Transporting Arrestees¹⁰

After being arrested, the arrestee is often transported to a different destination than where the arrest took place. Transport is a stage of the process where transgender people are particularly vulnerable to police misconduct. The San Francisco police department has enacted a policy to mitigate harm to transgender people during transport. This policy, General Order 2.01, Rule 36, "Transporting of Females and/or Transgender Individuals," applies to women and "any transgender person or individual whose gender identity is indeterminate to the [officer] and not clearly articulated by the individual."

The orders for police in San Francisco state that when officers transport a female or transgender person, they

7 Cal. Veh. Code § 40302

8 *Investigative Detentions*, SFPD General Order 5.03

9 *Know Your Rights: Dealing with Police*, (2006) Midnight Special Law Collective <<http://www.midnightspecial.net/materials/dealingwithpolice.html>> (as of June 23, 2008)

10 SFPD General Order 2.01, #36

must notify the Communications Division of the Department of the vehicle's starting mileage, the location from which they are leaving, and the destination. When the officer reaches the destination, that officer must immediately notify the Communications Division with the vehicle's ending mileage. If a female or transgender detainee is being transported and this rule is not being followed, the detainee can self-identify to the officer, thereby making the officer aware that rule 36 applies. An officer who does not follow this procedure could attempt to escape liability by stating that he or she was unaware that the detainee was female or transgender at the time of transportation because the detainee did not self identify. Ultimately, it is the arrestee's decision to disclose or not; arrestees may feel that disclosing prior to or during transportation may create more risk than it will prevent, but others may feel that disclosing prior to transportation will increase the chances that rules will be followed and documented, making any possible misconduct easier to prove.

It is important to remember that even when there are rules in place, these rules are not always followed. Ultimately, individuals should rely on their best judgment in a particular situation. Some arrestees would prefer to cooperate even when not required to in order to de-escalate a situation if they fear retaliation by an officer, particularly if there is no one around to witness or if the officer seems particularly aggravated. Document any suspected violation of rules and consult your attorney or consider filing a misconduct report if you believe your rights, as provided by these rules, have been violated.

Booking¹¹

The San Francisco Police Department has specific regulations related to booking transgender people. The SFPD's Department Bulletin 03-246, "Standards for Interaction with Transgender Communities: Arrest and Booking" states that:

"If, in the booking process, an arrestee does not offer self-identification of gender, and does not respond to the officer's inquiry as to the individual's gender identity, Jail Health Services staff shall make the gender determination. For booking and citation purposes, an officer shall always write an individual's name as it appears on a driver's license or state identification card. If the arrestee identifies a preference for a different name, the officer shall list that name in the appropriate section of the citation or booking form. Whether or not the name on an individual's driver's license or identification card coincides with the arrestee's gender identity, the officer shall refer to the arrestee by the name that the arrestee has used to identify him or herself. The [officer] shall use the pronouns consistent with that name in addressing the arrestee or referring to the arrestee. For purposes of listing sex on citations, police reports and other official documentation, officers shall use the sex designation listed in the most recent records in the official criminal justice databases, starting with the DMV record."

Vehicle Exception

The law allows greater authority to officers stopping people in cars. In this context, there are certain actions a person can take to increase the chances of a safe and less confrontational encounter with an officer. People being stopped should keep their hands where the police can see them. If stopped while driving a vehicle, the driver is required to show license, registration, and proof of insurance. A stop of a motor vehicle is considered by law to create an exception to the warrant requirement. This means that if officers have probable cause to believe there is contraband in the vehicle, they can search without a warrant. If officers want to search the vehicle, it is best for a person to state clearly and calmly that he or she does not consent to a search. Often, police will request consent to a search because they do not have probable cause to search without asking. After all, if they had probable cause, there would be no need for consent, other than to broaden the scope of the legal search. Officers may separate passengers and drivers from each other to question them, but no one has to answer any questions.

In short, if someone is in a car, the police can search the driver and the passenger compartment of the vehicle, if they can show it was in the interest of their own safety. It is best not to consent to a search. The police may

11 SFPD Department Bulletin 03-246, 2003

search anyway, but an illegal search may lead to suppression of the evidence in court.¹²

TAKING ACTION: POLICE MISCONDUCT

When dealing with the police, there are basic things one can do to stay safe. People are less threatening to an officer if they keep their hands in view, don't make sudden movements, never touch the officers or their equipment, and remain respectful at all times. Anything that detainees might do to give an officer reason to argue that they are dangerous will work against them. Such behavior could even lead to an aggressive reaction on the part of the police, and a charge of assault against the detainee. Just after someone has been stopped by an officer, it is a good idea to ask the officer if he or she is free to go. If the answer is yes, one might consider just walking away. If the police say an individual is not under arrest, but is not free to go, that person is being detained. An officer is required to give an explanation for such detention. The detainee does not have to answer any questions.

If a person feels his or her rights have been violated by a police officer, it is important to document as many of the following as possible:

- Date, time, and location of the incident
- The officer's badge number and name
- A physical description of the officer
- The officer's precinct number or division (found on the brass insignia on the officer's shirt collar)
- Any witnesses present at the time

For issues with the San Francisco Police, the most effective way to file a complaint of misconduct is to go to the **Office of Citizen Complaints (OCC)**, located at 25 Van Ness Avenue, 7th Floor. This will allow investigators to personally interview the person and to do a thorough job of completing the initial, and one of the most important, phases of the investigation of a complaint.¹³ For more information, visit www.sfgov.org. For issues with the Oakland police, a person can either call the 24-hour complaint hotline at 866-214-8834 or the **Citizens' Police Review Board Office** at 510-238-3159. Both of these offices have challenges that cause barriers to access and effectiveness. The OCC has inadequate funding, a small staff, and long delays in charging offending officers. Between 1996 and 2004, the OCC received more than 10,000 complaints and sustained only ten percent.¹⁴ The Oakland office no longer has public hearings, which indicates less accountability to the public.

Individuals who experience police harassment or misconduct in Oakland can contact **People United for a Better Life in Oakland (PUEBLO)** for assistance making a report at 510-452-2010 or visit their website at www.peopleunited.org. Individuals anywhere in the country can visit the **National Police Accountability Project (NPAP)**'s website at www.nlg-npap.org to locate attorneys and organizations that work with police misconduct issues across the country. People who experience police harassment or misconduct in San Francisco or greater Bay Area can contact Community United Against Police Brutality (CUAV) for support resources, assistance filing police misconduct reports, and courtroom advocacy. CUAV can be reached online at www.cuav.org, or via their multi-lingual hotline at (415) 333-4357. CUAV also offers walk-in appointments on Wednesdays and Fridays from 11am-1pm at 170 A Capp Street, San Francisco, CA 94110.

DISCRIMINATION IN PRISON¹⁵

12 As per the Exclusionary rule doctrine, see *Weeks v. United States*, 232 U.S. 383 (1914); *Mapp v. Ohio*, 367 U.S. 643 (1961); *Wong Sun v. United States*, 371 U.S. 471 (1963); *State v. Smith*, 131 Wis.2d 220, 388 N.W.2d 601 (1986)

13 *How to Make a Police Misconduct Complaint*, SFGov: Office of Citizen Complaints <http://www.sfgov.org/site/occ_page.asp?id=1444> (as of June 23, 2008)

14 Fernandez, Sward & Wallace, *The Use of Force Disciplines Obstacles*, SFGate (Feb. 8, 2006) p. A1 <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2006/02/08/MNUFDISCIPLINE.DTL> (as of June 23, 2008)

15 Most of the information is taken from *Rights of Transgender Prisoners*, National Center for Lesbian Rights, June 2006, <http://www.nclrights.org/site/DocServer/tgprisoners.pdf?docID=1285> and supplemented with phone calls

Transgender people in prison often face a variety of types of discrimination. One common problem is discrimination in gender identity expression. This may involve policies that require prison staff to refer to people in prison by titles or pronouns associated with their birth sex (for example, calling a trans woman “Mr.” and “he” against her wishes) or instituting mandated dress and grooming codes that negatively affect transgender people (for example, requiring all people in men’s prisons to wear masculine clothing, refusing to permit inmates in men’s prisons to use makeup, and denying transgender women in men’s prisons access to bras or prescription hormones). In addition, prison staff often discriminate against transgender people by asking them to strip unnecessarily for “gender checks,” asking improper questions about private details of their anatomy, or placing them in isolation as the alternative to an unsafe group placement. Transgender people in prison frequently face verbal humiliation from both other prisoners and staff. Transgender people often have difficulty accessing hormone replacement therapy (HRT) while incarcerated. In some cases, hormones that have been prescribed, approved, and ordered by a doctor and/or court are not accessible to an inmate because of uncooperative staff or medical providers in the jail or prison. Transgender people often face additional types of medical neglect, both in receiving transgender-specific care and in general medical attention. Transgender people in prison are often subjected to very serious discrimination including sexual harassment, physical assault, and even sexual assault and rape both by fellow inmates and staff.

Placement

Common practice in the California prison system is that transgender people who have not had genital surgery are housed according to birth sex, regardless of how long an individual may have lived in his or her present gender identity, and regardless of how many other types of medical transition treatments used, such as hormones, facial surgeries, or top surgeries, and regardless of the inmate's appearance. For example, a transgender woman who has been on hormones, has had a tracheal shave and facial reconstruction surgery, has breasts, long hair, and lives full time as a woman, but has not had genital surgery would be classified as male and incarcerated in a male facility. It is easy to see how this policy creates potentially dangerous situations for transgender inmates, particularly in circumstances where transgender women are housed in mens prisons, renowned for sexual violence. Individuals who are concerned with safety in the prison system can, upon entry, request “administrative segregation”(isolation), though this will not always be granted. On the positive side, placing a transgender woman in administrative segregation may provide her with greater protection than being housed in the general population. On the negative side, however, administrative segregation also results in exclusion from recreation, educational and occupational opportunities, and associational rights. Such exclusion may violate the constitutional rights of prisoners if the conditions of segregation are excessively harsh. Furthermore, administrative segregation does not protect transgender prisoners from abuse at the hands of guards and may even lead to increased vulnerability to violence.

Violence

Prison officials are required to protect prisoners from violence at the hands of other prisoners. Prison officials who display a "deliberate indifference" to this duty violate the Eighth Amendment prohibition of cruel and unusual punishment. The U.S. Supreme Court defined "deliberate indifference" in *Farmer v Brennan*, 511 U.S. 825 (1994). *Farmer* involved a transgender woman who was severely beaten and raped by her male cellmate in a maximum security prison. The Court declined to adopt a definition of deliberate indifference that would hold a prison official liable for violence inflicted on a prisoner when the official "should have known" the prisoner was in danger. Instead, the Court ruled that an officer is in violation of the Eighth Amendment if they have actual knowledge that the prisoner is at risk of violence and deliberately fails to act on that knowledge, a more difficult standard to meet.

Hormone Treatment

There is not a uniform practice across California, nor nationally, that governs hormone therapy for transgender inmates. Anecdotally, hormone replacement therapy (HRT) is available to transgender prisoners who had a prescription and were receiving treatments before incarceration, and the treatment will be administered at the same level as before incarceration. It is much more difficult to begin taking hormones while incarcerated, as a

prison medical professional must determine that hormone treatment is necessary, and this ruling is especially uncommon. Inmates who wish to begin hormone therapy will first be referred to a mental health counselor. This information is based on the anecdotal findings of the Transgender, Gender Variant, and Intersex Justice Project, who provide advocacy to transgender prisoners in California, and is supported by an unpublished 9th circuit case, *South v. Gomez*, 211 F.2d 1275 (9th Cir., 2000). Outside of California, practices vary. Researching case law or asking local advocacy organizations can help show local practices or trends.

If an inmate has been denied hormone treatment while incarcerated, contact Dr. Lori Kohler, Director of the **Correctional Medicine Consultation Network**.

Lori Kohler, MD
Director, Correctional Medicine Consultation Network
University of California, San Francisco
1940 Bryant St.
San Francisco, CA 94110
Phone: (415)476-2041
lkohler@fcm.ucsf.edu

Please note: Dr. Kohler's position will be terminated on October 1, 2009. At the time of this printing, it is not known what resources will replace Dr Kohler's advocacy. Please contact the CMCN office or the Transgender, Gender Variant, and Intersex Justice Project to learn more information as it becomes available.

TAKING ACTION: DISCRIMINATION IN PRISON

602s

If a person is denied hormones, harassed, or discriminated against while in prison, the most important action to take is to file a grievance (a 602). There are four levels of appeal for 602s: informal review, first formal review, second formal review, and third formal review. It is very important that victims always follow and appeal through all levels of the 602 process, even after receiving a partially favorable response, or (especially) if the 602s are being ignored. The process of appealing at every level is called “exhaustion.” Exhaustion is very important, as it is required by law before filing any sort of lawsuit, state or federal, regarding personal injuries or civil rights abuses. While exhausting 602s might not achieve the result sought, it will preserve the right to sue later.

Contact **The Transgender, Gender Variant, Intersex Justice Project** for help with 602s and other prison related issues:

TGI Justice Project
C/O Dani Williams, Legal Director
342 9th Street, Suite 202B
San Francisco, CA 94103
(415) 252-1444

CLEAN SLATE PROGRAM

Going through the process of expungement entails removing misdemeanors from a person’s criminal record so that when applying for most jobs, the individual can legally say that he or she was not convicted of that crime. In order to start the process, the following must be true: the individual cannot be on probation or parole, and cannot currently be charged with a crime. Individuals must file for an expungement in the county in which they were convicted.

The process starts by obtaining the person’s Rap Sheet. If convicted in San Francisco, the Rap Sheet can be obtained by going in person to the Hall of Justice, 850 Bryant Street, Room 475 between 8am and 3pm. The Rap Sheet is free, but photo identification must be presented. For more information, call the Hall of Justice at (415) 553-1415. In Alameda County, the Rap Sheet can be obtained by going to the Alameda County Sheriff’s Department, 15001 Foothill Boulevard, San Leandro, CA 94578 between 8:30am and 3:30pm. The Rap Sheet

costs \$25. For more information, call the Alameda County Sheriff's Department at (510) 667-3190.

To get help with an expungement in San Francisco, go to the San Francisco Public Defender's Office at 555 7th Street, or call them at (415) 553-1671. Walk-in appointments are offered on Tuesdays between 9-11am. For Alameda County, consult the East Bay Community Law Center to find out when and where the next Clean Slate Clinic is taking place at (510) 548-4040 x390, or by writing to 2921 Adeline Street, Berkeley, CA 94703.

RESOURCES

Below is a brief list of resources that may be especially helpful. This collection is only a small representation of transgender-welcoming services in California and the United States. Searching online for additional resources may yield more specific information or assistance. Resources are divided by California-specific organizations, national organizations, and general resources, which includes legal documents, publications, research tools, and “know your rights” resources. For ease of use, we have specified whether organizations provide direct or support services, and to what extent they serve the LGBTQI (Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex) communities, and specifically, to what extent they serve transgender communities. National Lawyers Guild Interns spoke with representatives of almost all of these organizations to ensure that our description of their services is correct and up-to-date, and that they are explicitly welcoming of transgender community members.

CALIFORNIA RESOURCES

Advocacy Organizations

ACLU of Northern California, www.aclunc.org

39 Drumm Street

San Francisco, CA 94111

Civil Liberties Hotline: (415) 621-2488 (M-F 10am-12pm, 1pm-3pm)

The ACLU of Northern California is an affiliate of the American Civil Liberties Union, representing the Northern California area. This is the area that reaches north from Del Norte and Modocino counties and south from Monterey to Inyo Counties. For legal assistance, call the ACLU-NC civil liberties hotline, where volunteer counselors staff the ACLU civil liberties desk. They are not lawyers but are trained to pre-screen intakes. They cannot give legal advice to you, nor can they refer you to an individual private attorney. They can, however, bring your request to the attention of an attorney for review, or give you an appropriate referral to another agency. The ACLU is not an exclusively LGBTQI organization, but is welcoming to transgender clients.

ACLU of Southern California, www.aclu-sc.org

1313 W.8th Street

Los Angeles, CA 90017

Phone: (213) 977-9500

Intake Line: (213) 977-5253

Intake Form: www.aclu-sc.org/intake_requests/add

The ACLU of Southern California is an affiliate of the American Civil Liberties Union. The ACLU-SC represents areas in Southern California, including San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Kern, San Bernardino, Riverside, and Orange County. The ACLU-SC has a legal intake program that handles civil liberties and civil rights matters. Contact the ACLU-SC for legal assistance by writing to the address listed above, by filling out an online intake form or leaving a message on the intake line. Calls are returned by volunteer pre-screeners; who are not lawyers and cannot give legal advice. They can mail appropriate referrals to other agencies which may be of help, and present certain information on your cases to their supervisor for review. The ACLU is not an exclusively LGBTQI organization, but is welcoming to transgender clients.

Community United Against Violence (CUAV), www.cuav.org

170 A Capp Street

San Francisco, CA 94110

Phone: (415)777-5500

Hotline: (415)333-4357

Email: info@cuav.org

CUAV offers a 24-hour confidential, multilingual crisis line, free counseling, legal advocacy, and emergency assistance (hotel, food, and transportation) to survivors of hate and domestic violence. CUAV does peer-based

counseling, direct assistance, education and outreach, grassroots organizing, and policy advocacy work. CUAV offers assistance filling out police misconduct forms, and provides accompaniment and court advocacy. Will assist with filling out police misconduct forms, and will provide accompaniment and court advocacy. Walk-in appointments are available on Wednesdays and Fridays from 11am-1pm. CUAV is explicitly focused on serving the LGBTQI community and is very welcoming to transgender clients.

Family Organizations

Legal Services for Prisoners with Children, www.prisonerswithchildren.org

1540 Market Street, Suite 490

San Francisco, CA 94102

Phone: (415) 255-7036

Email: info@prisonerswithchildren.org

LSPC advocates for the human rights and empowerment of women in prison and their families by engaging in organizing former prisoners, conducting workshops for people in prison, exposing human rights abuses in women's prisons, assisting battered women in prison seeking retrials or reduced sentencing, and offering limited direct advocacy for women in prison. While LSPC does not offer direct legal services, they can give some legal advice, especially on matters of family law, and they provide referrals for additional resources. The LSPC is explicitly inclusive of transgender prisoners and their families.

Prisoner Support

California Coalition for Women Prisoners, www.womenprisoners.org

1540 Market Street, Suite 490

San Francisco, CA 94102

Phone: (415)255-7036 ext. 4

Email: info@womenprisoner.org

CCWP is a membership-based support organization. They organize annual protests, engage in advocacy, education, and outreach, and provide referrals and resources to women and transgender people in prison. CCWP volunteers visit inmates who are incarcerated in state women's prisons in California, providing ongoing support to people incarcerated in CA's three state women's prisons, especially providing support to inmates doing self-advocacy and advocacy leaders inside. CCWP does not visit federal prisons or men's prisons, but will respond to mail from people in these facilities. CCWP is explicitly trans-inclusive, and serves MTFs, FTMs, and other people under the transgender umbrella. CCWP also puts out *The Fire Inside* newsletter, a quarterly publication with a circulation of over 2,000 that is dedicated to providing a space for women prisoners and their supporters to communicate with each other and the broader public about the issues and experiences women prisoners face through articles, art and poetry. Transpeople, including MTFs incarcerated in men's prisons, are encouraged to join the mailing list and submit writing to the newsletter. Prisoners incarcerated outside of California are welcome to join the mailing list.

Just Detention, www.justdetention.org

Attn: Ms. Melissa Rothstein, Esq.

3325 Wilshire Boulevard - #340

Los Angeles, CA 90010

Just Detention, formerly named "Stop Prison Rape Now" seeks to end sexual violence against men, women, and minors in all forms of detention. Just Detention's website provides information for survivors, a legal section with legislation and case law, appeals for action, a comprehensive bibliography and links to articles, reports and other resources. Prisoners should address their correspondence to Ms. Melissa Rothstein, Esq. Just Detention assists with referrals and resources, rather than direct support, and is welcoming to transgender inmates, but is not a explicitly transgender or LGBTQI organization.

The Transgender, Gender Variant, and Intersex Justice Project, www.tgijp.org

c/o Dani Williams, Legal Director

342 9th St, Suite 202B

San Francisco, CA 94103

Phone: (415) 252-1444

TGI Justice Project provides legal advice and referrals for prisoners who are experiencing abuse, discrimination and harassment in prison due to their gender and/or intersex status, they provide alternative sentencing support by diverting transgender, gender variant and intersex people into health, social and economic services as alternatives to imprisonment.

Transgender Law Center, www.transgenderlawcenter.org

870 Market Street, Room 823

San Francisco, CA 94102

Phone: (415)865-0176

Email: info@transgenderlawcenter.org

The Transgender Law Center (TLC) is a civil rights organization advocating for transgender communities. TLC provides direct legal services, engages in public policy advocacy and education and works to change laws and systems that fail to incorporate the needs and experiences of transgender people.

NATIONWIDE RESOURCES

Sylvia Rivera Law Project, www.srlp.org

Attn: Gabriel Arkles

322 8th Avenue, 3rd Floor

New York, NY 10001

Phone: (212) 337-8550

SRLP provides free legal services to transgender, intersex and gender nonconforming low-income people and people of color in the New York area. SRLP provides advice and referral for a wide variety of legal issues. Sometimes, they can also provide more help, such as advocacy, help with a case you are bringing on your own, or, more rarely, representation in a legal action. The best way to reach them is to either call or write to Gabriel Arkles directly.

ACLU National Prison Project, www.aclu.org/prison

The ACLU's National Prison Project is the only national litigation program on behalf of prisoners. They fight the unconstitutional conditions in prisons, and publish **The Prisoners' Assistance Directory**, a directory list of local, state, national and international organizations that provide services to prisoners and their families. It is available on-line at: www.aclu.org/images/asset_upload_file139_33694.pdf

ACLU Lesbian, Gay, Bisexual, Transgender Rights/AIDS Project, www.aclu.org/lgbt

125 Broad St, 18th Floor

New York, NY 10004

This project is an affiliate of the American Civil Liberties Union that provides expertise in constitutional law and civil rights, specializing in sexual orientation, gender identity, and HIV.

COLAGE, for people with a Lesbian, Gay, Bisexual, Transgender and/or Queer Parent, www.colage.org

1550 Bryant St, Suite 830

San Francisco, CA 94103

Email: colage@colage.org

Phone: (415) 861-5437(KIDS)

COLAGE is a national movement of children, youth, and adults with one or more lesbian, gay, bisexual, transgender and/or queer (LGBTQ) parent/s. While COLAGE does not offer direct legal services, they offer

many educational, community building, and advocacy programs for youth with LBGT parents. COLAGE's Kids Of Trans (KOT) program offers a Kids of Trans Resource Guide, as well as a document of Legal Q&As for Kids with Trans Parents.

National Center for Lesbian Rights, www.nclrights.org

Legal Helpline: 415.392.6257 (9AM-5PM PST)

Toll free: 1.800.528.6257 (9AM-5PM PST)

The National Center for Lesbian Rights helps GLBT individuals and families nationwide through litigation, public policy advocacy, and public education. NCLR offers a legal helpline during regular business hours, and the best way to request assistance is by filling out an online help form on NCLR's website. NCLR provides referrals, assistance locating GLBT-aware attorneys, and offers limited direct services. The National Center for Lesbian Rights is committed to serving transgender communities, and is very welcoming to transgender clients.

Activist Organizations

Critical Resistance, www.criticalresistance.org

1904 Franklin Street, Suite 504

Oakland, CA 94612

Phone: (510) 444-0484

Email: crnational@criticalresistance.org

CR is a national organization working towards prison abolition. CR creates and promotes policies that reduce the number of people in prison and the reliance on policing, educates through media and public education work and builds and supports the leadership of people directly impacted by the Prison Industrial Complex. CR does not have direct legal services.

National Police Accountability Project, www.nlg-npap.org

14 Beacon St. Suite 701

Boston, MA 02108

Phone: (617) 227-6015

Email: Npap@nlg.org

NPAP is a project of the National Lawyers Guild that seeks to end police abuse of authority and to provide support for grassroots and victims' organizations combating police misconduct. NPAP is an organization of plaintiffs' attorneys who work on police misconduct cases. The website includes directories for attorneys and organizations across the country who work around police misconduct issues. NPAP does not provide any direct services, but the website is extremely useful for locating attorneys and local direct services across the country. Most of the resources are not transgender-specific, but NPAP and its parent organization, the National Lawyers Guild, are committed to trans justice, and affiliated attorneys and organizations are often welcoming to trans clients. The NPAP office will provide referrals by phone to individuals who do not have internet access, but cannot provide legal advice or direct services to callers. National Police Accountability Project also has a great manual called "Evaluating Your Potential Police Misconduct Civil Rights Case. It can be found online at: www.2momslaw.com/police_misconduct.pdf

Midnight Special Law Collective, www.midnightspecial.net

Phone:(510)761-MSLC

Email: MSLC@midnightspecial.com

Midnight Special is an independent non-profit organization dedicated to providing legal trainings and accessible, relevant, democratic and accountable legal support to a wide range of activists participating in the struggle for social change. MSLC fosters the formation of community-based legal teams and law collectives nationally to achieve these goals on a larger scale by helping activists network with lawyers and by sharing our knowledge and practical experience.

Taking Action Resources

Office of Citizen Complaints (OCC), www.sfgov.org/site/occ_index.asp

25 Van Ness Ave, Suite 700

San Francisco, CA 94102

Phone: (415) 241-7711

The purpose of Office of Citizen complaints is to promptly, fairly and impartially investigate complaints against San Francisco police officers and make policy recommendations regarding police practices. Civilians who have never been police officers in San Francisco staff the Office of Citizen Complaints. The OCC offers complaint investigation, mediation, policy analysis, and community outreach.

San Francisco Hall Of Justice, www.sfgov.org/site/courts_page.asp?id=5528

850 Bryant Street, Rm 475

San Francisco, CA 94103

(415) 553-1415

Provides San Francisco Rap Sheets.

San Francisco Public Defender's Office

555 7th Street

San Francisco, CA 94103

Phone: (415) 553-1671

To get help with an expungement in San Francisco, go to the San Francisco Public Defender's Office or call. Walk-in appointments are offered on Tuesdays between 9-11am.

HELPFUL DOCUMENTS

ACLU National Prison Project, *The Prisoners' Assistance Directory*.

www.aclu.org/images/asset_upload_file139_33694.pdf

A directory list of local, state, national and international organizations that provide services to prisoners and their families.

Midnight Special Law Collective, *Know Your Rights: Dealing With Police* (2008)

www.midnightspecial.net/files/dealingwithpolice.pdf

This document covers various aspects of dealing with police: safety, questioning, searches, infiltrators and informants, and documenting interactions.

Midnight Special Law Collective, *Legal Steps and Choices*.

www.midnightspecial.net/files/Legal_Steps_Chart_9.01.pdf

a flowchart showing the typical steps through the criminal legal system from arrest to trial as well as choices facing defendants at each step

Midnight Special Law Collective, *Police Misconduct Report*.

www.midnightspecial.net/files/policemisconductreport.pdf

This document was designed to help victims of police misconduct document the incident. While concise, the report is designed to help victims recall important details and record them in a useful format.

National Police Accountability Project, *Evaluating Your Potential Police Misconduct Civil Rights Case*.

www.2momslaw.com/police_misconduct.pdf

A treatise developed to aid San Francisco Bay Area residents, particularly political and social activists, in evaluating and preparing police misconduct civil rights cases.

Transgender Law Center, *California Transgender Law 101*.
www.transgenderlawcenter.org/pdf/ca_trans_law_101_overview.pdf
A brief review of California state laws as they affect transgender people. Updated in April, 2009.