



# Freedom Network USA

September 22, 2020

Office of General Counsel, Rules Docket Clerk  
Department of Housing and Urban Development  
451 7<sup>th</sup> Street SW, Room 10276  
Washington, DC 20410-0500

*Submitted via [www.regulations.gov](http://www.regulations.gov)*

**Re: HUD Docket No. FR-6152-P-01, RIN 2506-AC53 Comments in Response to Proposed Rulemaking: Making admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs**

HUD Office of General Counsel:

I am writing on behalf of Freedom Network USA (FNUSA) in response to the Department of Housing and Urban Development's (HUD) proposed rule to express our strong opposition to the changes entitled "Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs" published in the Federal Register on July 24, 2020 (RIN 2506-AC53; HUD Docket No. FR-6152-P-01). Over the last 18 years FNUSA has seen the critical role that access to safe housing has on the wellbeing of survivors of human trafficking. Barriers to accessing housing, including shelters, heighten the vulnerability of survivors and can potentially lead to re-trafficking. We urge the rule to be withdrawn in its entirety, and that HUD's long-standing regulations remain in effect.

FNUSA, established in 2001, is a coalition of 71 non-governmental organizations and individuals that provide services to, and advocate for the rights of, trafficking survivors in the US. FNUSA is funded by the DOJ Office for Victims of Crime to provide national training and technical assistance to increase access to housing for survivors of human trafficking.<sup>1</sup> FNUSA members include: survivors who experienced both sex and labor trafficking in the US, prosecutors who have criminally prosecuted sex and labor trafficking cases, civil attorneys who have brought cutting-edge lawsuits against traffickers, criminal attorneys who have represented survivors wrongly charged with a crime, immigration attorneys who have represented hundreds of individuals granted T and U visas, and social service providers who have assisted thousands of survivors - both US citizens and foreign nationals, minors and adults, across the gender spectrum. Cumulatively, our members serve over 3,700 survivors of human trafficking in the US each year.<sup>2</sup> As the largest

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<sup>1</sup> See OVC's website, <https://ovc.ojp.gov/program/human-trafficking/training-and-technical-assistance-resources>

<sup>2</sup> Freedom Network USA 2020 Member Report, <https://freedomnetworkusa.org/app/uploads/2020/04/Freedom-Network-Member-Report-April-2020.pdf>, pg.3

network of providers working directly with trafficking survivors in the US, we are uniquely situated to evaluate the impact of US government efforts to address human trafficking, identify challenges, and propose solutions.

### Transgender individuals are disproportionately impacted by homelessness

In 2018, 44 percent of the transgender population experiencing homelessness were sheltered, while 56 percent are estimated to be unsheltered.<sup>3</sup> A survey conducted by Polaris' found that 64% of transgender individuals who have experienced human trafficking have reportedly been recruited into their situation while they were experiencing homelessness.<sup>4</sup> Before these nondiscrimination protections were put in place, a study by the Center for American Progress and the Equal Rights Center found that only 30% of shelters across 4 states would appropriately house transgender women with other women, and one in five shelters would turn them away outright.

By revoking the protections for transgender people experiencing homelessness, HUD will increase the likelihood that transgender individuals do not seek shelter, creating an inherent and preventable risk to their health and well-being. Black transgender individuals have the highest rates of violence and murder as a result of their identity, and the highest rates of homelessness, creating the most danger for the most impacted individuals. While housing transgender people according to their gender identity does not pose a safety issue to others, failing to do so puts transgender people in danger. According to the 2015 US Transgender Survey, over half of transgender survey respondents who stayed in a shelter in the past year were verbally harassed, physical attacked, and/or sexually assaulted because of their gender identity.<sup>5</sup>

### Survivors of human trafficking will be severely and disproportionately harmed by HUD's proposed rule

Traffickers are well-aware of the individual's vulnerabilities, especially housing instability, and utilize these to exploit them for economic gain. Transgender individuals experiencing homelessness are more at risk for trafficking. Housing options for transgendered individuals may be limited and because of the discrimination experienced, many transgender individuals find alternative methods of working, including engaging in survival sex<sup>2</sup>. The Urban Institute conducted a study where they identified rates estimated between 10 percent and as high as 50 percent of transgender youth engaged in survival sex. The same study also reported that transgender youth in New York City are eight times more likely than non-transgender youth to trade sex for a safe place to stay. Nationally, 48 percent of transgender people reporting involvement in sex work also report homelessness.

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<sup>3</sup> Center for American Progress. (2016). *Discrimination Against Transgender Women Seeking Access to Homeless Shelters*. Center for American Progress.

<sup>4</sup> Anthony, B. (2018). On-Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking". *Polaris*.

<sup>5</sup> US Transgender Survey (2016). *The Report of the 2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equality, available at <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

Within the anti-trafficking field, many service providers have chosen to maintain single-sex shelter facilities as part of their program. The proposed rule changes will enable discrimination against transgender individuals, leaving them homeless and vulnerable to re-trafficking. As service providers and advocates who work within victims' services, we are opposed to these changes, and urge the Department not to adopt this discriminatory proposal.

**The Equal Access Rule's protections against discrimination are critical to ensure safe access to shelter for transgender people experiencing domestic, family, and intimate partner violence and human trafficking.**

Transgender individuals experience higher levels of intimate partner violence compared to cisgender individuals, which should lead us to provide more, not less, options for service provision to transgender survivors. According to the National Transgender Discrimination Survey's 2015 results, over half (54%) report some form of intimate partner violence,<sup>6</sup> compared to one in four women and one in seven men overall in the United States.<sup>7</sup> This remains consistent for types of violence, as transgender individuals report physical violence from an intimate partner (35% compared to 30% overall in the United States), as well as severe physical violence (24% compared to 18% overall). This is also compounded by higher rates of poverty, which limits the options for exiting domestic violence situations, or trafficking situations which provide stable housing options. The same survey found that nearly one-third (29%) of respondents were living in poverty, more than twice the rate in the U.S. adult population (14%), and the unemployment rate was three times the national average (15% vs 5%).

Recommendation

FNUSA urges HUD to immediately withdraw its current proposal, and dedicate its efforts to advancing policies that strengthen - rather than undermine - the ability of survivors to support themselves and their families in the future. If we want our communities to thrive, everyone in those communities must be able to have access to shelter, short and long-term housing, services and support they need to remain healthy and productive. Please do not hesitate to contact me at [jean@freedomnetworkusa.org](mailto:jean@freedomnetworkusa.org) if you have any questions or need any further information or explanation.

Sincerely,



Jean Bruggeman  
Executive Director

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<sup>6</sup> James S. et al. 2015 National Transgender Discrimination Survey. National Center for Transgender Equality. Available at: <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

<sup>7</sup> Huecker MR, Smock W. Domestic Violence. [Updated 2020 Jun 26]. In: StatPearls [Internet]. Treasure Island (FL): StatPearls Publishing; 2020 Jan-. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK499891/>