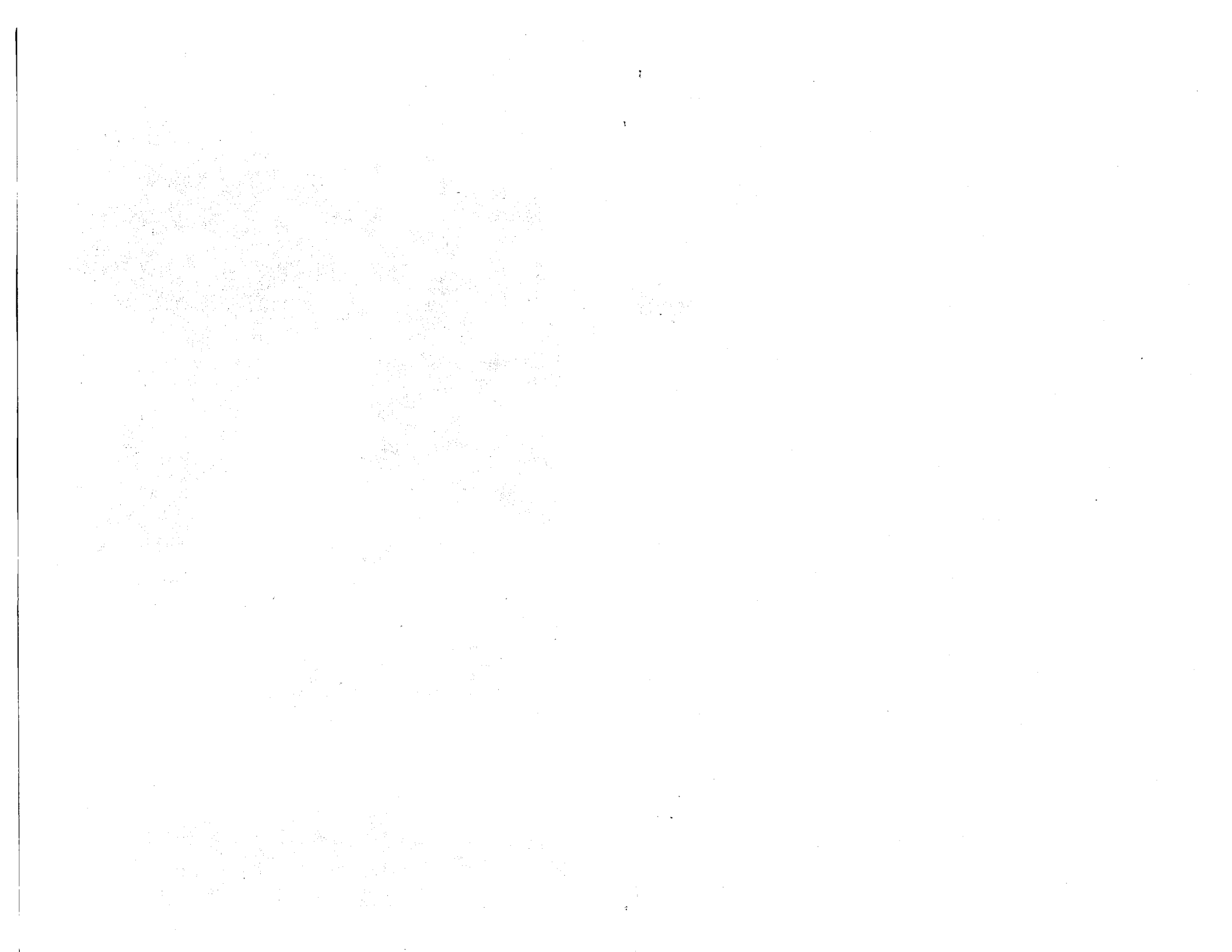


**NO PRISONER LEFT BEHIND**



**THE FIGHT FOR TRANSGENDER/  
GENDER VARIANT PRISONERS**

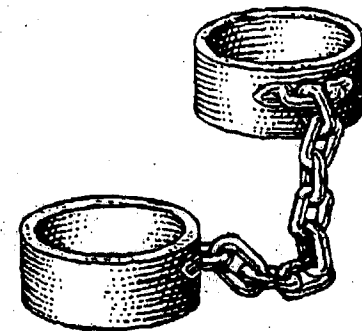
**BREAK THE CHAINS.  
PO Box 11331, Eugene,  
Oregon 97440.**



Kevin Weaver is a prisoner rights activist with the Trans & Gender Variant in Prison (TIP) Committee and the HIV/Hepatitis C in Prison (HIP) Committee of California Prison Focus, based out of San Francisco. He is also the former coordinator of the San Francisco chapter of the Prisoner's Literature Project and co-organizer of Locked Out: Lesbians, Gays, Bisexuals, and Transgenders Behind Bars, a community forum on the rights of queer prisoners. Active in a number of social justice movements, he considers himself a proud former political prisoner who spent 3 days locked up with 300 Free Mumia demonstrators, arrested on trumped up charges meant to quell political dissent during the United Nations 50th Anniversary held in San Francisco.

## NO PRISONER LEFT BEHIND

As prison reform, prisoner rights, and/or prison abolition activists, we often find our energy and work going to preserve and fight for the rights and gains we've won, while the forces of oppression and punishment are constantly at work trying to tear them down. In many respects, our activism is often spent preserving the status quo instead of taking on the prison/punishment system in new ways and from new angles. We, for the most part, are continually on the defensive fighting to stop new attacks upon the rights of prisoners and those who care for them. Recently these attacks have consisted of the cancellation of visitations for certain prisoners, the assault on attorney/client privacy, and the banning of the media and human rights investigators to interview prisoners. But while it may seem disheartening to realize that preserving the inadequate status quo is what our struggle often revolves around, it still remains a necessary fight that we must undertake to block the further assaults upon prisoners' rights. However, not all hope is lost, and some activists are taking on the Prison Industrial Complex in new ways that are making gains.



### *TRANS/HOMOPHOBIA AMONGST THE PRISON ACTIVIST COMMUNITY*

One of the new ways activists are taking on the system is in demanding rights for transgender and gender variant prisoners. They are a class of prisoners who've always existed but who, like the gay, bisexual, and lesbian prisoners, have been ignored, abused, and oppressed, even among prisoners. The animosity shown to these prisoners and the attempt to make them invisible goes well beyond the prison walls and out into society, where they are acceptable as forms of stereotypical prison jokes, but not as human beings with rights. Unfortunately, the prisoner rights community has also played a part of the problem pervasive within the whole criminal justice system and how it relates to queer prisoners. It may be one thing to advocate for the brother on death row, but the "faggots, butches, and queens" are on their own or they don't exist.

Part of the problem within the prisoner rights community is their unchallenged homophobia and transphobia. Many of them think they are beyond it, when in fact they haven't even addressed it. Some of the problem rests on former prisoners who carry the disrespect of queer prisoners they learned or perpetuated while in prison out into the outside activist community, who in turn look to them as ideological barometers of how prison activism should move forward. This could easily be learned from the past example of Eldridge Cleaver, whose book "Soul on Ice" spawned a new generation of prison activists who were all too willing to ignore his unabashed, unashamed hatred of queers and his sexist attitudes. Though that was then and this is now, things have changed slowly and only with outside pressure have attitudes eased up. But the challenge continues, as we saw when some queer prisoner activists challenged death row celebrity Mumia Abu Jamal and the Philadelphia-based MOVE organization to issue a statement on their feelings towards queers after it had been disclosed that MOVE had a heterosexist ideology.

### *REVOLUTION THROUGH TRANS PRISONER ACTIVISM*

What is exciting for prisoner activists fighting for transgender and gender variant rights is that we are hitting the prison system in a blind spot, one they've never had to defend before. The prison administrators have always had the luxury of ignoring queer prisoners because in the past no one cared for them and if they (the administrators) do acknowledge them, it is to use

Gender identification must be a protected right and acknowledged as an undeniable freedom as much as the right to love you who want and say what you want. We must take this consciousness to our workplace so that no person may be discriminated because of their gender identity; who because of discrimination turns to illegal street economies to survive. We must make our schools safe for queer and gender variant kids so that they can learn to read and write and be their own best advocates.

Lastly, we must become involved in direct prison activism, whether it's conducting human rights investigations, litigating on behalf of a prisoner, writing to prisoners, sending in books to prisoners, opposing prison construction, informing prisoners and parolees of their rights, and demonstrating outside of prisons or the Department of Corrections in times of crisis.

The system banks on prisoners being social pariahs forever and they bank on the outside world not caring. In the minds of the poverty pimps of the Prison Industrial Complex, as long as there are prisoners, they have jobs. We want folks to have jobs too, but not at the expense of our sisters and brothers. For every prisoner in the 2 million we have now, there must be one person on the outside who will demand that if they have to serve a sentence, they should serve one without the brutality and torture that is present in today's prisons. We must demand that if they have to serve, we as a community as well as the prisoner must benefit from their "time out" and that true justice is served, not the mockery of justice that pervades the American justice system.

It is then that no prisoner, no matter their gender identity, will be left behind.

U.S. related to the suffering of prisoners, including transgender prisoners, is the Farmer v. Brennan decision. In that decision, the Supreme Court ruled that the men's prison where Dee Farmer, a transgender woman, was housed reacted with "deliberate indifference" after she reported to them that she was being raped by other prisoners. After she paroled, she sued them for not stopping the rapes she was subjected to, rapes the prison staff knew were happening and did nothing about. However, evidence of abuse alone isn't enough to sue under Farmer v. Brennan as one has to prove that prison staff showed deliberate indifference after knowing and ignoring those conditions. For transgender prisoners, this avenue is nearly impossible to take to lessen the abuse they suffer while in prison.

#### *WHAT TO DO*

So what is to be done?

First, we must keep transgender and gender variant people out of prison. Fighting for the rights of trans prisoners is a fight, but it would be less of one if we didn't have so many prisoners in the first place. We must fight against mandatory minimum sentencing, the criminalization of drugs, the criminalization of prostitution, and sentence enhancements that serve to keep poor people locked up longer than absolutely necessary. We must have "see-through" prisons and reserve the right to unannounced inspections. All internal workings of the Department of Corrections and their institutions must be open for scrutiny by the media, citizen groups, and governmental agencies. We must abolish all instruments of torture in the prisons such as the death penalty and the Security Housing Units.

We must question prison policies within our own community and not be afraid to take controversial stands, even when we are the only ones speaking about them. We must become active in our justice system and expose corruption and bigotry within the courtroom. We must monitor the police and hold them accountable for the crimes they commit. And of course, we must present at all opportunities an alternative to the prison system, one that resonates with the people, makes sense, and doesn't deny the fallibility of human nature.

them as pawns in prison yard politics. Previously, there was no outside lesbian, gay, bisexual, and transgender civil rights movement making demands. There were no domestic partnership laws or non-discrimination clauses for housing and jobs, and certainly there was no mention, until now, of the rights of transgender people, separate from gays and lesbians, who face a mixed form of sexual and gender harassment. As the movement has changed from sexual liberation to include gender liberation, it has begun to permeate all aspects of society. It is now that the repressive, reactionary forces common in society are faced with a new call for freedom, one they will also have to fight against in the growing struggle for true human liberation.

As the prison population exploded, especially in California and Texas, so has the number of prison workers. Many of these prisons are located in rural areas that are decidedly right-wing in culture and are staffed by people from these communities. There is, if you will, a clash of civilizations when prison workers from these areas are faced with every type of person from every type of community as their keep. So a visible, activist presence on behalf of a population most of these workers never knew of, or wanted to pretend to not know, certainly has it's impact. Pushing for the rights of transgender/queer prisoners not only works to expand and protect the human rights of all prisoners, but places ideological demands on the community outside of the walls to acknowledge that there is a reality beyond binary gender roles. These subversive ideas are brought to these rural homes, unwittingly and often begrudgingly, by the prisoners and prison staff more effectively than proclamations from liberal city activists.

#### *HEALTHCARE IS THE KEY*

Quietly at this moment, many fights are happening all over the world over the rights of trans prisoners, such as where should they be housed, what are their physical and mental health needs, what does the system owe them as far as protection, and so on. Not remarkably, many of these fights and gains are happening in countries with socialist healthcare systems such as Australia, Britain, and Canada. Perhaps it is because of this one factor alone that queer prisoners in these countries have any rights at all.

Indeed, healthcare for transgender and gender variant prisoners remains one of the top priorities in the lives of trans prisoners. Often, if not always,

transgender prisoners who've been taking sexual re-assignment hormones on the street are arbitrarily taken off as soon as they enter the prison system. For a transgender prisoner, this could mean a deterioration of body changes that have been made, which affects the physical and mental health of the prisoner. Efficient prison administrators seek to keep prisoners happy through different incentives such as conjugal visits, access to radios, and being allowed to wear civilian clothes at nights and weekends, thus hoping to avoid prison riots and suicides. An efficient warden or medical officer would see that their transgender prisoners would receive the proper medical and mental health services (ie., access to hormones, a relaxation of the dress codes, opportunities to transfer to a gender-specific prison of their choice) to prevent situations where they may act out. Since the transgender community in prison is always a small percentage of the prison population, rioting as a means of letting off steam is not an option, so many prisoners take their lives in their own hands out of frustration and hardship. However, even though the prisoner is transgender, every prisoner suicide affects the prison population morale as a whole. Unfortunately, most prison administrators still fail to come to grips with this situation.

Transgenders also make up a good percent of prisoners living with HIV/AIDS. Healthcare for HIV positive prisoners varies from state to state, but all states share the common lack of adequate prison healthcare. Often, prisons with HIV units are staffed by doctors and nurses who are not HIV specialists and have no knowledge of drug side effects or dosage. Many of them have been reprimanded in the outside world and are on probation for such reasons as sexual harassment and medical negligence. Medical staff in these prisons often play the dual role of prison guard and healthcare provider. This duality often leads to medical neglect so severe that prisoners at various institutions have been known to drop like flies from lack of medical attention. Some have died from abscesses that could've been prevented if only the prisoner had access to soap and water. Some, like Jennifer Sutton at California State Prison - Corcoran, have died from preventable kidney failure, even after activists alerted prison staff of the high number of prisoners with distended stomachs.

Transgender prisoners living with HIV face a double stigma; shunned by the prisoners and staff because of their HIV status, mocked and denigrated because of their gender identification. Doctors lie or are ignorant when HIV positive, transgender prisoners request hormone therapy, who are then told that HIV positive people cannot take hormones. Some just come out

and say "they're too expensive, you don't need them". Doctors and nurses, like the rest of the prison staff, have sometimes been at the center of sexual abuse cases. One post-op transsexual woman housed at the Central California Women's Facility had tried committing suicide because of the severe harassment she bore from the prison guards. On her suicide watch bed, her psychiatrist asked her to strip so he could gawk at her. The logic of the prison must be, "let's take these doctors who've been reprimanded in the outside world for sexual assault and place them in a prison so that at least no one will report the assault when it happens. And if they do, we'll just pretend like nothing happened because hey, the price is right!"

#### *ABUSE IS REAL*

Staff play no, or very little part, in respecting transgender prisoners (or their visitors!), both in the men's and women's prison facilities. Indeed, it is often their instigation and harassment of transgender prisoners that causes an increased harassment from other prisoners, many who initially had no problem with the transgenders. The types of abuse and harassment are various, ranging from name calling to actual violence. In my interviews, I have heard of prisoners being made to wear insulting clothing (hospital gowns when they weren't sick), called every name in the book from "it" to "punk", strip-searched in front of a whole yard of prisoners and guards, forced to perform oral sex, forced to strip and dance while the guard masturbated, forced to single cell when other prisoners were celled in 8-person dormitories, cell extracted (chained, pepper-sprayed, and beaten into unconsciousness), and set up for rapes.

There is no justice for many of these prisoners, as the grievances they file against the staff while they are in prison are "lost" and therefore never responded to. And of course, retaliation is the rule for speaking out, so trans prisoners have grave options to weigh by sticking their necks out. In the case of a set-up rape, the prisoner could be labeled a snitch if (s)he reports it, and snitching is a de facto death sentence. It is very rare that prisoners can successfully litigate without the help of a lawyer, and many lawyers do not want to work pro bono unless there is a good chance at winning a large settlement. These settlements end up, in my opinion, hurting the movement for trans prisoners rights, as they are in reality "hush up" money and require no systemic changes. One legal opinion here in the