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## Transgender Inmate Sues Over Prison Rape

By *LISA LEFF*  
The Associated Press  
Friday, July 20, 2007; 9:45 PM

SAN FRANCISCO -- Alexis Giraldo was born as a man but lives life as a woman. She takes hormones to feminize her appearance, a fact she says prison officials didn't care about even as her male cellmate repeatedly raped and beat her.

Now free on parole, Giraldo is suing the state prison system and several guards over the state's policy of assigning transgender inmates to men's or women's prisons depending on whether they have had a sex change.

"Prisons are violent places, and male prisons are especially violent places," said Greg Walston, a lawyer who took Giraldo's case for free and asked a jury this week for unspecified damages. "You take that boiling cauldron and you put one woman in there \_ which is exactly what happened here \_ and it's like throwing a fresh piece of meat into a lion's cage."

Giraldo, 30, claims Folsom State Prison guards ignored her complaints and returned her to the same cell until she was assaulted again, then placed in protective custody and moved to another facility.

Giraldo is suing the California Department of Corrections and Rehabilitation for emotional distress and violating her constitutional right to be free from cruel and unusual punishment. She has asked Superior Court Judge Ellen Chaitin to order prison officials to come up with a new system for housing transgender inmates.

The Associated Press has a policy of not naming people alleging sexual assault. However, Giraldo

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Alexis Giraldo, 30, is photographed at the Superior Court of California in San Francisco, Friday, July 20, 2007. Giraldo, a transgender person who claims she was repeatedly raped and beaten by a male cell mate, went to court this week to challenge a state policy that assigns inmates like her to men's or women's prisons depending on whether they have undergone sex change surgery. (AP Photo/Jeff Chiu)

Alexis Giraldo, 30, is photographed at the Superior Court of California in San Francisco, Friday, July 20, 2007. Giraldo, a transgender person who claims she was repeatedly raped and beaten by a male cell mate, went to court this week to challenge a state policy that assigns inmates like her to men's or women's prisons depending on whether they have undergone sex change surgery. (AP Photo/Jeff Chiu) (Jeff Chiu AP)

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In this Oct. 27, 2008 file photo, then Sen. Ted Stevens, R-Alaska, leaves federal court in Washington after a guilty verdict was returned by the jury in his trial. (AP)

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has spoken out publicly and has been identified by a transgender rights organization that is advocating for her.

Several counties in California, including San Francisco, have created separate units specifically for transgender prisoners. But like other states and the federal Bureau of Prisons, California assigns inmates to prisons based on their genitalia rather than physical appearance.

Biological men who dress and act like women but have not had sex reassignment surgery can be assigned to a psychiatric prison like the one to which Giraldo eventually transferred or the general population of a regular men's prison, according to Walston.

The California attorney general's office, which is representing the corrections department and Folsom staff members also named as defendants in the lawsuit, said Friday it would not comment on the case.

Briefs filed by the state argue that Giraldo initially was in a consensual sexual relationship with her cellmate in violation of prison policy, did not report specific rape claims and refused offers to be moved to a different cell. Once she made it clear her cellmate was sexually assaulting her and prison staff found strangulation marks on her neck, she was removed to protective custody, the state maintains.

"Plaintiff alleges that he informed prison staff on a number of occasions about these events. However, the documentation maintained by prison personnel \_ including some of the defendants in this case \_ does not bear out these assertions," the state's brief states.

Teda Boyll, a retired guard and supervisor in California, testified for Giraldo as an expert witness Friday, saying that in her opinion Folsom officials failed to adequately investigate Giraldo's concerns and assure her safety.

"There are some warning signs," Boyll said. "When an inmate says, 'I am getting pressured for sex,' it means it is already happened or it is imminent he will have to provide nonconsensual sex to another inmate."

Giraldo was sent to Folsom for shoplifting and a parole violation in January 2006. She spent three months in the general prison population and another four in a single cell away from other inmates. She remained in the medical prison until she was paroled this month.

She testified Friday that she voluntarily had sex with her former cellmate, Jorge Villavacencio, for a couple of weeks but that she changed her mind after he became violent and possessive. She said that she informed a psychologist and at least three guards about her circumstances, but that they did not take them seriously.

"I'm like scared and frustrated that this happened to me," Giraldo said from the witness stand. "I'm a woman who got raped. ... I feel like people know and think of me as dirty. I feel dirty."

Villavacencio has denied raping Giraldo and is scheduled to testify for the state.

Valerie Jenness, a University of California, Irvine, criminologist who recently studied sexual assaults in California prisons, testified that 59 percent of the state's transgender inmates have reported being sexually assaulted, compared with 4 percent of the general prison population.

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