



# Advancing Transgender Justice: Illuminating Trans Lives Behind and Beyond Bars

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# Director's Note

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Vera committed to this project, *Advancing Transgender Justice*, to put a spotlight on the experiences of transgender people in prison across the United States. In the current political climate, amid high-profile debates about the rights of transgender people in some states, hearing directly from transgender people who are incarcerated is important. Vera is grateful to Black and Pink National, an organization with deep roots in these issues, for its collaboration on this project, building on its groundbreaking 2015 report, *Coming Out of Concrete Closets*.

Because transgender people represent only a fraction of the almost two million people held behind bars on any given day in the United States, reaching them across hundreds of prisons with a survey is no simple feat. It is notable that more than a fifth of participants in this project were in solitary confinement when they responded to the survey—a corner of prison that is notoriously difficult to access. Close to three hundred people sent in not just survey answers, but also lengthy written notes, many of which underscored that they are rarely invited to talk about their lives. We deeply appreciate their candor and courage, and their belief that change is possible and urgent. Drawing on critical first-hand knowledge, they have made concrete suggestions for ways that prisons can do more to protect and respect transgender people.

Justice demands that we decrease the number of people who are held behind bars. United States prisons harm all who experience them, and transgender people suffer disproportionate harm and a lack of attention to their specific needs. This includes heightened risks of assault, sexual violence, discrimination, and poor health care. Nearly 90 percent of the survey respondents had experienced extended solitary confinement—which the United Nations condemns as torture—at some point during their

incarceration. More than half reported non-consensual sexual contact while incarcerated. Far too many of the respondents described alarming dehumanization and transphobia.

Incarcerated transgender people are of course not a monolith, and there are no universal experiences or preferences, but the need for more grounded and well-informed policies is clear. Common themes from the survey include a desire for better access to gender-affirming health care and the ability to be separated from people who threaten harm, without being placed in punitive solitary confinement cells. More broadly, incarcerated transgender people want to have ongoing and honest dialogue about the institutional practices that define their day-to-day life behind bars.

We are grateful to the many researchers, advocates, formerly incarcerated people, and Departments of Corrections officials for making this landmark report possible. Most of all, we thank Black and Pink National for their partnership and the 280 people whose words are the core of this research. By sharing these perspectives with the public, advocates, criminal legal system officials, and prison staff, we aim to help change cultures, policies, and practices that in ways that reduce the use of prison and that better protect transgender people who are in prison. Incarcerated transgender people deserve meaningful input into the prison policies that determine their welfare and safety.

Listen to their voices.

# Foreword from Black and Pink National

Black and Pink National is proud to have worked alongside the Vera Institute of Justice to release *Advancing Transgender Justice*. This report highlights the experiences, voices, and recommendations of those that are directly impacted by the criminal legal system. Most importantly, this report acknowledges the fact that people held within carceral systems have many unmet needs, including unfulfilled relational, emotional, and sexual needs.

All too often the experiences of LGBTQ+ people and people living with HIV are downplayed or altogether dismissed, especially within the criminal legal system. Black and Pink National's 2015 report, *Coming Out of Concrete Closets*, shined a light on this truth. This groundbreaking report not only highlighted the disproportionate barriers and harm faced by the system-impacted LGBTQ+ people and those living with HIV, but did so by centering their voices and experiences. Since the release of that report, it has been cited in hundreds of journals, articles, and news reports, along with other media outlets. *Advancing Transgender Justice* takes up the torch from this previous report, to focus specifically on issues important to currently incarcerated transgender and gender nonconforming and/or nonbinary (GNCNB) people across the country. Furthermore, this report shares their policy recommendations, informed by their lived experiences. Reports that center the voices and policy recommendations of those most impacted prove that people are not a monolith, and that blanket policies to address the harms of the criminal legal system are ineffective.

As an abolitionist organization, Black and Pink National condemns the continual harm of these systems, that are a part of the prison industrial complex. We support the

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dismantlement of systems focused on imprisonment, policing, and surveillance. We further support shifting resources to community led strategies that focus on creating and maintaining community safety. We understand that this change will not take place overnight. However, we are certain that abolition requires both day-to-day organizing and long-term strategies.

In closing, two of Black and Pink National's core values are *collective care* and *liberation for all*. We strongly believe that these values extend to our members currently inside of carceral systems. We call on our abolitionist community to not forget about those individuals as we work to dismantle the very systems that harm them, especially transgender and GNCNB people. We thank those of you who bravely took the risk of participating in this survey and report. Thank you for your policy recommendations and contributions. We hear you. We see you. We uplift your experiences.

In Solidarity.

# Executive Summary

From 2019 to 2022, the Vera Institute of Justice (Vera), along with Black and Pink National, developed and conducted a large-scale survey of currently incarcerated transgender people regarding their experiences in state prisons. In 2015, Black and Pink National published a landmark survey of more than a thousand LGBTQ+ (lesbian, gay, bisexual, transgender, or queer/questioning) incarcerated people, *Coming Out of Concrete Closets*. The present survey provides updated information on similar issues as Black and Pink's 2015 survey but focuses solely on transgender people. Vera and Black and Pink National are grateful to the incarcerated people who took the time to thoughtfully respond to the survey, often sharing sensitive and traumatic experiences. The survey used regular mail to reach participants, who were already connected with Black and Pink National, and this allowed people to respond in 2021–2022 despite ongoing COVID-related constraints on in-person access to prisons. This report highlights the key findings from the survey responses and open-ended comments shared by the 280 people who participated.<sup>1</sup> Vera and Black and Pink National codesigned all stages of this project, with input from researchers and advocates working on this topic. Vera independently managed the data collection, analysis, and production of findings included in this report, with guidance and input from Black and Pink National and an external expert research consultant.<sup>2</sup>

## **The goals of this report are to**

- share the experiences and insights of transgender people living behind bars in state prisons in their own words,
- provide policymakers and people who work with incarcerated people with findings that update and expand their understanding of how transgender people in state prisons experience conditions of confinement,
- improve correctional policy and practice as it relates to transgender people who are incarcerated in the United States, and



- contribute to a larger national discussion about incarceration and decarceration in a way that advances transgender justice.

## KEY TAKEAWAYS

Transgender people are especially at risk for contact with the criminal legal system and, once in detention, at risk of harassment and violence inside prison. According to a 2022 survey of LGBTQ+ people in the United States, 31 percent had been in some form of incarceration at some point in the last five years.<sup>3</sup>

Transgender people in prison are not monolithic in terms of their experiences or preferences. Policies designed to benefit trans people in prison need to account for this variability to have a meaningful positive effect on the lives of transgender people in custody. This survey includes the views of 280 transgender people in state prisons, about 73 percent of whom were transgender women. About 46 percent of respondents were white, 24 percent were Black, 14 percent were Latinx, 11 percent were Native American, and about 5 percent were multiracial or other racial groups. Transgender people who are currently incarcerated have clear suggestions for changes to the content and implementation of policies, and decision-makers should meaningfully include these views. These findings represent common themes across survey participants' responses.

- **On housing, transgender people in prison called for clearly articulated, flexible policies that would allow them to access housing options that improve their safety.**
  - Nearly two-thirds of respondents (65 percent) currently incarcerated in men's facilities stated they would like to transfer to women's facilities—but this is far from a universal preference, as about one-third (35 percent) indicated they would prefer to remain in men's prisons.<sup>4</sup>
  - About a fifth (21 percent) of respondents had lived in a unit specifically for LGBTQ+ people at some point. Nearly four out of five respondents (78 percent)

reported they would prefer to live in a unit designated for transgender people within men's and women's prisons—but not everyone wishes to live in such a setting.

- All respondents expressed preferences on their housing situations at some level—whether regarding what kind of facility (95 percent responded), what kind of unit they live in (97 percent responded), and whom they share a cell/dorm with (98 percent responded). Most people commented that they wanted to have input on and regular reassessments of their housing situation.
- Transgender people in prison reported frequent and lengthy stays in solitary confinement. At the time of the survey, 22 percent of respondents were housed in restrictive housing units and 89 percent had experienced solitary confinement at some point during their incarceration.
- Many respondents indicated that protective custody was their least-bad option for feeling safe from threats by other incarcerated people, but that this isolation was harmful in its own right.<sup>5</sup>
- **On health, transgender people in prison reported having access to general medical and mental health care, although the quality of care was poor. Comparatively, access to gender-affirming health care to support gender transition, such as hormone therapy or surgery, was less consistent and the quality was even worse.**
  - Most respondents' current mental and physical health was significantly worse compared to pre-incarceration. Close to three out of five respondents (59 percent) reported that their physical health during incarceration had worsened compared to before, and half (50 percent) indicated that their mental health had deteriorated during incarceration.

- About three-fifths of respondents (63 percent) had taken medications to support gender transition while in prison. Among the 207 people (74 percent of the sample) who reported that they had requested medication to support transition while in prison, 47 percent had received it, while 53 percent were denied such medication. Some respondents were unable to access gender-affirming care, including medication or surgery, because of state policies and/or because access required a gender dysphoria diagnosis, which can be difficult to obtain.
- Many people reported that their health care providers were discriminatory and/or unfamiliar with the issues transgender people face. Nearly half felt that health care providers did not have knowledge about transgender issues generally (48 percent) or about medical issues related to transgender people (49 percent).
- **On emotional support, transgender people in prison reported that it was essential to their sense of self-respect and safety to have social networks and supportive connections among incarcerated people, with staff, and with outside organizations. One of the most common reasons respondents felt unsafe in prison was because they were isolated from other LGBTQ+ people—and having such connections is a key factor in feeling safer and more supported.**
  - Exposure to and unwanted proximity to other incarcerated people—in cells, yards, and showers—was mentioned by 36 percent of respondents as a reason they felt unsafe in prison.
  - Harassment, threats, and attacks against transgender people in prison are also prevalent: 31 percent of respondents named these types of incidents, perpetrated by other incarcerated people in their current facility, as a top reason they felt unsafe in prison. More than half (53 percent) said they had experienced

a nonconsensual sexual encounter—in other words, a sexual assault—at some point during their current prison sentence.

- Supportive social relationships inside and outside prison are crucial to coping with the transphobic and violent nature of prisons. Nearly one-third of respondents (30 percent) named relationships with other incarcerated people—partners, friends, and people on the housing unit—as a source of safety and protection. Almost two-thirds (65 percent) reported they had family members, friends, and outside advocates who helped and supported them.
- Incarcerated transgender people had negative perceptions of staff’s trustworthiness, respectfulness, and willingness to help. Seventy-two percent indicated that prison staff did not try to help them succeed. Some respondents named specific staff members as key sources of support—but these were the exception, not the norm.
- Staff actions can make transgender people’s lack of safety in prison more acute: 28 percent of respondents reported staff had been verbally discriminatory (often in sexualized ways) and a smaller portion (3 percent) indicated they had been physically harmed by staff.

## **POLICY RECOMMENDATIONS IN SIX AREAS**

The respondents in this project offered clear suggestions for ways to change policy and practice so that prisons could be less harmful and more supportive for incarcerated transgender people. They underscored, across thematic areas of policy, the need for policies that are (1) developed with meaningful input from transgender people in prison and advocates in the community at all stages (policy design, content, and implementation); and (2) flexible enough to allow tailoring to individual situations, because not all transgender people have the same needs. These recommendations

come directly from survey participants' responses. The respondents provided specific suggestions in six areas:

- **Housing.** Respondents wanted the opportunity to have input on cell sharing and to have opportunities to be separated from people who threatened harm, without using protective custody as the only alternative. Many called for units designated specifically for transgender people and/or for the option for transgender women in men's facilities to transfer to women's facilities—but not everyone would choose either of these options.
- **Supportive relationships.** Many transgender people in prison rely on their friendships and romantic relationships with other incarcerated people, as well as ties with people and organizations outside prison, as a source of emotional support and material protection in prison. In prison, certain physical interactions between incarcerated people are prohibited under rules meant to prevent sexual assault. Respondents called for staff to stop using such rules to target transgender people in prejudicial ways for consensual relationships or for minor infractions that do not pose a safety risk. The other policy suggestion was to allow more ways for transgender people to stay connected to other transgender people in prison and to loved ones and advocates on the outside.
- **Gender-affirming accessories and practices.** Respondents suggested that what is permissible in terms of appearance and accessories in men's facilities should be permissible in women's facilities and vice versa: long hair, facial hair, makeup, shaving supplies, etc. Transgender people in prison also wanted more states and facilities to allow incarcerated people to change their names and pronouns and for staff to respect their choices.
- **Health care.** Respondents wanted state governments and prison authorities to increase access to hormone therapy and gender-affirming surgery for incarcerated people, in some cases by lifting prohibitions where they exist and in other

cases by allowing meaningful access where prohibitions do not exist. Respondents also called for broader and clearer eligibility criteria to access gender-affirming health care and to ensure that people who undergo transition or related procedures do not lose access to in-prison work and programs as a result. Broadly, respondents called for more medical and mental health professionals with training in and respect for the specific needs of transgender people.

- **Prison Rape Elimination Act.** The Prison Rape Elimination Act (PREA) is a law that aims to prevent and respond to sexual assault in prison in general (see Prison Rape Elimination Act of 2003).<sup>6</sup> It has generated rules, procedures, resources, and oversight mechanisms to bolster the implementation of the law’s protections. Respondents reported that many facilities did not implement its provisions, including some that especially affect transgender people—such as the requirements for private showers and for strip searches to be conducted by an officer of the same gender. Another concern was that prison staff used PREA to target transgender people for minor actions (like holding hands with other incarcerated people) and that some staff retaliated against people who used PREA’s reporting channels. Therefore, they called for better implementation, swifter review of cases, and more programs and staff that could offer meaningful support for transgender people who had experienced sexual assault.
- **Staff.** Respondents called for major changes in staff training, practices, and consequences for misconduct and discrimination to reduce the negative effects of staff prejudice, threats, and neglect. Specific suggestions included training to build general familiarity with the experiences of transgender people; opportunities to listen to transgender people in prison; and clear, transparent, and consistent penalties for staff who engaged in discrimination, retaliation, or willful nonresponse to situations of harm.



# Introduction

The daily lives of people behind prison bars are largely invisible to the public. Due to the barriers of stigma and marginalization, the lives of transgender people in prison are even more hidden. Against the backdrop of a national movement to end mass incarceration and address inhumane conditions and violence within prisons, coupled with the increasing prominence of transgender rights as part of broader human rights conversations nationally, it is essential to hear from incarcerated transgender people directly about what they experience and what changes they want to see in policies and practices to support their well-being and to reduce the harms of prison incarceration.<sup>7</sup>

From a policy perspective, this moment is an important juncture for both governments and advocates. There are some recent examples of policies and laws designed to address the needs of transgender people in prison. For example, California passed the Transgender Respect, Agency, and Dignity Act (SB 132). Also, in international human rights frameworks, there is new political attention in some places to the situation of transgender people in prison.<sup>8</sup> However, the development and implementation of such policies have been inconsistent at best. At the same time, many state governments are passing explicitly hostile legislation that limits the rights and health care access of transgender people generally.<sup>9</sup> Although people in prison rarely have access to as many options as people outside of prison, this political climate is likely to pose obstacles to the meaningful expansion of transgender people's rights in prison.

Ultimately, for policy change to make a meaningful difference in incarcerated people's lives, it must be designed and implemented with the input of people who are incarcerated, and it must have both sufficient flexibility and strong oversight to address the complex situations that arise inside prisons. However, there remains a dearth of research about the conditions and experiences of transgender incarcerated people across multiple jurisdictions, especially research that includes transgender people's own policy recommendations.<sup>10</sup>

This report shares the findings of a survey of 280 transgender people who are in state prisons across the United States.<sup>11</sup> By sharing their perspectives, in their own voices, this report provides a window into transgender people’s daily lives in prison and their recommendations for how policymakers and prison authorities can change rules and culture in positive ways. The insights here also show the real harms of incarceration and underscore the urgency of reducing the use of prison in the first place.

Vera developed this project in close consultation with Black and Pink National, a nonprofit advocacy organization led by formerly incarcerated LGBTQ+ people, and Dr. Valerie Jenness, distinguished professor at the University of California, Irvine, who conducted research in California prisons that focused on transgender women who were incarcerated in men’s prisons. Crucially, this report uses a survey codesigned by formerly incarcerated transgender and LGBTQ+ people and offers policy recommendations that come directly from the responses offered by incarcerated transgender people.

This project builds on research into the experiences of incarcerated LGBTQ+ people generally, including a 2015 Black and Pink National survey and the 2023 report *Protected and Served?*, about the experiences of LGBTQ+ people and people living with HIV within the criminal legal system, which Black and Pink National co-authored with Lambda Legal, among others.<sup>12</sup> The present project focuses solely on transgender people who are in prison and covers a broader range of topics about people’s trajectories in the criminal legal system, their incarceration experiences, and their views on prison policies.

By sharing the findings from this survey with corrections personnel, service providers, and community organizations, this project aims to encourage departments of correction to center the voices of transgender people who are incarcerated in debates about policy and practice. The next step is for governments and prison authorities, in collaboration with advocacy groups, to develop concrete policy changes with clear and ongoing mechanisms

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for input from transgender people and their allies. Many of the respondents were familiar with and appreciative of some of the recent policy changes that purport to benefit transgender people, such as requirements to use people's correct pronouns, provide access to hormone therapy, and allow different housing options. (See "Transgender people's views on policy and their policy recommendations" on page 50.) Their suggestions point to some of the gaps and unintended consequences of these policies, as well as widespread problems with implementation and enforcement. They also offer important suggestions for other ways that prison authorities could better meet some of the immediate safety, health care, social, and basic dignity needs of transgender people in prison. Many of the policy recommendations in this report align with other recent initiatives to build policy changes to address the needs of incarcerated transgender people.<sup>13</sup> More broadly, this report serves as a call to action for all stakeholders in the criminal legal and corrections fields to be proactive, serious, and sincere in asking for and applying the views of incarcerated transgender people in all aspects of policy development, practice, and oversight.

This report opens with a review of research on incarceration trends and conditions of confinement for transgender people and a summary of policies and practices that particularly affect them. The report also highlights a few notable changes and contrasts between states in policies about housing and access to gender-affirming health care. Drawing on both quantitative and qualitative data, the report then presents the key findings of the survey, organized into three main thematic areas: housing (including solitary confinement and preferences about type of facility and unit), gender-affirming health care and social transition (which refers to changing name, pronouns, appearance, etc.), and social relationships (among incarcerated people and with staff, including both supportive aspects and experiences of harm). The last section of the report presents participants' reflections about existing policies in prison and their concrete suggestions for how prison policies and practices could be improved. The appendices contain expanded details on terminology, research methods, and sample demographics.

# A Review of Research on Experiences of Transgender People in Prison

The criminalization and incarceration of transgender people is an increasingly prominent part of policy and advocacy discussions as a result of the efforts of activists and researchers.<sup>14</sup> Many scholars underscore that transphobia and discrimination cause additional harms on top of the effects of incarceration generally. As a 2022 report observed, “[T]rans people are criminalized and discriminated against for simply *being trans* [italics in the original].”<sup>15</sup> Despite international human rights principles that explicitly name dignity, health care, and respect for gender identity among the rights that governments must fulfill for incarcerated people, many transgender people in prison face a “double punishment”: the deprivation of liberty and the deprivation of gender expression.<sup>16</sup>

A growing body of research has revealed the overrepresentation of LGBTQ+ people in the criminal legal system and shed a bright light on the plight of incarcerated transgender people.<sup>17</sup> Prisons are violent and harmful settings for all people, but transgender people face heightened risks of assault, sexual violence, discrimination, and solitary confinement.<sup>18</sup> Although some state and federal corrections agencies are enacting policies that aim to mitigate some of these problems in prisons, these policies vary widely in scope and implementation.<sup>19</sup> For example, some states have policies that allow transgender people to request a transfer to a facility that aligns with their gender and/or to access gender-affirming health care, with varying criteria for qualifying for this, while other states prohibit such access.<sup>20</sup> More broadly, in many states there has been an onslaught of legislation and public rhetoric demonizing and criminalizing transgender people, severely curtailing their access to health care and other services.<sup>21</sup> This hostile climate makes attending to the needs, experiences, and voices of transgender people who are currently in prison more essential and more fraught.

## PREVIOUS SURVEYS OF TRANSGENDER PEOPLE IN PRISON

This report builds on several landmark studies of the experiences of transgender people in prison, written by organizations led by LGBTQ+ people who have direct experience with the criminal legal system. More than 15 years ago, a groundbreaking report by the Sylvia Rivera Legal Project, *It's War in Here: A Report on the Treatment of Transgender and Intersex People in New York State Men's Prisons*, drew on interviews with people incarcerated in New York to conclude that “[V]erbal harassment, physical abuse, and sexual assault and coercion create an exceptionally dangerous climate for transgender, gender non-conforming, and intersex people in prison.”<sup>22</sup> The organization Hearts on a Wire Collective published a report in 2011 about the experiences of 59 transgender people in prisons in Pennsylvania, *This is a Prison, Glitter is not Allowed*, that found that the average age of first incarceration was 17.5 years old, that transgender people disproportionately serve out a full sentence (rather than getting paroled), and that at the time of the survey, respondents had little access to gender-affirming health care; were especially concerned about risk of victimization in bathrooms/showers; and faced frequent verbal, physical, and sexual violence from other incarcerated people and from staff.<sup>23</sup>

More recently, Black and Pink National, Lambda Legal, and the federal Department of Justice have conducted surveys that included transgender people in prison and/or with prior incarceration experience.

- **Coming Out of Concrete Closets (2015).** In 2015, Black and Pink National released *Coming Out of Concrete Closets: A Report on Black and Pink National's National LGBTQ Prisoner Survey*.<sup>24</sup> This report was one of the first to include a large sample—more than 1,000 people—who were LGBTQ+ and incarcerated in prisons across the United States, using mailed surveys. It provides a holistic picture of people's experiences of poverty and working in criminalized economies, lengthy stays in pretrial detention and solitary confinement, difficulties accessing health care and gender-affirming

practices in prisons, experiences of violence and abuse in prison, and other topics. It issues a clear call from participants for more research and more ways for incarcerated people to access information about prison policies.

- ***Protected and Served? (2023).*** *Protected and Served?* is a project of Lambda Legal, Black and Pink National, and Strength in Numbers. This coalition published two major survey reports, conducted in 2012 and 2022. This survey collected data and comments from LGBTQ+ people about their experiences with the criminal legal system broadly, including with police and with prisons.<sup>25</sup> The most recent version includes a spotlight on detained people: 17 percent of its respondents completed the survey while in prison or jail. Of those, more than 94 percent reported physical or verbal harassment or violence and 64 percent reported interruptions in their medications.<sup>26</sup>
- ***National Inmate Survey (2012).*** The federal government conducts surveys of incarcerated people through the National Inmate Survey (NIS). In 2014, it published data on sexual victimization reported by transgender adults in prisons and jails, based on NIS findings from 2007, 2008–2009, and 2011–2012.<sup>27</sup> Several external groups have written about the results specifically for transgender participants; the most recent survey for which findings are public is from 2011–2012. The Williams Institute (University of California, Los Angeles) highlighted issues of victimization and solitary confinement from this survey: transgender people in prison reported much higher rates of assault in prison, assault before age 18, serious mental distress, and solitary confinement than cisgender people in prison reported.<sup>28</sup> In 2016, the Survey of Prison Inmates (SPI) measured sexual orientation and gender identity for the first time. The Prison Policy Institute published a review of data from the SPI, which was a smaller sample than the NIS, focusing on the responses from the 29 transgender people included in that survey.<sup>29</sup>



- ***U.S. Transgender Survey (2015, 2022)***. The National Center for Transgender Equality conducted large population surveys of transgender people in the United States overall in 2015 and 2022. The 2015 survey found that among the respondents who had been incarcerated in the previous year, 23 percent had been assaulted by an incarcerated person or staff member inside prison.<sup>30</sup>

## **STUDIES ON THE CONDITIONS AND EXPERIENCES OF TRANSGENDER PEOPLE IN PRISON**

There is a growing body of qualitative research on the conditions and experiences of transgender people in prison and on changes in policy that affect them. Early studies put a spotlight on the transgender population in prison generally.<sup>31</sup> Many scholars have noted the inherent, structural tensions that result from confining transgender people within facilities that operate based on a gender binary and procedures that rarely allow for individualized approaches.<sup>32</sup> More recently, researchers have underscored the growing number and prominence of international human rights declarations related to gender expression and health care. In the United States, incarcerated people have sued state governments and departments of corrections as part of their fight for access to gender-affirming housing, health care, and other prison policies.<sup>33</sup>

More recent research has focused on women who are incarcerated in men's prisons in California, including how they navigate consensual relationships in a setting where sexual violence is prevalent.<sup>34</sup> Others have documented the conditions of confinement for transgender people in immigration detention, including how gender classification systems limit their access to asylum and social services.<sup>35</sup> Some scholars argue that housing systems based on a gender binary force transgender people to make impossible choices and that wings designated for transgender and GNCNB (gender nonconforming and/or nonbinary) people are a possible alternative.<sup>36</sup> A review of housing policies by state found that 35 states make housing decisions on a case-by-case basis, while 14 states prohibit housing assignments based solely

on transgender “status.”<sup>37</sup> California allows housing of transgender people in specific prison facilities.<sup>38</sup> There is a consensus that transgender people are at a higher risk than other incarcerated people for suffering assault and harassment of all types.<sup>39</sup> Among incarcerated transgender people, those whose gender expression is visually nonconforming and those living with HIV are more likely to experience violence or victimization while in prison.<sup>40</sup>

Despite guidance for gender-affirming care from the National Commission on Correctional Healthcare, transgender people continue to face barriers when trying to access hormone therapy and gender-affirming surgeries: structural barriers (policies and resources), barriers related to staff actions (discretionary choices of prison and medical staff), and barriers related to prejudice or lack of knowledge among staff and other incarcerated people.<sup>41</sup> A review of state policies for gender-affirming care finds that 12 states allow hormone therapy at the discretion of medical staff, 14 states allow hormone therapy for people who were receiving it before incarceration, and nine states allow surgery on a case-by-case basis.<sup>42</sup> Medical staff sometimes withhold treatment out of “paternalistic ‘benevolence’” based on their belief that overt gender expression puts a person at more risk of harassment or because the person was previously using street drugs without a prescription.<sup>43</sup> Some scholars call for using a “whole system” approach to policy change in prisons—across all forms and stages of detention—and addressing both safety and health care as policy problems, rather than framing violence against transgender people as merely the product of prison culture.<sup>44</sup>

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## **THE MISUSE OF THE PRISON RAPE ELIMINATION ACT TOWARD TRANSGENDER PEOPLE**

Given that transgender people are at elevated risk of sexual assault in prison, the Prison Rape Elimination Act (PREA) is a prominent topic in research and advocacy.<sup>45</sup> PREA mandates policies, standards, data collection, reporting, dedicated staff and resources, and oversight across all types of detention facilities and various facets of operations.<sup>46</sup> Requirements that are especially relevant to transgender

people in detention include rules that strip searches cannot be used to “determine” gender and that searches should be done only by staff members of the same gender as the incarcerated person; that transgender people are entitled to privacy in showers and bathrooms; that prisons cannot assign housing based only on sex assigned at birth or limit clothing options because of perceived harassment risks; and that protective custody should not be the default safety response.<sup>47</sup> As of 2018, about half of states had policies published in line with PREA standards, while other states retained policies in violation of PREA.<sup>48</sup> Only 18 states have clear policies regarding private showers and three states decide housing based on sex assigned at birth.<sup>49</sup> PREA also calls for individualized approaches to housing, program, and work assignments and thorough documentation and review of, and consequences for, incidents of assault or harassment.<sup>50</sup> A 2023 review found that only 19 states complied with the PREA requirement to consider an incarcerated transgender person’s input about their safety and housing assignment.<sup>51</sup> Some states require that transgender people have access to single cells if they are in a facility that does not match their gender identity.<sup>52</sup> In practice, this can mean that restrictive housing cells are the only option. Critics also note that intake processes may incorrectly document a person’s gender and/or their risk of sexual victimization and that PREA guidelines do not explicitly require prisons to offer housing in alignment with gender identity (rather, PREA only requires case-by-case assessments).<sup>53</sup> Although the resources and enforcement attached to PREA are unusually strong compared to other prison standards, implementation and changes in attitudes and practices have been mixed.<sup>54</sup> Critics note that implementation is especially poor for provisions that most affect transgender people—such as regular reviews of housing assignments and investigation of sexual assault claims—and that in practice, PREA rules can increase surveillance of incarcerated people’s daily interactions.<sup>55</sup> Legal scholars argue that PREA’s premise that all sexual interaction in prison should be prohibited is itself

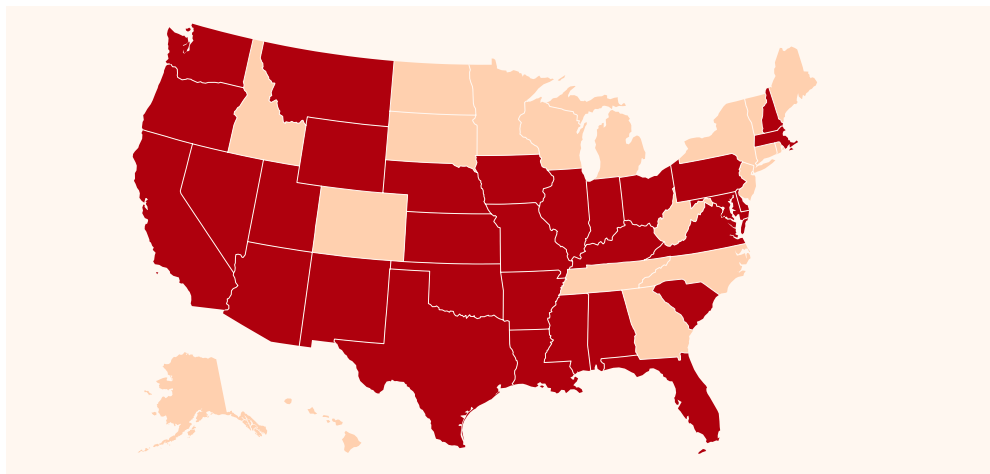
paternalistic and undermines autonomy.<sup>56</sup> Researchers have found that, beyond elements specific to transgender people in prison, prison staff generally perceive PREA requirements to be administratively burdensome, hindering “real” custody practices, and this creates a misalignment that undermines the goals of PREA.<sup>57</sup>

# Methods and Sample Description

**Survey design.** This report is based on responses from 280 transgender respondents incarcerated in prisons across 31 states.

**FIGURE 1**  
**Survey participation by state**

The survey included 280 respondents, in state prisons in 31 states, which are indicated in red.



Federal prisons, county jails, immigration detention, and state prison in states shaded in beige are not included in this study.

Map: Vera Institute of Justice • Source: Advancing Transgender Justice survey, 2021–2022

The data collection phase of the research took place during 2021–2022, and the research team mailed survey materials to people who were already in touch with Black and Pink National and had previously identified themselves as transgender to Black and Pink National (though not necessarily to the prison). The 92-question survey included closed and open-ended questions about demographics; previous contact with the criminal legal system; current prison conditions related to housing, health care, harassment and violence, and social relationships; views on policy; and overall comments. (Many respondents wrote extensive responses describing their experiences; excerpts are included in the findings section where possible.)

**Sample description.** The response rate was 47 percent, or 280 responses out of 597 eligible invitations. Most respondents to the survey identified as transgender women (73 percent). The remaining survey respondents identified as either transgender men (9 percent) or GNCNB (18 percent). Respondents' specific choices and wording for their gender identity varied widely.<sup>58</sup> This report groups respondents into three categories for data analysis purposes, while also recognizing that individual gender identity is more nuanced than this categorization implies. White respondents made up 46 percent of the sample, Black respondents accounted for 24 percent of the sample, Hispanic/Latinx respondents made up 14 percent, Native American respondents made up 11 percent, and 3 percent identified as multiracial/non-white. The median length of incarceration was 13.9 years. More than half had been first arrested before they turned 18 years old, and more than half had spent more than a year in pretrial detention (jail) prior to their current prison sentence. (See Appendix A for a glossary of terms, Appendix B for a detailed description of methods, and Appendix C for a detailed sample description, additional demographics, and findings on participants' experiences with arrest, courts, and pretrial detention.)



# Findings

## HOUSING EXPERIENCES IN PRISON

There was little variation among respondents in terms of the type of facility they reported living in and greater variation in the types of housing units and living arrangements they reported. At the time of the survey, nearly all respondents were currently housed in a facility designated for men, regardless of their gender identity. Most respondents were housed in either general population housing (54 percent) or in restrictive housing units by themselves (22 percent). Respondents had diverse experiences and opinions regarding living with other LGBTQ+ people, with few people living with other transgender people. While most respondents indicated that they would prefer to be housed in a women’s prison (about two-thirds of people, regardless of current facility), a sizeable minority (about one-third) would prefer to be housed in a men’s prison. (See Figure 3 on page 27.) Nearly all respondents (89 percent) had experienced



solitary confinement at some point during their incarceration. Many explained this occurred either because prison staff put them in solitary confinement as a way to harass or target them or because the incarcerated person requested it as a safety strategy.

**Most respondents lived in prisons designated for men and were housed in general population or restrictive housing units**

The vast majority of respondents overall (90 percent) resided in prisons designated for men at the time of the survey. Only 5 percent resided in facilities designated for women, and 2 percent resided in prisons that housed both men and women (in separate units). Although policies allow some transgender women to move to women’s prisons in certain states, this survey finds that nearly all transgender women respondents (95 percent) were housed in men’s prisons at the time of the survey; only five transgender women (2 percent) indicated they were incarcerated in women’s prisons. Similarly, the majority of GNCNB respondents (84 percent) reported living in a facility designated for men at the time of the survey, and only 6 percent (3 people) of GNCNB respondents reported being housed in a facility for women. There was more variation among transgender men respondents, though this was a smaller group of 26 people: 69 percent (18 people) were in prisons designated for men, while 27 percent (seven people) were in prisons designated for women.<sup>59</sup> Vera researchers are unable to report more detail for the 12 respondents (six transgender women, one transgender man, and five GNCNB people) who reported living in a facility for men and women, or left the response blank.

**FIGURE 2**  
**Respondents’ current prison facility, by gender identity**

<b>Current Facility</b>	<b>Trans women</b>	<b>Trans men</b>	<b>GNCNB</b>
Designated for men (n=253)	94.6% (n=194)	69.2% (n=18)	83.7% (n=41)
Designated for women (n=15)	2.4% (n=5)	26.9% (n=7)	6.1% (n=3)
Designated for men and women (n=6)	1.5% (n=3)	0 (n=0)	6.1% (n=3)
Blank (n=6)	1.5% (n=3)	3.9% (n=1)	4.1% (n=2)
<b>Total</b>	<b>100% (n=205)</b>	<b>100% (n=26)</b>	<b>100% (n=49)</b>

N=280. See Appendices B and C for a more detailed discussion on the nuances of gender identity in participants’ responses.

Table: Vera Institute of Justice • Source: Advancing Transgender Justice survey, 2021–2022

There was greater heterogeneity across the types of housing units in which respondents lived within prison. (See Appendix A on page 70 for more information on types of prison housing units.) More than half (54 percent) of respondents were housed in the general population. A small portion (8 percent) were in medical or mental health treatment units. Additionally, 22 percent of respondents were currently housed in restrictive housing units, in either solitary confinement or protective custody units.<sup>60</sup> (See “Most respondents experienced solitary confinement” on page 31.) Finally, 14 percent of respondents lived in other types of housing units, such as units designated for people in substance use treatment or people convicted of sex offenses.

### Housing preferences varied across respondents

**FIGURE 3**

#### Current facility vs. preferred facility

How much do respondents’ current and preferred living environments align? (Only respondents who indicated both are included in this table.)

Current Facility	Preferred Facility		Total*
	Designated for men (n=86)	Designated for women (n=167)	
Designated for men (n=253)	32.8% (n=83)	62.1% (n=157)	94.9%
Designated for women (n=15)	20.0% (n=3)	66.7% (n=10)	86.7%

Eleven respondents who reported currently living in, or preferring to live in, facilities designated for men and women are not included in this table. Sixteen blank responses are also omitted. \*Totals for each category do not sum to 100% due to omitted responses.

Table: Vera Institute of Justice • Source: Advancing Transgender Justice survey, 2021–2022

When asked about their housing preferences, respondents reflected differing viewpoints: No single set of housing conditions was preferred. As shown in Figure 3:

- Among the 253 respondents—transgender women, transgender men, and GNCNB people—currently housed in prisons designated for men, 62 percent indicated that they would prefer to be in a prison designated for women and 33

percent indicated that they would prefer to be housed in a prison designated for men. In other words, nearly two-thirds of people currently housed in a prison designated for men would prefer to be in a prison designated for women. The remaining 5 percent (13 people) of respondents currently housed in facilities designated for men did not clearly indicate their preferred facility.

- Among the 15 respondents housed in prisons designated for women, two-thirds (10 out of 15) indicated they would prefer to remain in a facility designated for women, but a portion (three out of 15) would prefer to be at a prison designated for men. The remaining two respondents currently housed in facilities designated for women did not clearly indicate their preferred facility. Though a small sample and not generalizable, this suggests that housing preferences across transgender people are not monolithic.

This heterogeneity is revealed when examining housing preferences by gender identity, as shown in Figure 4. Additionally, these findings suggest misalignment between assigned facility and preferred facility, which was greatest for transgender women and GNCNB people.

**FIGURE 4**  
**Preferred facility, by gender identity**

How much do respondents' gender identities and preferred living environments align? (Only respondents who indicated both are included in this table.)

	Facility designated for men	Facility designated for women	Total*
Transgender women (n=205)	27.8% (n=57)	65.9% (n=135)	93.7%
Transgender men (n=26)	38.5% (n=10)	57.7% (n=15)	96.2%
GNCNB (n=49)	40.8% (n=20)	46.9% (n=23)	87.8%

Five respondents who reported preferring to live in facilities designated for men and women are not included in this table. Fifteen blank responses are also omitted. \*Totals for each category do not sum to 100% due to omitted responses.

Table: Vera Institute of Justice • Source: Advancing Transgender Justice survey, 2021–2022

- Although 95 percent of transgender women reported being currently housed in a prison designated for men, the majority (66 percent) of transgender women who shared their preferred housing facility indicated that they would choose to be housed at a facility designated for women.
- Although 69 percent of transgender men reported being currently housed in a prison designated for men, 58 percent of transgender men who shared their preferred housing facility indicated that they would choose to be in a facility designated for women. However, this is a small sample (less than 10 percent of the survey respondents).
- Although 84 percent of GNCNB people reported being currently housed in a prison designated for men, close to half (47 percent) of GNCNB people who shared their preferred housing facility indicated that they would choose to be in a facility designated for women.

Respondents mentioned their desire for both privacy and safety when discussing their preferences regarding housing units (defined by the number of beds in the unit and whether the unit had a specific purpose or eligibility criteria, such as for medical treatment) and cell assignments (which refers to the specific person with whom one shares a double cell). The survey asked respondents about their preferences regarding the type of housing unit or level of housing unit security. Nearly half (47 percent) reported they would prefer living in a general population housing unit. The next most common answer (22 percent) was “other,” and when asked to describe this, the majority described a unit specifically for LGBTQ+ people, transgender people, people experiencing gender dysphoria, and/or those who indicated they wanted a double cell with an LGBTQ+ cellmate. Notably, another 16 percent of respondents noted they would prefer protective custody—in other words, solitary (or close to solitary) confinement, which is a strategy to keep a person protected from other incarcerated people but which also seriously restricts their movement and interactions. Nearly 11 percent of people reported they would prefer a specialized treatment unit, including mental health, medical, or drug treatment. When asked about the specific

sleeping arrangement or cell type that they would prefer, there was a preference for single cells. About 45 percent of respondents preferred a single cell, while 36 percent preferred to be housed in a double cell. Only 9 percent preferred being housed in a dormitory.

**There was strong support for housing units designated for LGBTQ+ people and/or for transgender people, but also concerns about implementation**

Most respondents (79 percent) reported there had been other transgender people in their housing unit at some point—though not necessarily at the time of the survey. Although some states have prisons or housing units informally designated as being for LGBTQ+ people and/or just for transgender people, only 21 percent of respondents reported ever having lived in such a unit.

The open-ended portion of the survey enabled respondents to provide more detailed information about their housing experiences in their own words. Of those who had lived in this type of unit, comments about the experience were mixed, highlighting both positive and negative aspects of LGBTQ+-specific units. For example, some respondents reported that these types of housing units offered protection, acceptance, and less risk of violence. As one respondent described:

It was kind of nice, relaxing. Able to be around [and] with people just like myself. I much preferred it rather than being housed around homophobia, transphobia, just ignorance [and] oppression from other non-LGBTQIA+ areas/people[.]

Another respondent described the close-knit community they experienced living in a housing unit primarily with other LGBTQ+ people: “I have previously lived in a dorm where staff moved the majority of the LGBTQ+ inmates into the same dorm for our own protection. It was great. I loved being around family.” In contrast, some respondents described negative experiences involving risks to safety and subpar living conditions from living in these kinds of units. As one respondent described, “It was unclean, unsafe, and made harassment much easier since we were centralized. Bed moves were assigned, requests denied and often led to violence.”

Another respondent described their negative social interactions as “horrible non compliance. Fighting all the time. Could not wait to get out of there.”

A large majority of respondents—78 percent—indicated that they would prefer to live in a unit specifically for transgender people. This implies that regardless of the housing unit or cell features—general population, double cell, dormitory, etc.—what really matters to transgender people is who else resides in the same living space, whether a cell or the general unit. Respondents in favor of this type of designated housing unit believed that they would feel safe, comfortable, and supported and not have to worry about harassment, discrimination, or abuse. For example, one respondent commented, “because I would not have to stress about being touched or felt on; nor would I have to deal with people trying to tell me how I can dress.” Another respondent commented on the sense of safety and community in such a unit, saying, “for the sense of community and the freedom to be myself without ridicule, abuse, or judgement.” Still another respondent cited the availability of such a unit as the only way they would feel safe enough to leave protective custody: “it’s the only way I would come out of the [secure housing unit].” Although the overall preference favored such units, some respondents expressed concerns with living in a housing unit specifically for transgender people, such as possible social and interpersonal conflicts with other transgender people. Still others cited safety concerns about such a unit, explaining their fear that when transgender people are in one area, facility/staff increase or concentrate their surveillance or negative behavior. They also noted that systems impose rigid, one-size-fits-all policies. As one respondent put it: “centralization leads to discrimination and blanket policies.”

**The overwhelming majority of respondents—89 percent—had experienced solitary confinement at some point during their incarceration.**

### **Most respondents experienced solitary confinement, sometimes as a result of harassment, discrimination, or concerns for safety**

The overwhelming majority of respondents—89 percent—had experienced solitary confinement at some point during their incarceration, often for long periods of time or on several different

occasions. Many respondents reported having sought out protective custody as their best option to feel safe. Based on respondents' self-reported responses, the average number of stints (times) in solitary confinement while serving their current sentence was 7.7, and the median was three stints—with the median length of time served in prison so far being about 14 years. Ten percent of respondents reported going to solitary confinement 15 times or more.

Respondents who reported having previously been placed in solitary confinement (89 percent, or n=248) were asked to look back on their experiences in solitary confinement over their entire incarceration history. The most common reasons given for why they had been housed there were

- for a disciplinary infraction (47 percent),
- staff claiming it was for the person's own safety (21 percent),
- or the person themselves asking to be placed for their own protection (19 percent).

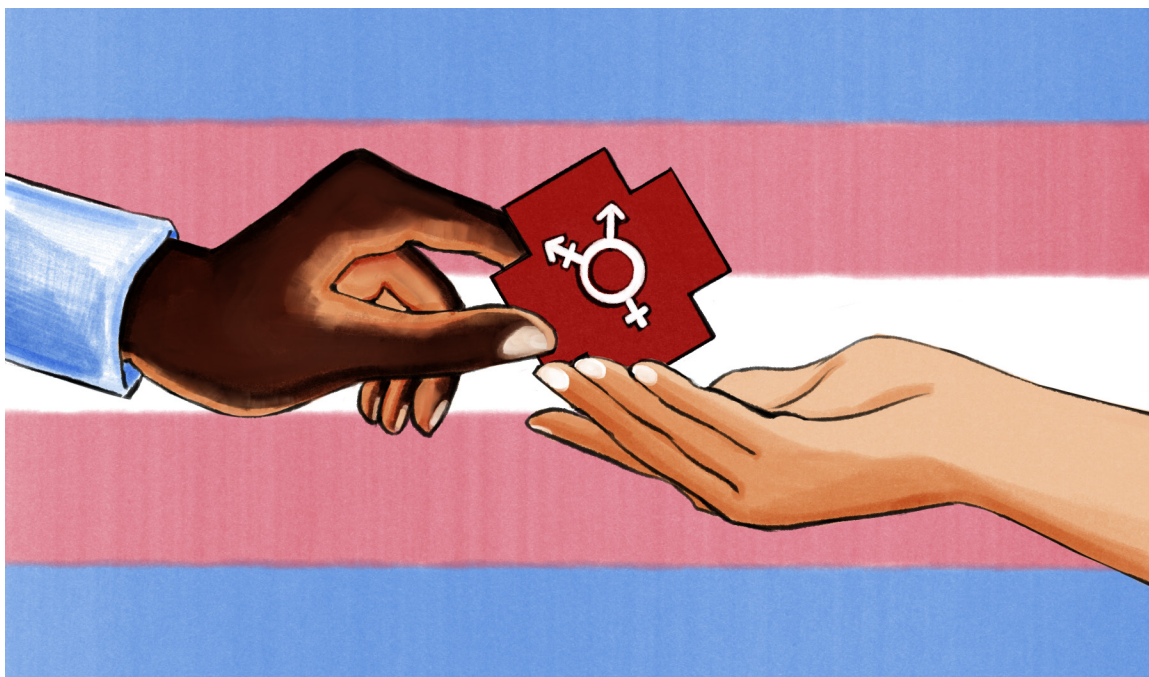
Other reasons (13 percent) included COVID-19 protocols or PREA investigations, or by the person's request for a reason other than protection (10 percent).<sup>61</sup> Many respondents stated it was because corrections officers put them there as an act of retaliation or harassment, due to discrimination based on their transgender identity, or because they (the respondent) intentionally violated policy to be deliberately put into solitary as a strategy to ensure their safety. One respondent described being placed in solitary for retaliation "due to an [Office of Inspector General] investigation on a slew of [corrections officers] for unsupported use of force, I was placed there under retaliation." Similarly, another respondent in solitary confinement at the time of the survey wrote, "I'm filling this out while in solitary while being held against my desire for [requesting a] sexual harassment investigation against an officer."

Other respondents claimed they were placed in solitary confinement based on being targeted for their transgender identity, such as this respondent who explained they were placed in segregation for contraband: "I was wearing color pencils as makeup



as treatment for gender dysphoria, harassment by an officer triggered PTSD that led to an assault, I was segged [placed in segregation].” Still another respondent described being targeted by the warden: “The warden of [redacted] unit, [name redacted], said, ‘I have a place for things like you’—meaning transgender [people].”

Many other respondents explained that they intentionally committed acts that would result in a violation and lead to being housed in solitary confinement as a strategy for self-preservation. As one wrote, “I was doing things to stay in segregation for my safety. I would assault laws [corrections officers].” Likewise, another respondent described requesting solitary confinement to avoid ongoing sexual harassment: “I was being pressured for sex and didn’t want to have it, so asked to be locked up.” Some respondents reported making empty threats in order to trigger the disciplinary process and be placed in solitary confinement: “I ‘requested’ by catching charges (disciplinary) for threatening to escape, but only threats.”



## HEALTH, HEALTH SERVICES, AND GENDER-AFFIRMING HEALTH CARE IN PRISON

Respondents largely reported inadequate health care in prison and most reported a negative impact on their health overall. Many participants reported sharp deteriorations in both physical and mental health from the time prior to incarceration to the time of the survey. However, improved health was reported by a smaller portion of respondents who entered prison with really poor physical or mental health.

Most respondents (59 percent) rated their current physical health worse when compared to their physical health prior to incarceration.

**FIGURE 5A**  
Impact of incarceration on physical health

Prior to incarceration	During current incarceration				
	Excellent (10.7%)	Good (25.7%)	Fair (36.1%)	Poor (16.8%)	Very Poor (7.1%)
Excellent (39.6%)	22	34	35	15	5
Good (30.0%)	1	21	38	16	8
Fair (17.9%)	3	15	18	11	3
Poor (4.6%)	2	2	6	3	0
Very Poor (4.3%)	2	0	4	2	4

Table numbers reflect the number of respondents in each category. Ten blank responses are omitted. Totals may not sum to 100% due to omitted responses.

Table: Vera Institute of Justice • Source: Advancing Transgender Justice survey, 2021–2022

- Eighty percent of respondents who rated their physical health as “excellent” prior to incarceration rated their current physical health worse.
- Nearly three-quarters of respondents (74 percent) who rated their physical health as “good” prior to incarceration rated their current physical health worse.

Approximately one-quarter of respondents (24 percent) rated their physical health the same.

- Respondents who rated their physical health as “fair” prior to incarceration were divided when rating their current physical health; 36 percent rated it improved, 36 percent rated it the same, and 28 percent rated it worse.

A small proportion of respondents (13 percent) rated their current physical health as better than prior to their incarceration.

- About three-quarters of respondents (77 percent, n=10) who rated their physical health as “poor” prior to incarceration rated their current physical health as improved.
- About two-thirds of respondents (67 percent, n=8) who rated their physical health as “very poor” prior to incarceration rated their current physical health as improved.

**FIGURE 5B**

**Impact of incarceration on mental health**

Prior to incarceration	During current incarceration				
	Excellent (4.3%)	Good (17.9%)	Fair (24.3%)	Poor (27.9%)	Very Poor (21.1%)
Excellent (17.9%)	7	10	12	10	11
Good (21.8%)	1	16	15	20	9
Fair (26.4%)	1	7	23	26	17
Poor (16.1%)	1	6	11	17	10
Very Poor (13.2%)	2	11	7	5	12

Table numbers reflect number of respondents in each category. Thirteen blank responses are omitted. Totals may not sum to 100% due to omitted responses.

Table: Vera Institute of Justice • Source: Advancing Transgender Justice survey, 2021–2022

Half of respondents (50 percent) rated their current mental health worse when compared to their mental health prior to incarceration.

- Eighty-six percent of respondents who rated their mental health as “excellent” prior to incarceration rated their current mental health worse.
- Approximately 72 percent of respondents who rated their mental health as “good” prior to incarceration rated their current mental health worse.
- Approximately 58 percent of respondents who rated their mental health as “fair” prior to incarceration rated their current mental health worse.

Approximately one-quarter of respondents (27 percent) rated their current mental health the same, compared to prior to incarceration.

- Respondents who rated their mental health as “poor” prior to incarceration were divided when rating their current mental health; 40 percent rated it improved, 38 percent rated it the same, and 22 percent rated it worse.

Nearly one-fifth of respondents (19 percent) rated their current mental health as better than prior to their incarceration.

- About two-thirds of respondents (68 percent, n=25) who rated their mental health as “very poor” prior to incarceration rated their current mental health as improved.

### **Most respondents reported access to health care but also the need for higher quality care and transgender-specific health care**

Accessing meaningful health care is a vital need for incarcerated people, especially transgender people, who have specific medical and mental health needs. In this survey, one-third of respondents (32 percent) agreed that they received medical treatment when they needed it, but only 18 percent of those respondents agreed that this medical treatment was of “adequate” quality. Nearly the same proportion (33 percent) reported receiving dental treatment when needed, and 27 percent of those reported that the treatment was of adequate quality.

The vast majority (89 percent) reported that they had seen a medical provider in their current facility. Among those who had not seen a provider, the most common reasons were concerns about discrimination (10 percent), difficulty getting an appointment (8 percent), or “other” reasons (11 percent), including restrictions related to COVID-19, fear of verbal harassment, or fees. Of those who sought care, the most common types of care people sought were

- general physical checkups (71 percent),
- prescription medication related to hormone treatment (67 percent),
- mental health care (65 percent),
- prescription medication not related to hormone treatment (64 percent), and
- gender dysphoria diagnosis assessments (61 percent).

The most common types of medical care that people had been receiving prior to prison that were not continued in prison were mental health care (51 percent) and prescription medication (49 percent).<sup>62</sup>

Among those who were able to access health care providers, most felt dissatisfied with the care they received: 43 percent disagreed that providers met their physical health care needs, while 27 percent agreed that their needs were met. Further, 39 percent of respondents felt that the provider did not respect them, compared to 30 percent who felt respected.

The survey asked whether incarcerated people had access to basic sexual health resources inside prison. Two-thirds (65 percent) of respondents reported that none of these resources were available in general. A quarter (25 percent) had received some information on sexual health, about 10 percent of respondents indicated they had access to condoms, and 3 percent reported having access to PrEP (which reduces the risk of HIV transmission). Given that many people in prison are sexually active and engage in consensual sexual relationships (see “Romantic and sexual relationships in

prison” on page 45)—and that some express fears about sexually transmitted infections—this gap in resources within health care services is concerning.

The survey also asked specifically about mental health care access and quality. Nearly three-fourths (72 percent) of respondents reported that they had sought mental health services in the past year.<sup>63</sup> The most common reason for doing so was depression, while other reasons noted included anxiety, anger, gender dysphoria, and needs in the aftermath of rape. Among those who did receive some kind of mental health attention, the most common type was one-on-one therapy with a professional—reported by 64 percent of respondents who accessed mental health care—followed by medication (63 percent) and group therapy (30 percent). A small portion (16 percent) mentioned more specific forms of treatment, including hormone therapy for gender transition, peer support, suicide watch, and “sex offender treatment.” One respondent wrote that the mental health provider required them to undergo “cures for gender confusion.”

**Nearly half of survey respondents (48 percent) reported that health care providers in their facility did not have any general knowledge about transgender issues overall.**

The quality of health care for transgender people in prisons depends on the knowledge, training, attitudes, values, and demeanor of health care providers regarding transgender health issues.

- Nearly half of survey respondents (48 percent) reported that health care providers in their facility did not have any general knowledge about transgender issues overall.
- A similar proportion (49 percent) reported that health care providers did not have any knowledge about medical issues related to transgender people.

More broadly, a sense of respect from health care providers is essential, especially for marginalized groups. Responses were mixed in this area, as 39 percent of respondents felt that general health care providers did not respect them, while 29 percent felt neutral, and 30 percent agreed or strongly agreed that providers

respected them. Only 6 percent “strongly agree[d]” that they felt respected. When asked about respect from mental health care providers, a higher proportion of those who answered the question felt some or strong respect (39 percent overall: 25 percent agreed, while 14 percent strongly agreed), with 24 percent feeling neutral and 26 percent feeling not respected.

### **Respondents reported varying access to gender-affirming items and practices**

Beyond medical and health care support for gender transition and expression, access to gender-affirming clothing and accessories is important for transgender people and can be very challenging to obtain in prisons designated for men or women. Overall, 76 percent of respondents indicated that they were able to access some things that help them express their gender identity. This proportion was much higher for transgender women. The most common item mentioned was bras, followed by underwear, makeup (including homemade versions), combs, nail polish, and clothing. Nearly half of GNCNB people and 35 percent of transgender men reported they could not access such items, while only 12 percent of transgender women indicated they could not access items. Among those without access, 69 percent reported it was because the supplies were not available, while 31 percent indicated it was because they did not want such items or had not tried to get them. Similarly, 78 percent of people in men’s facilities reported some access, compared to 67 percent of people in women’s facilities. When asked what kinds of gender-affirming items they would like to have, but currently did not, the most common answers were for masculine gender expression: boxer shorts, chest binders, and shaving products. People also mentioned makeup, jewelry, and fabric for making clothes.



## **Gaps exist in access to medication and surgery due to policy and practice**

Medications, including hormone therapy, are an important option for supporting gender transition and affirmation.<sup>64</sup> Sixty-three percent of respondents reported taking hormone medications to support gender transition in prison, while 6 percent indicated they had taken such medications in the past and 30 percent reported they had never taken such medication in prison. The majority (81 percent) accessed hormone medications through a health care provider, while 24 percent reported accessing hormones through other sources. Some of these sources included specialist health care providers (such as gender dysphoria clinics), while others were unofficial, such as through friends or the black market in prison.

Among the 207 respondents (74 percent of the sample) who requested medication to support gender transition at some point in prison, 47 percent received it. A further 21 percent indicated that prison health care providers denied the medication request, and 32 percent mentioned another reason for denial.<sup>65</sup> The other most common reason was that the person did not meet the diagnostic or other criteria set by the department of corrections (DOC) and the provider was obligated to follow this policy (separate from a provider denying medication out of their discretion). Some explained that they were unable to access medication because they could not get a medical appointment or because staff “forgot” to distribute the medication or did not facilitate access. For example, one respondent wrote, “[My] [e]ndocrinologist established in my prison file that I was [an] excellent candidate for GRS [genital reconfiguration surgery] ([DOC name] refuses). Also prescribed [Vaniqa] facial hair removal cream that [DOC name] refuses to pay for.” Another explained, “Medical staff repeatedly ‘forgets’ or ‘can’t find’ my hormones, or they ‘ran out.’” Some suggested that staff’s personal views caused obstacles: “Because some nurses refuse to give out hormone shots based on alleged religious issues.” Some people indicated that their state completely bans hormonal medication in prison. One respondent explained, “The state of [redacted] corrections does not allow hormones, unless you were taking them before incarceration.” Some transgender people have sued departments of correction for denying them access to health

care.<sup>66</sup> A few survey participants commented that they had to file a lawsuit about the obstacles to accessing hormone therapy and were successful in obtaining it after that.



## IMPORTANCE OF SOCIAL ENVIRONMENT IN PRISON

Daily life in prison is fundamentally influenced by the social environment, including how rules and policies are applied in practice, how incarcerated people define and enforce social norms, and how people form individual relationships with one another. Research shows that facilities with similar infrastructure, basic living conditions, rules, and activities can have vastly different social climates—from punitive and chaotic to supportive and trustworthy—depending on the nature of relationships among incarcerated people and between staff and incarcerated people.<sup>67</sup> For LGBTQ+ people in prison, these social climate factors can influence the degree of discrimination and homophobia/transphobia they face from other incarcerated people and staff, as well as their access to groups or individuals who are supportive.<sup>68</sup>

Initiatives that focus on instilling more trust and mutual accountability between staff and incarcerated people, especially those that are led by incarcerated people, can generate a shift in culture that affects misconduct rates, staff satisfaction, and incarcerated people's sense of dignity.<sup>69</sup>

Respondents in this study reported the social and interpersonal aspects of prison in two contradictory ways: Other people were simultaneously a source of fear or danger and a source of support or help. For example, respondents reported that living in close proximity to other people puts transgender people at greater risk of prejudice, threats, and violence, often of a sexual and/or transphobic nature, from both incarcerated people and staff. However, many people in prison form relationships—including romantic and sexual relationships—with other incarcerated people because these are a source of emotional support and material protection. In this survey, 75 percent of respondents reported having been in romantic relationships with other incarcerated people. (See “Romantic and sexual relationships in prison” on page 45.) Transgender people in prison are particularly at risk for the inconsistent and sometimes targeted or punitive ways in which prison staff enforce rules that prohibit sexual interactions.

### **Risks stem from both exposure to and isolation from other incarcerated people**

Exposure to other people in certain settings, like the yard or bathrooms, was a common reason that respondents felt more unsafe in prison. When asked what parts of prison life made them feel most unsafe, 36 percent of respondents mentioned some kind of unwanted proximity to other people; however, it is worth noting this proportion includes some people who named multiple forms of exposure to other people. Examples include being housed with incarcerated people who were hostile to transgender people (12 percent), being required to shower or use the bathroom with other people (7 percent), or being strip-searched in front of others (2 percent). Broadly, respondents reported that being the only or one of just a few transgender people in a facility or housing area generated a sense of exposure and surveillance. At the other end of the spectrum, placement in protective custody

(solitary confinement for safety reasons) is relatively common for transgender people (see “Most respondents experienced solitary confinement” on page 31), and this leads to a sense of isolation.

One participant explained:

The idea that I may be locked in a cell with a complete stranger at any time because staff can move me whenever and wherever they desire. This removes my ability to protect myself by choosing where I live . . . and potentially places me in an unsafe position.

For transgender women in a prison designated for men, strip searches are regular and can be a site of exposure. One person recounted their experience: “Being a woman in a men’s prison—having to strip coming from school in front of 66 male prisoners; 4 or 5 staff also.”

Many people had negative comments about their experiences in solitary confinement, and some described it as the only accessible alternative to the dangers of being among a lot of other incarcerated people. In one person’s words, they felt unsafe when there were:

too many people, too much movement, my cell door being open, having a cellie [cellmate], knowing that inmates in [this DOC] only get safekeeping/protective custody if they get stabbed up or stomped out (or otherwise severely injured/maimed), and even then only sometimes. If you don’t come into the system as PC [protective custody], you will likely never get in PC.

**More than two in five (42 percent) of respondents reported they worried about their physical safety all the time (22 percent) or often (20 percent).**

### **Respondents experience harassment, threats, and violence in prison**

Another facet of social interactions and culture inside prison is harassment, threats, and violence. More than two in five (42 percent) of respondents reported they worried about their physical safety all the time (22 percent) or often (20 percent). When asked to name the top three aspects of prison life that made them feel unsafe, frequent answers included sexual harassment, verbal

threats, and physical attacks or presence of weapons. Of the respondents, 31 percent mentioned something about these kinds of situations, attributing them to other incarcerated people. Many spoke about the specific transphobic or sexual nature of these incidents. Among those who named a specific source or group, the most commonly named were gangs inside prison (11 percent of respondents).

One respondent described the threats as follows: “When I am threatened in various ways certain people stare at me with clear sexual/lustful intent. When certain people glare with intent to intimidate me.” Several participants shared that direct violence occurred more readily in certain circumstances. One described that they were afraid of “being physically jumped by someone who doesn’t agree with my transition. Showers only being curtains and another shower shared by only a curtain.” Another named bus rides as a risky setting:

Transit bus rides. I never know if the person or when the cisgender male will come on to me or touch me or make me touch him while I am handcuffed to him. It happens a lot and prison officials ignore my complaints.

Sexual assault is one of the most harmful forms of violence that incarcerated people face during confinement. When asked if they had ever experienced a nonconsensual sexual encounter with another incarcerated person, 30 percent reported this had happened in the prison where they currently were detained, while 53 percent reported this had happened at some point during their current prison sentence.<sup>70</sup> (For more on experiences of sexual assault by staff, see “Respondents experience prejudice, neglect, and harm from prison staff” on page 49.) In open-ended answers, many participants described the Prison Rape Elimination Act (PREA)—a law that is meant to reduce sexual assault in prison and mandates procedures and resources—as mostly ineffective in reducing the risk of sexual assault by other incarcerated people, except for its provisions around privacy in showers and bathrooms. (See “The misuse of the Prison Rape Elimination Act toward transgender people” on page 21.)

## **Respondents face a culture of homophobia, transphobia, and toxic masculinity in prison**

More broadly, 22 percent of respondents talked about a culture of transphobia or homophobia inside the prison as part of what made them feel unsafe and fueled harassment.<sup>71</sup> Some suggested that prison culture upholds a version of “tough” masculinity that encourages violence as a way to respond to conflict and punishes emotional expression and that drug use can exacerbate this. One person used the phrase “toxically masculine cisgenders—either prisoners or staff.”

When asked what made them feel unsafe in their current facility, one person summed it up with “Gang members, racist, homophobic people and staff.” Another respondent described some of the experiences of prejudice and harassment:

Living with men when I look, sound, and behave like a woman. Being double celled with men when I have breasts. Staff who refer to me like a freak or label me a pervert. Who presume I’m hyper-sexual or a prostitute simply because I am trans.

Respondents also described how the combination of racism and homophobia/transphobia from other people in the prison made nearly all aspects of daily life dangerous. In one person’s words,

I don’t feel safe here. I’m the trifecta: Black, trans, and a sex offender in [state name]. I get reminded of how I don’t belong by staff and some inmates a lot. There’s nothing that’s safe. Everyone’s mixed together, the cops make your charges known, if you tell on someone the cops let people know about it. They purposefully put you in places they know you can’t live. Almost [redacted] years I’ve seen it all in this place.

## **Romantic and sexual relationships in prison involve benefits and risks**

People in prison seek out connection with one another for a range of reasons—emotional support, pleasure, protection, company, or access to resources—despite facility rules that typically prohibit romantic or sexual interactions among incarcerated people.



Transgender people's relationships are often more visible within the prison than those between cisgender people. Respondents talked about navigating the constraints of institutional rules against sexual interactions and noted that prison staff frequently enforced these rules in ways that were inconsistent and based on prejudice—such as assuming that transgender women are promiscuous.

A majority of respondents had been in some kind of consensual sexual and/or romantic relationship with another incarcerated person at some point: 72 percent in a sexual relationship (with a median of three relationships), 75 percent in a romantic relationship (with a median of two relationships), and 64 percent in a more committed, marriage-like relationship (with a median of two relationships). When asked about what made them feel safer in prison, 30 percent of respondents talked about supportive social relationships, including romantic partners (10 percent), friends inside (9 percent), and LGBTQ+ friends inside (8 percent). One person offered this perspective on the difference between short-term sexual encounters that are more transactional and longer-term committed relationships:

[S]exual encounters “ca[su]al sex” and sexual relationships are different. My sexual relationships I consider romantic.  
[M]y “sexual encounters” for the most part [are] about survival, protection (if I get harassed somewhere I can't live), food, clothing, etc....My romantic relationships last for a year or more.

Respondents pointed to the necessity of sexual relationships with other incarcerated people as a survival strategy in prison. One respondent explained, “As a transgender woman I need [a] man to protect me off other prisoners or hat[eful] people.” This sentiment was echoed by another respondent, who wrote, “I feel safer when I am in a relationship. [I]t helps to keep the stalker predators away and helps to pass time. It helps me to feel wanted.”

In contrast, even though such relationships are not sanctioned by state department of corrections, respondents described deeper connections in their long-term marriage-like relationships, such as more emotional support and community, rather than transactional benefits like money or protection. For example, one respondent



wrote, “I currently am engaged to my fiancé, who is my husband by common law, but we can’t file ’cause [the DOC] will separate us.” Still another respondent described the meaningful impact their partner had had on their life:

I have been in my current relationship for almost my entire sentence, close to 6 years now. He literally put a broken me back together and taught me how to hope and dream again. I owe him more than my love and adoration. I qui[te] literally owe him my life. He is my protector, my rock, my anchor, and my best friend.

Although most respondents had engaged in some kind of relationship over the course of their incarceration, still others reported avoiding sexual or romantic relationships in prison for a variety of reasons that also exist outside prison. For example, some mentioned hesitating to become involved in such relationships due to concerns about unhealthy relationships.<sup>72</sup> One respondent explained, “I have gotten into relationships and/or encounters that was presented one way, yet turned into a bad situation. Though still consensual, the experiences were bad and unhealthy.”

More often, respondents who reported avoiding relationships in prison pointed to factors tied to the broader prison environment, such as the unpredictable nature of housing assignments, fear of disease communicability, and fear of retaliation from other incarcerated people. One respondent explained how the unpredictable housing in prison—along with barriers to gender-affirming practices and the trauma of incarceration—undermined any desire to build a connection with someone:

I find it hard to build a relationship with anyone because I cannot represent myself the way I want, and you never know when you may be moved or taken away. I also feel like I have a hard time feeling joy or love or happiness. Like something inside me has been broken[.]

Another respondent echoed this, commenting:

There [aren't] enough stable housing assignments to really root relationships down into shared time together. Instead, things tend to a lot of moving around, so you just hope you live in a good place (not a lot of angry people on the section, etc.).

A third participant explained that housing assignments can be a tactic that staff use to punish relationships among incarcerated people: “[I feel unsafe . . .] [w]hen staff take away the only person who cares about me only to surround me by rapists and predators.”

Pointing to the fear of risking their health by entering into a relationship, one respondent explained, “I avoid all relationships while in prison. The drama and the diseases that are rampant in prison are just not worth risking.” Last, respondents described other incarcerated people treating a relationship with them as taboo:

Most men are afraid to be in relationships with transgender girls and/or homosexual guys so the relationships that we do have are very undercover. And the guys that aren't afraid tend to be unfaithful and/or promiscuous.

### **Relationships with loved ones and organizations outside prison offer support**

Respondents also wrote about the importance of supportive platonic social relationships with other incarcerated people and with friends outside the prison. Incarcerated people often turn to one another to find help and support. More than half of respondents (55 percent) reported that other people in their housing unit had helped them at some point—though close to one-fifth (19 percent) indicated this had not occurred and nearly a quarter (23 percent) were neutral on this question. More broadly, more than one-third (37 percent) reported that people in their housing unit helped one another generally, but a quarter (25 percent) disagreed with this statement and 35 percent were neutral.

Nearly two-thirds of respondents (65 percent) reported that they had someone outside the prison who provided tangible support;

the most common type of relationship for this was family members. Respondents also talked about organizations on the outside that provided important support. Examples included advocacy organizations—including Black and Pink National and its pen pal program—as well as other political organizations and causes, church groups, and former cellmates.<sup>73</sup>

### **Respondents experience prejudice, neglect, and harm from prison staff**

Prison staff are also an integral part of the overall culture of a prison facility. Staff decisions about how they enforce rules and engage in individual interactions and relationships have a significant influence on incarcerated people’s experiences of confinement. In this study, respondents generally had negative views about staff support for well-being, safety, and rehabilitation. Three-quarters of respondents disagreed with the statement that staff are trustworthy. Further, 72 percent reported that staff did not try to help them succeed, and 64 percent felt that staff did not listen to them. One participant, for example, described “[t]he guards that ignore you when you tell them there is an issue. They tell you ‘then don’t come to prison.’” Another simply commented that the facility they were in had “[p]rison staff who are racist, homophobic, or indifferent to harm of prisoners.”

The themes of neglect, prejudice, threats, and violence by staff against incarcerated people were prominent among the reasons that people felt less safe in prison.<sup>74</sup> Although these experiences affect all people in prison, transgender people in prison face heightened visibility and types of harm. One person explained: “I’m continuously singled out by guards [and] forced into houses with people that don’t want to live [with] a homosexual or transgender [person].”

When asked to name their concerns about safety generally, 28 percent of respondents mentioned complaints about staff conduct, including verbal threats or discriminatory comments, usually in sexualized and/or transphobic ways, and a smaller portion (3 percent) named physical attacks by staff. As one person explained, this could occur indirectly: “officers advising inmates that I’m transgender. Officers will do that—turning other inmates against you and it puts me in fear of my life and safety.”

# Transgender People's Views on Policy and Their Policy Recommendations



## CONCERNS ABOUT LACK OF INFORMATION ON PRISON POLICIES AND DIFFICULTIES IN IMPLEMENTATION

Participants reported detailed knowledge about specific aspects of prison operations and culture that especially affect transgender people in prison. However, they were generally not familiar with any specific government or prison laws or policies related to LGBTQ+ people in general or transgender people in particular—except for PREA.

Close to half of respondents (48 percent) reported they believed that policies meant to benefit LGBTQ+ people in prison exist, but

that these policies are not explained to incarcerated people, are not implemented, and/or are badly designed. More than half (55 percent) indicated that these policies do not serve LGBTQ+ people. About a quarter (25 percent) of respondents reported that no policies related to LGBTQ+ people in prison exist in their state or that they did not know about such policies. In one person's words, "I don't know because we are not told of them. We must ask or do our own work to find out." Another respondent explained, "I know them all [and] I think they are extremely superficial. They don't address the key issues that transgender [people] and the LGBT face in their day to day lives in prison." On poor implementation of existing policies, one expressed the problem simply:

Policy states we are to be treated fairly [and] no different than any other inmate when it comes to jobs, school, trades or recreation and housing facilities. We are not treated the same[—]we are treated with harassment [and] discrimination [and] cruel [and] unusual punishment.

One person explained that their facility had made strides in creating policies but had struggled with implementation: "[M]ost of the policies here were written around me and continue to evolve around me. Some have been life changing. Others are progressive. But most sound nice on paper but are rarely enforced." Other participants pointed to the difficulties and tensions that occurred when incarcerated people tried to push for implementation. For example, one wrote, "[O]ur policies limit us in getting help [and] out us to other offenders [and] staff so we get harassed more."

A smaller portion (7 percent) of respondents mentioned general policies related to respecting LGBTQ+ people, such as overall nondiscrimination and equity policies: "LGBTQIA+ rights while in prison; where protected and will win in fed. court if violated these rights. I have them; I have breasts due to these rights. Yess."

**Close to half of respondents (48 percent) reported they believed that policies meant to benefit LGBTQ+ people in prison exist, but that these policies are not explained to incarcerated people, are not implemented, and/or are badly designed.**

In terms of specific policy content, the most common types of policies that respondents knew about related to privacy in certain spaces: 23 percent mentioned policies to ensure privacy during shower or bathroom time (13 percent) or to have strip searches occur in a private setting and/or with an officer of the same gender (11 percent). A smaller portion (14 percent) of respondents mentioned safety policies, primarily PREA (13 percent). (The policies related to privacy in showers and strip searches are part of PREA, but respondents mentioned these aspects specifically, not as part of PREA.)

Participants' comments on these policies illustrate a range of positive and negative views:

“The shake down policies, I like them. The bras I like. The relationship policies I despise.”

“Transgender [people] are pat searched differently, but also treated like a disease. Officers are sometimes afraid, some ignore the policies and grope us. Telling us we aren't women.”

“DOC policy [number redacted]: transgender policy allows for self-identity, private showers, but NOT strip searches by women for trans women, and no oversight. PREA is run by guards who believe PREA violation is ONLY rape.”

Although issues related to housing are very prominent in people's descriptions of their experiences in prison, only 11 percent of respondents named housing policies specifically for LGBTQ+ people when asked about policies of which they were aware. Again, their comments reflect a range of perspectives. One person praised California's new policy that allows possible transfer of facility based on self-identification of gender: “SB132 In Calif. has opened a huge deal for trans: our ability to self-determine the gender preferred prison of our identity. Is simply unbelievable.” Others noted that specific housing designations may be helpful but also entail additional scrutiny and risk. One person shared, “My current unit is listed as transgender-homosexual unit but we are very discriminated against in every department, except food services.” Another person explained that this visibility was very tangible in their facility:



When an inmate identifies [as trans], he/she is issued a green teeshirt—everyone wears white, grey, black, blue so everyone knows. green shirts automatically get a single cell, otherwise it's a 20 year wait list. but you have to take the hormone shots to qualify.

On policies specifically about gender-affirming practices, some respondents reported that their facility had rules to allow some aspect of social transition and/or gender-affirming medical services: using gender-affirming clothing or accessories; using correct pronouns; and providing access to hormone therapy, gender dysphoria diagnoses, and gender-affirming surgery. One person listed, “pronoun use by staff, safe housing for trans and open LGBTQIA+, respectful talking.” Another wrote, “[T]here [are] no policies on my facility for LGBTQIA+ other than if you declare transgender you can be single celled and you can take hormone treatment here.” Several people indicated that access to specific health care policies required a gender dysphoria diagnosis:

“Policies regarding hormone treatment, you must be diagnosed with gender dysphoria or else you can't receive treatment. How do you know what diagnoses to issue? Is it a funding issue? Bias? At your discretion? Sucks[.]”

“I know about the policy for getting HRT [hormone replacement therapy] and I think it is wrong. If you have a valid diagnosis of gender dysphoria you should be able to receive HRT if requested[.]”

## **RESPONDENTS' RECOMMENDATIONS ON DEVELOPING AND IMPLEMENTING POLICIES**

Throughout the survey, participants offered concrete suggestions for ways that prisons could make daily life for transgender people somewhat safer and more humane. Many also expressed stark pessimism about the prospects for meaningful change, with comments like “prison is never safe.” Even within this overarching perspective, the suggestions that respondents offered are wide-ranging, detailed, and clearly rooted in their experiences.



## **Transgender people and advocates should have meaningful input in the policy process**

Respondents called for a different approach to developing and implementing policies across all topics meant to benefit transgender people in prison. First, they wanted to be involved in the discussion about what is needed and the design of policies that claim to help transgender people. They suggested creating more avenues for direct input from incarcerated people, including surveys like the one used for this report, having a transgender representative on an “inmate council” (where this exists), and creating advisory committees composed of incarcerated people working jointly with outside advocacy groups like Black and Pink National. Departments of corrections and prison authorities should heed these calls and create meaningful avenues for input from both currently incarcerated transgender people and advocates outside prison—through councils but also proactive outreach and collaborations. It is crucial that transgender people, especially those with prior incarceration experience, lead these processes. In other words, input from general “prisoners’ rights” advocacy groups is not sufficient.

Second, respondents called for better two-way communication channels about policies once they are in place. For example, they wanted prison authorities to share information about policy content and implementation in a particular facility in more regular, accessible ways, and they wanted outside organizations to provide some oversight. Here, PREA could serve as a useful reference point, as it mandates designated staff and clear informational requirements.<sup>75</sup> The respondents also called for more accessible and responsive grievance channels for incarcerated people to use when they experienced neglect, misconduct, or incorrect implementation of a policy. One participant wrote, “[D]elegates who are LGBTQIA+ outside and inside prison need to have an impacting official voice in the establishment, promotion, and advancement of prison policies, and procedures.” Another suggested, “[F]irst, an LGBTQIA+ legal/knowledgeable Federal Government appointed outside [organization] to monitor all LGBTQIA+ issue [and] all other issues from gender identifying to the entire safety of all.”

One respondent summed up their frustration with the unfair ways that existing policies are implemented as follows:

You're constantly tested by i/m's [inmates] and staff. That each facility is 100 percent different though all run by [state redacted] Dept. of Corrections. We're expected to follow policies, but staff get away with not following policies and procedures. Misconduct hearings are NEVER fair nor are appeals and grievance appeals taken seriously. Especially at this facility.

### **Policies should be flexible to account for individualized circumstances**

The other prominent theme in respondents' recommendations for policy development and implementation was that any policy enacted should have sufficient flexibility and options so that staff can make reasonable adjustments for an individual person's circumstances. In other words, not all transgender people in prison have the same needs, risks, or preferences, and so one-size-fits-all policies—for example, that trans people should be placed in single-cell housing—will have mixed consequences. Within a policy framework that defines goals, criteria, and options, incarcerated people want the opportunity to have their particular concerns and preferences considered by decision-makers. One participant expressed this in terms of housing: “[W]e are never asked who we want to live with, we aren't allowed to express ourselves as trans persons, we are ridiculed, and verbally abused by staff and inmates.”

**Not all transgender people in prison have the same needs, risks, or preferences, and so one-size-fits-all policies—for example, that trans people should be placed in single-cell housing—will have mixed consequences.**

### **RESPONDENTS' SPECIFIC POLICY RECOMMENDATIONS**

The specific policy recommendations offered by participants fall into six categories: housing; supporting relationships and community; gender-affirming clothing, accessories, and language; health care; PREA and other responses to sexual assault or harassment; and staff conduct.

## 1. Recommendations for housing

### RECOMMENDATIONS FROM PARTICIPANTS:

- Establish a unit specifically for transgender people in each facility—as an option, not a requirement, for housing.
- Ensure individualized assessments of a person’s housing needs, including input from the incarcerated person on whom their cellmate is.
- Expand housing options that provide protection or separation from threats but are not restrictive housing (protective custody).

Housing policy was the most common theme among respondents who gave policy suggestions; 23 percent named something related to housing. About half of this group specifically recommended a housing unit dedicated to transgender and/or LGBTQ+ people within the prison. One person wrote,

Not sure if there’s a policy, but all LGBTQIA+ offenders should be housed w/ each other and on their own housing pod. Just like all [affiliated] gang members[,] each group should be housed together.

Another alluded to housing arrangements that account for the specific needs of LGBTQ+ people:

Housing - there has got to be something done about compatibility factors for LGBT. Especially when dealing with STG [security threat group] ‘gang’ members or just ‘phobic’ inmates[.]

Nearly all respondents commented that they wanted to have some level of input into their housing situation, including the type of facility (such as a men’s or women’s prison or a facility dedicated to people with certain needs) or assignment to a special housing unit or a restrictive housing situation. Respondents were adamant that having input on who their cellmate is—for those in double cell

settings—was essential for their safety and social support. In one participant’s words:

[T]here needs to be national wide policies that put LGBTQ+ dorms in all state/federal jails, prisons, institutions and permit us to go in there by choice, so we can all be together and not abused by inmates.

Another person called for housing options that prioritize safety but do not involve solitary confinement “to give them the ability to change cells without being sent to the ‘hole’ first.”

**Respondents were adamant that having input on who their cellmate is—for those in double cell settings—was essential for their safety and social support.**

## 2. Recommendations for supporting relationships and community

### RECOMMENDATIONS FROM PARTICIPANTS:

- Ensure that prison staff apply rules about sexual interactions among incarcerated people impartially and fairly, without targeting transgender people.
- Ensure that enforcement of rules related to sexual interactions among incarcerated people focuses on serious, nonconsensual incidents, with attention to trauma, not on minor acts like holding hands.
- Make space for supportive relationships among incarcerated people—especially among LGBTQ+ people—and with people in outside organizations.

Participants in this study spoke extensively about how social relationships with other incarcerated people—especially with other LGBTQ+ people—are an important source of emotional support during the difficult experience of confinement. Some of these relationships involve consensual romantic or sexual elements. The difficulties people face due to facility and system rules that prohibit sexual interactions emerged as another prominent theme.<sup>76</sup>

Respondents suggested changing how prison staff enforce existing rules: focus less on interpersonal interactions, including romantic or sexual actions, that are consensual and/or minor in nature (such as hand-holding or love letters). Because of prejudice and false assumptions, prison staff may perceive transgender people who are incarcerated in ways that are overly sexualized and may therefore be more punitive or targeted in policing transgender people's relationships with others who are confined. Three illustrative comments are:

“[Redacted DOC name] is an extremely oppressive system against [and] towards any same-sex type of consensual relationships. It's been very hard to have a regular stress/drama free physical relationship you can't really have long-lasting marriage like relationships b/c the staff [and] other inmates will cause problems [and] intervene.”

“Yes, less concern about silly things like holding hands, and more concern about trauma counseling and awareness. An issue in prison no matter your identity.”

“I guess relationships are something that will never be allowed and always targeted even if nothing is taking place. Something on love [and] romance in prison.”

Respondents also called on staff to meaningfully consider how relationships among incarcerated people may help people access emotional support—and to recognize that not all such relationships are exploitative or dangerous. For example, one participant wrote:

Corrections need[s] to understand humans are social animals and as such need a degree of basic human contact and emotional investment to maintain a healthy state of mind. Being trans makes that more needed but less available.

Another participant commented: “[I]t's a shame the cops and administration won't allow human nature to happen without punishment for being human[.]”

### 3. Recommendations for supporting social aspects of gender transition, such as with gender-affirming accessories, attire, and rules about appearance and names

#### RECOMMENDATIONS FROM PARTICIPANTS:

- Apply personal style and accessories rules/options equitably at men’s and women’s facilities (such as long hair, shaving supplies, and makeup).
- Ensure that accessories (such as bras) for all genders are available and affordable at all facilities.
- Allow incarcerated people to change their names and pronouns and ensure prison staff respect these choices.

The main policy suggestion related to supporting social aspects of gender transition for incarcerated people was to allow similar standards for people incarcerated in men’s prisons as for people incarcerated in women’s prisons. For example, rules should allow people to wear long hair and makeup, have facial hair, and be able to purchase bras, shaving supplies, and other accessories that are usually only available in either men’s or women’s facilities. In addition to formal policies, ensuring that these items are stocked and at reasonable prices in prison commissaries is important for meaningful access. Three participants offered these comments:

“Let us have our bras, panties, and transition meds without having to go back through [DOC] housing.”

“Giving trans women support bras and access to the ability to order their own undergarments[.]”

“Yes, to allow more social transitions and access to female products. To let us grow our hair out.”

Another key aspect of social transition is to allow incarcerated people to change their names and pronouns—on their official paperwork, on their facility ID cards, and in their everyday social

usage. One person suggested: “Pronoun choice, our IDs to reflect us not say male, maybe trans, or female.” Again, meaningful implementation requires a shift in both rules and culture. Numerous participants reported that even when rules allowed for such changes, prison staff would continue to use the wrong pronouns or names or would use the updated ones in a mocking tone. In one person’s words:

I am viewed [by] prison staff as a male in men’s prison who has a mental disorder. The vast majority of inmates view me as either a potential sex object or a target. I am given hormones but forced to refer to myself as a man, use a male name, present as a male inmate, and live in stressful semi-transitioned [half-life].

One participant suggested finding gender-neutral ways of referring to incarcerated people—even though some of the options (like “offender”) may carry other forms of stigma for some people.<sup>77</sup> They suggested: “respect pronouns. Use word[s like] ‘inmate’ or ‘offender’ not ‘sir’ or ‘mr.’ Do not allow the verbal harassment of LGBTQIA+ people by inmates or staff.”

#### 4. Recommendations for health care

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##### RECOMMENDATIONS FROM PARTICIPANTS:

- Lift prohibitions and create enabling policies to access hormone therapy and gender-affirming surgery.
- Expand eligibility criteria for accessing gender-affirming health care so as not to exclude people whose transition began after admission to prison or who cannot access a formal dysphoria diagnosis.
- Improve the knowledge, inclusiveness, respectfulness, and trauma awareness of medical and mental health staff.



The most significant suggestion for changing formal policies related to health care is to lift prohibitions on and enact policies that proactively support access to hormone therapy and gender-affirming surgery. Respondents suggested that the eligibility criteria should be broader and more transparent—for example, not requiring a person to have socially transitioned prior to incarceration. Another essential point is that some states and facilities allow gender-affirming therapy and surgery but then impose other facility rules based on gender binaries—such as prohibiting women from certain work assignments or programs. This puts transgender people in an impossible and unnecessary position of choosing between a gender-affirming health care process and accessing meaningful activities during confinement. Respondents called on authorities to remove such limitations as much as possible and to ensure that appropriate privacy practices are in place. For example, one person wrote, “to be strip searched per their gender identity, especially while on hormone therapy.” Another person explained,

We should be housed on our own blocks, but not be denied access to programs or religious services, given access to gender affirming clothing, accessories, and cosmetic items, and transitional treatments beyond just hormones.

Meaningful implementation of access to gender-affirming health care also requires that medical professionals working in the prisons fulfill their roles in professional and supportive ways. Broadly, participants called for more access to mental health programs and individual therapy with mental health professionals who were trained in gender-affirming and trauma-informed approaches. Some respondents documented skepticism and negative perceptions of mental health or medical staff’s knowledge of transgender issues and their levels of respect. For example, one wrote:

[W]e are human. We require different healthcare that is not optional or elective. It is lifesaving in many instances. Whether or not you agree with a lifestyle or gender expression is irrelevant.

This is an important shift in practice in general and especially for incarcerated people who must secure a gender dysphoria diagnosis

in order to be eligible for gender-affirming health care, housing, or other programs—and this diagnosis requires a qualified and trusted mental health professional. Participants also recommended that programs for LGBTQ+ people in prison should be expanded, especially peer support groups for people seeking or undergoing medical transition procedures.

## **5. Recommendations related to the Prison Rape Elimination Act and other responses to sexual assault/harassment**

### **RECOMMENDATIONS FROM PARTICIPANTS:**

- Ensure that prison staff use PREA requirements to support transgender people who are at risk of or survivors of sexual assault, rather than to target them.
- Provide the resources and staff to implement key PREA requirements, such as private showers and same-gender strip searches.
- Respond meaningfully and in individualized ways to transgender people’s reports of sexual assaults or threats, including changing the person’s housing assignment.

Sexual assault and harassment are two of the most common sources of distress and harm for transgender people in prison. PREA, which aims to prevent and respond to sexual assault in prison overall, is one of the few policies with which respondents expressed high levels of familiarity. However, participants’ perceptions on the actual effects of PREA were starkly mixed. One person offered this comment about the superficial reach of PREA: “We come up for ‘special review’ and they ask if we feel safe ‘blah blah blah’ but they (staff) do not care and say or do things to put us in dangerous situations. ‘Safe prisons’ and ‘PREA’ is the biggest ongoing joke in [this DOC.]”

Respondents strongly called for better enforcement of the elements of PREA that they found had a meaningful and positive effect on their safety as transgender people, specifically:

- strip searches performed privately and/or by staff of the same gender as the incarcerated person and who respect transgender people, for people who are seeking gender-affirming health care such as hormone therapy;
- privacy during showers and bathroom use;
- more access to channels for reporting sexual assault or threats by other incarcerated people or staff to authorities who are respectful of transgender people;
- more and swifter actions to change the housing situations for people who report assault or threats without relying only on protective custody as an option;
- no retaliation, as well as consequences for staff who use retaliation against people who report through PREA;
- no use of PREA for punishing minor, consensual, nonsexual interactions between incarcerated people, like holding hands; and
- appropriate and well-staffed processes for private strip searches for people who are accessing gender-affirming health care.

One participant explained that staff tasked with coordinating PREA in a prison should be able to relate to transgender people respectfully, “that a female should be our PREA compliance manager and not a man that has his own views and agenda and cannot relate.” Several people noted that for men’s facilities where transgender women reside to implement privacy in showers and strip searches, they need more women staff available on all shifts.

Another participant wrote,

Just because we are different and don't fit in with accepted gender 'norms' does not mean that we deserve to be mistreated, discriminated against, and yes, even raped, any more than so-called 'normal' cis-gender people. We are people who care, love, hurt and yes, have feelings, like everyone

else. There is part of PREA law that says that trans [people in prison] cannot be housed in units or cells where they can be harmed. Here at [redacted facility name] staff deliberately house us in units where we are harmed, assaulted, and raped.

The other concrete policy suggestion was about improving the response to situations in which a transgender person experiences sexual assault or harassment. Respondents called for an expedited review of the person’s housing situation—including taking seriously the incarcerated person’s opinion on which other incarcerated people pose a danger to them—and broadening “safe” housing options beyond protective custody. They also named other services that would help: trauma-informed counseling by people who have a background working with transgender people and programs and peer support groups specifically for LGBTQ+ and transgender people.

## 6. Recommendations for staff conduct

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### RECOMMENDATIONS FROM PARTICIPANTS:

- Improve prison staff’s knowledge, attitudes, and tools for understanding and respecting transgender people.
- Impose meaningful consequences for staff who abuse or harass, or discriminate or retaliate against, transgender people.

For policy change to be effective, staff need to play a key role in implementation and in setting the tone for prison culture overall.<sup>78</sup> Respondents suggested various ideas for how to improve the practices and attitudes of staff, with the most common being training to reduce bias, prejudice, and homophobic/transphobic staff comments and to make staff more respectful toward incarcerated people who are transgender. One person explained, “[O]fficers should have better training on how to deal with LGBTQIA+ people, specifically counselors. Some say homophobic remarks and [then say] that they didn’t.”

Suggested actions to address staff prejudice included:

- Training and other opportunities to learn more about these issues and why they matter and to listen to transgender people about their experiences.
- Enforcement of penalties for staff who consistently break policy/protocol related to discrimination, prejudice, harassment, and violence.
- Enforcement of penalties against staff who retaliate against transgender people who are vocal about their rights or about a particular incident or grievance.

## Conclusion

Three overarching themes emerged in this report in terms of transgender people's experiences in prison: their housing situations; their access to health care and other gender-affirming practices; and their interactions and relationships with other people—from abusive to supportive.

Participants in this project also had clear asks in terms of policy change. These policy recommendations underscore the importance of meaningful input from transgender people who are incarcerated and their advocates at all stages: policy design, implementation, and monitoring. Formal policies should also allow for some flexibility for each person's individual situation: not everyone who is transgender has the same needs, risks, or preferences, and so one-size-fits-all policies or eligibility criteria are too rigid. This report outlines concrete suggestions from people with lived experience of prison on more supportive policies and practices related to housing, relationships and community, social transition and gender-affirming language, health care, PREA and other responses to sexual assault or harassment, and staff conduct.



It is worth noting that most research on incarcerated transgender people to date, including this report, largely discusses the experiences of transgender women, who are typically housed in prisons designated for men, as this represents the situation of most incarcerated transgender people. This report includes responses from 26 transgender men; their comments broadly align with other studies focusing on this group.<sup>79</sup> That is, transgender men in this study reported variation in their housing preferences, and they reported less access to gender-affirming items than transgender women in the study. It is worth noting that gender-affirming items for transgender women are more available in prisons designated for men than gender-affirming items for transgender men in prisons designated for women. This could be because the kinds of items that people mentioned as important for expressing a feminine identity—like bras and makeup—are more generally available than the items that people noted for a masculine identity, such as chest binders. Further research is needed to better understand transgender men’s reasons for their housing preferences and the specific needs of transgender men who wish to live in men’s prisons.

Beyond the specifics of people’s experiences in prison and their recommendations for change, there are some important



overarching messages in this project. Transgender people in prison shared, in urgent and vulnerable ways, that they felt targeted and scared because they are transgender. Prison is harmful and difficult for everyone—and transgender people in prison face additional obstacles and risks related to discrimination and threats. In the words of three respondents:

“When you sentence a transgender individual to prison, you are putting them in very real danger and subjecting them to physical violence, sexual victimization, mental trauma[—] all on a daily basis, with no support, inadequate care and medical attention. While some may argue this is true of any incarcerated persons with transgender individuals it is an absolute certainty.”

“We are some of the most disliked, discriminated against people in prison especially Black people, overall we know how to keep our heads up high and take all the ridicule and hate in stride and overcome it all[.]”

“In here you are treated like a disease [and] if you’re not careful you’ll start believing and acting like that is the truth. As a disease when you ‘expressed’ yourself. You are oppressed, repressed, depressed, ‘cured’[—]anything but treated with humanity every inch gained is by force violence and strength of will here. When you start winning the battle getting rights or the ability to be yourself your looked at like a disease that’s getting worse.”

They also struggled to navigate life in prison due to being the only, or one of just a few, people who were transgender in a given facility or unit. This isolation from other transgender people—in combination with constant exposure to other incarcerated people and to staff—was exacerbated when prison authorities set or enforced rules in ways that did not take transgender people’s concerns and preferences seriously. A common theme in this report is that the respondents who had taken steps to claim certain rights—such as hormone therapy, private showers, an alternative

**Transgender people in prison are caught in multiple sets of constraints and choices that cause further fear and harm. Many of these problems are the direct result of policy and practice.**



housing arrangement, correct pronouns, or reporting assaults—then faced additional scrutiny, retaliation, or placement in solitary confinement. Thus, transgender people in prison are caught in multiple sets of constraints and choices that cause further fear and harm. Many of these problems are the direct result of policy and practice, not just individual attitudes or bias.

For example, one participant shared what they wanted prison authorities and people outside prison to know:

The same thing transpeople outside would say. It's not a choice, it's not deviance, no you can't ask me about what's in my panties, your minimizing and marginalization endangers my life, trans related healthcare is medically necessary[—]and most important[—]transpeople are human beings too, just like you are. . . . The difference between the years of terror (my first 3 years when sexual assault was all too common) and the last decade where I have lived as a strong, proud trans woman [who] fights for my community, has been the concern and support of outside organizations. It makes all the difference in the world.

Many respondents simply asked that governments, prison staff, and the general public see transgender people in prison as human beings with the same wants and needs as all people. For example, one wrote:

[W]e are human beings with the same needs, desires[,] wishes[, and] dreams as anyone else's. We only need [and] desire to be as comfortable with ourselves as is humanly possible within our confinement. We need jobs, education, trades [and] life skills but need to be safe and secure in these pursuits & treated no differently from others in the process.

People in prison recognized the inherent limitations of the institution but also made a positive call for concerted action:

We just want the freedom to be ourselves in an environment where we receive little respect and have complete security from harm. That seems to be asking a lot from a prison, having done

as many years in this environment I know it can be done. It is just a matter of getting everyone to the table and hashing it out.

The enthusiastic response to this survey shows that transgender people in prison want to share their views and want outside organizations to communicate with them. One person explained, “transitioning is a grueling process. They should pen-pal with us and stay in contact regularly. [T]he interaction would certainly make time easier for us to do. [A]dvocate. [A]dvocate. [A]dvocate.”

Finally, one participant’s simple closing statement reflects that the very act of listening to transgender people in prison matters: “Thank you for caring and thinking about us.”

This report is the product of a collaboration between Black and Pink National and the Vera Institute, but the issues it underscores and the recommendations it offers come directly from incarcerated transgender people across the United States. The goal of the report is to contribute to the visibility, detail, and nuance of the experiences of transgender people in prison, so that the broader public will continue to care and think about these issues. In addition to providing updated data on various conditions of confinement, it offers insights and suggestions from transgender people behind bars in their own words. Many of these policy recommendations align with previous research and proposals from advocacy groups. More broadly, this report demonstrates that incarceration is harmful, not rehabilitative, for transgender people in specific and disproportionate ways. Preventing incarceration in the first place is essential, and addressing the needs of people currently in prison is also urgent. To make any real progress in reducing the scope and harm of incarceration of transgender people and building fairer and more effective approaches, policy and practice must involve meaningful, ongoing input from and collaboration with currently and formerly incarcerated transgender people.

# Appendix A: Glossary

## NOTES ON LANGUAGE AND ANALYSIS APPROACH

### Terms related to LGBTQ+ people.

These terms are mostly drawn from Lambda Legal’s *Protected and Served?* report. For additional terms, see PFLAG’s [glossary](#).

- **Person-first language.** This report does not use the terms “inmate,” “offender,” “felon,” or other dehumanizing terms. It generally talks about people who are or were incarcerated. This is deliberate, to focus on the humanity of people and to avoid making their criminal legal system status their defining feature.<sup>80</sup> “Incarcerated people,” in this report, refers to people who have been convicted of or pled guilty to a crime and are confined to prison.<sup>81</sup> When some survey participants use other terms that are common parlance inside prisons, this report quotes their words directly.
- **Gender identity.** “A person’s inner and deeply held understanding of their own gender, which may or may not be the same as assigned or presumed sex at birth. Everyone has a gender identity.”<sup>82</sup>
- **Transgender.** “A term referring to people whose gender identity—one’s inner sense of being male, female, or something else—differs from their assigned or presumed sex at birth.”<sup>83</sup>
- **Gender nonconforming (GNC).** “Gender expression that is different from society’s expectations of gender norms. Anyone, regardless of gender identity, can be gender nonconforming. Additionally, being transgender is not synonymous with being gender nonconforming; many transgender people conform to gender norms.”<sup>84</sup>

- **Nonbinary (NB).** “[P]eople who experience their gender identity and/or gender expression as falling outside the binary of man and woman or who self-identify as such.”<sup>85</sup>
- **GNCNB.** An acronym for “gender nonconforming and/or nonbinary.”<sup>86</sup>
- **LGBTQ+.** An acronym used to describe people who identify as “lesbian, gay, bisexual, transgender, or queer/questioning.”<sup>87</sup>

## GENERAL GLOSSARY

- **Homophobia.** “A fear of or hostility toward lesbian, gay, and/or queer people, often expressed as discrimination, harassment, and/or violence.”<sup>88</sup>
- **Prisons designated for men or women.** Prison systems in the United States use sex assigned at birth as a way to determine facility and housing assignments (with a few exceptions under new legislation). In this report, the authors refer to “men’s prisons/ facilities” and “women’s prisons/ facilities” when talking about existing prisons that house people whom the correctional system designates as men or women because they reflect current institutional practices. The authors recognize, however, that gender is not binary and that people who span the gender spectrum live in women’s facilities and men’s facilities.
- **Prison housing unit.** This refers to a subunit within a prison and conditions vary by security level. Prison housing units vary from the general population, with the least restrictive conditions, to special or alternative housing units, where people are separated based on risk or need for protection. Additionally, separate housing units may be designated based on medical need or other collective identity (such as medical unit, veteran’s unit, LGBTQ+ unit).

- **Prison Rape Elimination Act (PREA).** “A federal law . . . that was enacted in 2003 with the goal of addressing and preventing sexual abuse in detention facilities, such as prisons, jails, immigration detention centers, and juvenile facilities.”<sup>89</sup>
- **Solitary confinement.** “[Holding someone] in a cell, typically for 22 to 24 hours a day, with minimum human interaction or sensory stimuli.”<sup>90</sup> This report asked respondents about solitary confinement generally and about specific institutional categories under which people are held in solitary confinement: disciplinary segregation (for an alleged infraction); administrative segregation (for operational or investigation reasons, broadly defined); and protective custody (to keep a person away from threats in the general population).
- **Transphobia.** “Hatred of, fear of, or discrimination against transgender or gender nonconforming people based on their gender identity or expression.”<sup>91</sup>

## Appendix B: Expanded methodology

Vera research staff administered a paper survey via U.S. postal mail to transgender people currently incarcerated in state prison across the United States from June 2021 to September 2022.<sup>92</sup> This year-long data collection period allowed for anticipated delays in the mail system, out-of-date respondent contact information, and follow-up correspondence as needed. The survey included 92 questions, with a mix of closed and open-ended formats; topics covered trajectories in the criminal legal system, life experiences before and during incarceration, experiences related to health and

other services in prison, perspectives on various general reform ideas, and demographic information. This allowed participants to share their experiences in a way that was standardized and enabled comparison across various demographic and institutional variables. Vera developed the survey in consultation with Black and Pink National, and it replicates parts of the survey that organization administered in 2014. Black and Pink National printed a notice in its monthly newsletter announcing the present survey opportunity prior to Vera's administration of it. Respondents were instructed to take breaks as needed while completing the survey and to skip any questions they did not feel comfortable answering.

The sample was derived from the mailing list of Black and Pink National. Vera administered the survey to people who had proactively subscribed to Black and Pink National's regular newsletter and correspondence (which covers LGBTQ+ issues generally) and had voluntarily self-identified to Black and Pink National as transgender. As respondents had already elected to receive materials from Black and Pink National via mail (which is routinely screened by prison authorities) this strategy allowed greater consideration of the fact that some people may not wish to have their gender identity revealed to corrections staff or other incarcerated people.

Surveys of incarcerated people are a relatively common research method more broadly, including for general information about prison conditions and to document experiences of the social climate of particular facilities and perceptions of fairness.<sup>93</sup> Numerous studies rely on the *National Inmate Survey*, conducted by the federal government, due to its large sample and careful design, as well as the accessibility of the data.<sup>94</sup> In response to doubts in the field of prison surveys about the veracity of the answers that incarcerated people give about their experiences, researchers have tested the accuracy of self-reported data by prisoners compared to other information sources. Generally, these studies find that what prisoners say in self-reported surveys is reliable, even on sensitive topics such as gang membership, misconduct, and past crimes.<sup>95</sup> In some studies, incarcerated people provided additional details in surveys that include open-ended questions that are not possible to discern from official records.<sup>96</sup>

Respondents returned the survey to Vera staff using a provided pre-addressed envelope. All incoming/outgoing prison correspondence must be fully addressed with the incarcerated person's full name. In order to comply with these regulations and also protect respondents' confidentiality as much as possible, respondents were encouraged not to write their name or other identifying information on the actual survey before returning it. Respondents were also informed that the survey was subject to the same monitoring all prison mail undergoes, meaning Vera could not guarantee their participation would remain confidential from prison staff. Eligible respondents were offered a \$10 commissary credit as a participation incentive; however, the majority of respondents were not able to receive these incentives due to state-specific regulations.

The survey was sent to 597 eligible people incarcerated in prisons across 35 different states. Vera received responses from 280 eligible participants located in 31 different states (a 47 percent response rate). Researchers tracked survey responses against the outgoing mailing list Black and Pink National provided. On receipt, researchers coded survey responses using a random identifier and then separated the survey from the respondents' addressed envelope. This allowed Vera staff to track participation for compensation and documentation of informed consent, while also limiting the risk to participants' confidentiality. Vera staff entered responses from the paper survey into a digital tool to perform data cleaning and management.



# Appendix C: Expanded demographic information

This report is based on information provided by 280 respondents in 31 different states.<sup>97</sup> For confidentiality purposes, Vera reports information in aggregate instead of by state.<sup>98</sup> Although Vera received survey responses from people incarcerated in states all across the United States, the majority of responses were received from states located in the Southwest (38 percent) and West (21 percent). Ninety percent of responses came from people housed in men's prisons and 77 percent of these respondents identified as transgender women.

## GENDER IDENTITY

Respondents were asked their gender identity in a multiple-choice format, allowing them to choose multiple gender identities if applicable. Gender identity choices included transgender woman, transgender man, nonbinary, genderfluid, genderqueer, Two-Spirit, intersex, none, or other (respondent filled in description). For the purposes of this report and for confidentiality reasons, Vera has categorized respondents into three exclusive groups: transgender women, transgender men, or gender nonconforming/nonbinary, even though they may have chosen additional gender identities. Vera researchers categorized respondents who chose "transgender woman," either exclusively or along with additional gender identities, as transgender women. The researchers categorized respondents who chose "transgender man," either exclusively or along with additional gender identities, as transgender men. No respondents chose both "transgender woman" and "transgender man." Vera categorized respondents who chose one or more gender identities that did not include "transgender woman" or "transgender man" as gender nonconforming/nonbinary. (Vera uses the abbreviation GNCNB in this report). The researchers made this decision for multiple reasons, most importantly to protect the

confidentiality of respondents who may be otherwise identifiable. Using this classification, the majority of respondents identified as transgender women (73 percent). The remaining respondents either identified as transgender men (9 percent) or as gender nonconforming/nonbinary (18 percent).

### **A note on aggregation of survey data by gender identity, race, and other factors**

This survey presents the answers offered by 280 people. Most of them offered thoughtful, nuanced narrative descriptions of how they define their own gender identity and sexual orientation. Many checked multiple boxes. Similarly, respondents offered an array of descriptions of their racial/ethnic identities; many checked multiple boxes. Because the research team did not conduct interviews with survey participants, it is impossible to know how each participant understands these terms and why they chose one or more box (or not). A thoughtful discussion of the complexities of gender, sexual orientation, and racial/ethnic facets of identity—especially for people documenting this from inside a prison—is outside the scope of this report. The main point is: these categories are limiting, and people have different understandings of certain terms. For the purposes of this report, the authors have taken people’s responses at face value and collapsed some categories for the sake of data analysis because having too many categories within a relatively small sample makes comparisons impossible. Using fewer categories with more people in each group also protects the confidentiality of the people whose identities are less common.

Therefore, this report uses three broad categories—transgender women, transgender men, and gender nonconforming/nonbinary—for most of the analysis in the report. Even though this survey’s sample is not statistically comparable to other surveys of transgender people in prison (including Black and Pink National’s *Coming out of Concrete Closets*), aligning with these general categories allows broad comparison. Other surveys focusing on LGBTQ+ people approach these analytical challenges in a range of ways.<sup>99</sup>

Because of the relatively small sample size of the survey, breaking down every answer into more specific gender identity groups or into groups that combine gender identity and racial/ethnic identity (for example, Black transgender women) was not always feasible, as this led to very few (fewer than 10) respondents per category, making statistical comparisons across groups less meaningful and posing some risk to the confidentiality of respondents. Therefore, for most of the answers throughout the survey, this report presents overall findings. For some, this report notes when transgender women's responses (about three-quarters of the sample) were different than the responses from transgender men.

## **RACE AND ETHNICITY**

To be as inclusive as possible, Vera asked respondents to identify their race/ethnicity using an open-ended question. Based on the responses received, Vera initially placed respondents into 13 different categories. Again, due to concerns regarding respondents' confidentiality and to allow for clearer data analysis, Vera ultimately aggregated respondents into six exclusive racial/ethnic categories: Black, white, Latinx/Hispanic, Native American, Asian/Middle Eastern and multiracial. Just more than half of respondents (51 percent) were people of color, which included respondents who identified as Black, Latinx/Hispanic, Native American, Asian/Middle Eastern, and multiracial. Although most respondents were people of color, white people were the largest single represented racial group, constituting 46 percent of respondents.

**FIGURE 6**  
**Race/ethnicity of respondents**

Aggregation of self-reported race/ethnicity information of respondents (n=280)

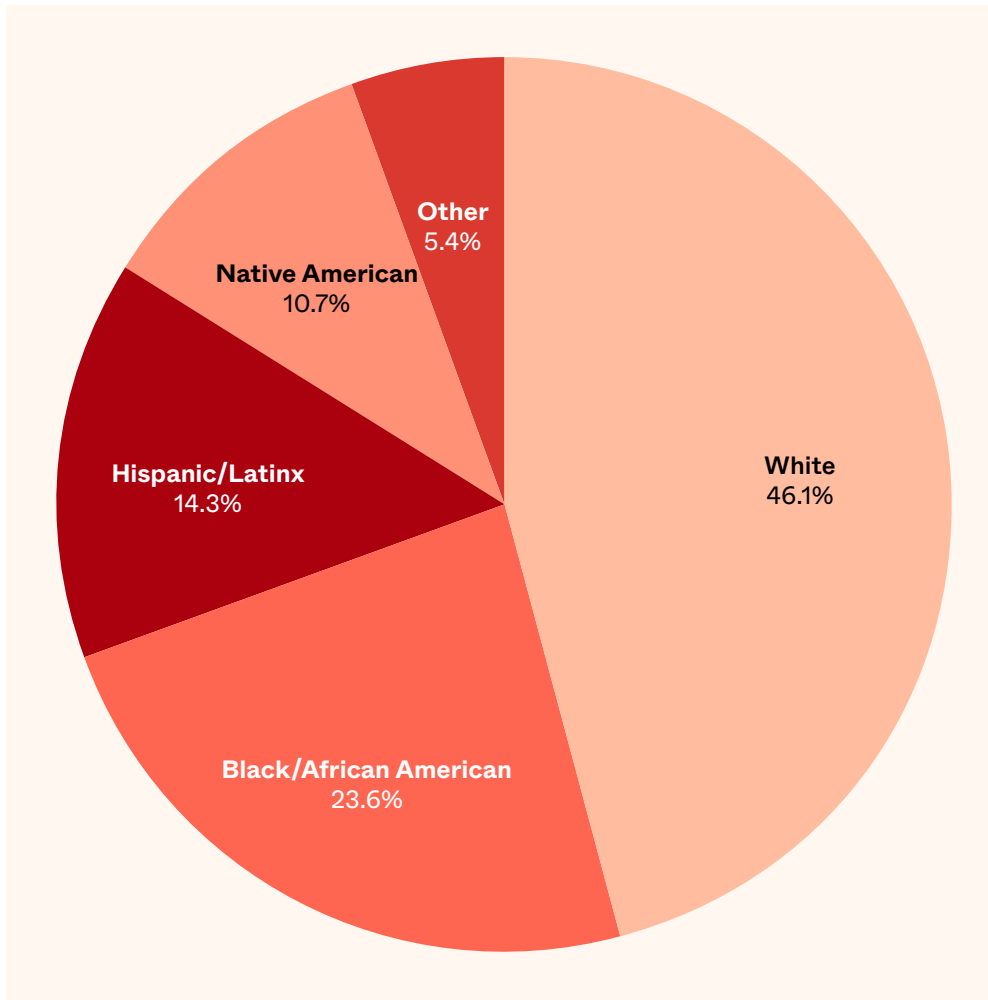


Chart: Vera Institute of Justice • Source: Advancing Transgender Justice survey, 2021–2022

## INTERSECTIONALITY

Looking at race/ethnicity and gender identity together, white transgender women made up 35 percent of respondents, 13 percent were Black transgender women, 4 percent were Latinx transgender women, 3 percent were Native American transgender women, and 17 percent were multiracial transgender women. Transgender men and GNCNB people accounted for smaller proportions of the

sample: 3 percent were white transgender men, 2 percent were Black transgender men, 1 percent were Latinx transgender men, and 0.7 percent were Native American transgender men. Seven percent of respondents were white GNCNB people and 5 percent were Black GNCNB people.

**FIGURE 7**  
**Intersectional identities of respondents**

Aggregation of self-reported race/ethnicity and gender identity information on respondents (N=280)

	<b>Transwoman+</b>	<b>Transman+</b>	<b>GNCNB</b>	<b>Total</b>
White	35.7%	3.2%	7.1%	46.1%
Black/African American	14.3%	3.2%	6.1%	23.6%
Hispanic/Latinx	10.0%	1.4%	2.9%	14.3%
Native American	8.6%	1.1%	1.1%	10.7%
Other	1.4%	0.4%	0.0%	1.8%
Asian/Middle Eastern	0.7%	0.0%	0.0%	0.7%
Blank	2.5%	0.0%	0.4%	2.9%
<b>Total</b>	<b>73.2%</b>	<b>9.3%</b>	<b>17.5%</b>	<b>100%</b>

Totals may not sum to 100% due to rounding.

Table: Vera Institute of Justice • Source: Advancing Transgender Justice survey, 2021–2022

**AGE**

Respondents ranged from 22 to 72 years in age, with an average age of 43.76 years. Respondents between ages 30 and 59 made up 84 percent of the sample.

**EDUCATION**

Respondents were asked the highest level of education they had completed. Approximately 13 percent had completed some postsecondary degree, 28 percent had completed some college,

nearly 34 percent had graduated high school or earned a GED, and nearly 19 percent of respondents indicated that they had completed less than high school.

## **SOCIOECONOMIC CONDITIONS PRIOR TO CURRENT INCARCERATION**

Two-thirds of respondents were working at the time they were incarcerated, but a significant portion reported living with very low incomes: 40 percent reported making less than \$10,000 in the year before they were incarcerated. However, Black people were substantially less likely to say they had been working: nearly 40 percent reported they were not employed at the time they were incarcerated compared to 30 percent of white and Latinx people. Participants also reported undertaking illegal activities to earn money: 39 percent indicated they had sold drugs for money (about half of these reported they did so regularly/frequently); 59 percent indicated they had stolen things for money (about one-third of these said they did this regularly/frequently); and 52 percent indicated they had traded sex for money (half of these reported they did this regularly/frequently).<sup>100</sup>

When asked about their housing conditions prior to their current incarceration, most respondents reported living in a house or apartment they rented/owned (44 percent) or that family or friends rented/owned (28 percent). Still, some respondents reported living in unstable housing conditions prior to their current incarceration: 8 percent were experiencing homelessness, 1 percent were in a shelter, and 2 percent were couch surfing long-term.

## **EXPERIENCES WITH CRIMINAL LEGAL SYSTEM**

Prior research has indicated that transgender people may be more likely to interact with the criminal legal system than their cisgender counterparts, due to factors such as biased policing and increased rates of experiencing homelessness. In the United States, research has shown that LGBTQ+ people are targeted by police based on

their real or perceived sexual orientation or gender identity and that, among that community, transgender people are among those who experience heightened risk of police abuse and misconduct.<sup>101</sup>

Further, reports indicate that transgender people are subject to arbitrary arrest and detention in part due to their “failure to adhere to gender expectations.”<sup>102</sup> Additionally, transgender people are more likely to be unsheltered than their cisgender peers, leaving them more vulnerable to health and safety challenges than those who are sheltered, including harm to self or others, engaging in risky behavior, legal issues, and being forced to do things against their will.<sup>103</sup>

Although the U.S. Department of Housing and Urban Development reported an overall decrease (9 percent) in unaccompanied youth (people under the age of 25) experiencing sheltered homelessness—meaning people experiencing homelessness in emergency shelters, transitional housing, or other temporary settings—the number of transgender youth experiencing sheltered homelessness increased by 29 percent.<sup>104</sup>

In line with this context, the participants in this survey had early and frequent contact with the criminal legal system. More than half (56 percent) were first arrested when they were younger than 18 (11 percent were under 12) and another 27 percent experienced their first arrest between 18 and 25 years old. Participants also experienced frequent arrests: 80 percent had been arrested more than once and the median number of arrests was four. About a quarter of participants had been arrested more than 10 times.

Moreover, more than one-third of respondents were first incarcerated prior to age 18 and 70 percent of respondents experienced incarceration before age 25. The most common type of incarceration was in jail: the average number of times in jail detention was 9.9, with a median of three. Notably, participants reported being incarcerated in a juvenile detention center an average of 3.7 times, with a median of two times. The average number of previous incarcerations in prison was 2.3, with a median of one.



A growing body of evidence suggests pretrial detention leads to worse outcomes for the people who are held in jail—both in their court cases and in their lives—as compared with similarly situated people who are able to secure pretrial release.<sup>105</sup> Indeed, research dating back to the 1950s and 1960s has established a connection between pretrial detention and the likelihood of being convicted and sentenced to incarceration.<sup>106</sup> With this context in mind, Vera found that the vast majority of participants in the survey—92 percent—had spent time in jail before their current incarceration. More than half of participants reported they spent more than a year in jail during the pretrial period, while another 32 percent spent from six to 12 months and 15 percent spent one to five months in jail. Only 2 percent spent less than a month in jail.

One of the most common reasons for jail detention in the pretrial phase was that people were unable to pay bail or were held without the option of bond release. Among respondents, 38 percent indicated that they had been denied bail or could not pay bail. Although a judge will sometimes hold a person in pretrial detention with no option to pay bail, this is typically rare and reserved for people with very serious charges or who constitute a flight risk.<sup>107</sup> Further, 62 percent of respondents reported they accepted a guilty plea in their case. Nearly all criminal cases in the United States are resolved through guilty pleas, not trials.<sup>108</sup> People who are unable to pay bail and are in pretrial detention are more likely to accept a guilty plea than similar people who are on pretrial release.<sup>109</sup>

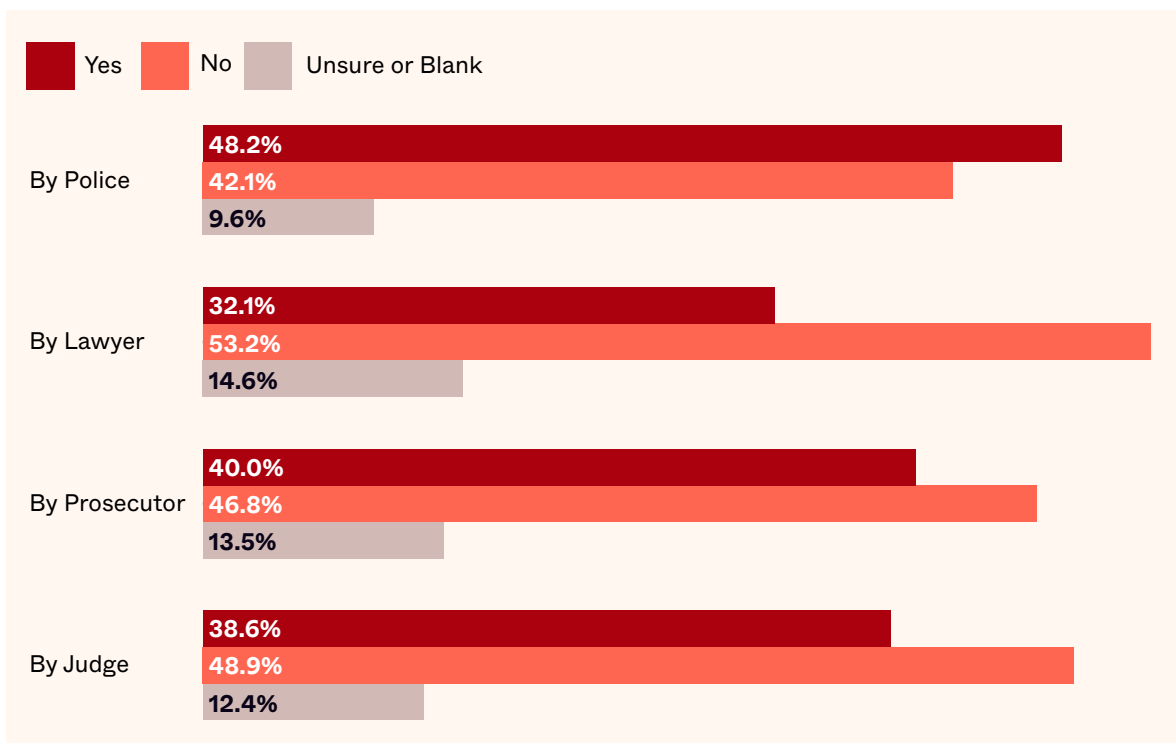
Pretrial experiences are also shaped by the choices, attitudes, and capacity of criminal legal system actors. Four-fifths of survey respondents had a public defender, while 11 percent had a private attorney.

Discrimination based on a person's real or perceived gender identity is a particularly pressing concern for transgender people. When asked about whether they felt discriminated against by system authorities during the pretrial stage due to identifying as transgender, from one-third to one-half of respondents indicated yes, across types of authorities. Of course, this depends on whether the authorities were aware of the person's gender identity—and half indicated that their defense attorney was unaware at the

time. Nonetheless, it is notable that more respondents indicated they felt discriminated against by police (48 percent) compared to other authorities, including defense lawyers, prosecutors, and judges. (See Figure 8.) This aligns with the findings in *Protected and Served?*, in which 45 percent of people who had police contact experienced some kind of misconduct by police, 55 percent reported being misgendered in court, and 30 percent reported being revealed as transgender in court.<sup>110</sup>

**FIGURE 8**  
**Discrimination by criminal legal system actors**

Percentage of respondents who reported feeling discriminated against, prior to their current incarceration, by police, defense lawyers, prosecutors, and/or judges.



Totals may not sum to 100% due to rounding.

Chart: Vera Institute of Justice • Source: Advancing Transgender Justice survey, 2021–2022.

## ENDNOTES

- 1 Vera's research team sent the survey to people who had already identified as transgender to Black and Pink's network (even if not to prison authorities) and the accompanying recruitment letter stated only people who identified as transgender were eligible to participate. Participants who chose to complete the survey indicated their gender identity in two ways: selecting from a multiple-choice question and describing their gender identity in their own words in an open-ended question. (See "Methods and Sample Description" on page 23 and Appendix B for an expanded methodology.) Respondents were instructed to select more than one gender identity, if applicable, and to provide additional information in their own words. Most respondents indicated either transgender woman or transgender man in the closed-ended question, but a portion selected other terms. For analysis purposes, this report groups that portion into an umbrella category of gender nonconforming/nonbinary (GNCNB), but uses this term to refer to people who are transgender but did not select the specific category of transgender woman or transgender man; it does not mean people who are nonbinary and not transgender. Therefore, when referring to all respondents, the report uses the term "transgender people."
- 2 Dr. Valerie Jenness, distinguished professor, criminology, law, and society, University of California Irvine, served as an expert consultant on this project. She has expertise in research focusing on transgender people in prison.
- 3 Somjen Frazer, Richard Saenz, Andrew Aleman, and Laura Laderman, *Protected & Served? 2022 Community Survey of LGBTQ+ People and People Living with HIV's Experiences with the Criminal Legal System* (New York: Lambda Legal and Black and Pink National, 2022), 48, <https://perma.cc/6ZS4-BBAJ>.
- 4 Among the 15 respondents currently incarcerated in women's facilities who answered this question, two-thirds (10 people) said they would prefer to remain in a women's facility and five said they would prefer to go to a men's facility. However, this is a very small sample.
- 5 "Protective custody" refers to putting someone into solitary confinement (also called restrictive housing) for safety reasons to separate the person from threats in the general population.
- 6 Prison Rape Elimination Act of 2003, 34 U.S.C. §§ 30301-30309, <https://uscode.house.gov/view.xhtml?path=/prelim@title34/subtitle3/chapter303&edition=prelim>. See also subsequent national standards: U.S. Department of Justice, "National Standards to Prevent, Detect, and Respond to Prison Rape, Final Rule," 77 Fed. Reg. 37,106 (June 20, 2012), <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/PREA-Final-Rule.pdf>.
- 7 Trans Legislation Tracker, "2023 Anti-Trans Bills Tracker," database, accessed September 15, 2023, <https://translegislation.com>; Anne Branigin and N. Kirkpatrick, "Anti-Trans Laws Are on the Rise: Here's a Look at Where—and What Kind," *Washington Post*, October 14, 2022, <https://www.washingtonpost.com/lifestyle/2022/10/14/anti-trans-bills>.
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- 59 This question did not ask if the person had transferred from a facility designated for the other gender. As discussed in Appendices B and C, the grouping of respondents into three categories of gender identity is a simplification that does not capture the variation in gender identity among transgender people. By comparison, *Protected & Served?* found that 56.4 percent of transgender and GNCNB people who had been or were in prison were housed in a facility different from their gender identity and that this was not their preference, while 16.7 percent were housed in a facility different from their gender identity and it was their preference and 26.9 percent were housed in a facility aligning with their gender identity. Notably, 73 percent of transgender women were housed in a facility that was not aligned with their gender identity or their preferred facility type; that report did not analyze the housing situation of transgender men respondents due to a small sample size. Frazer, Saenz, Aleman, and Laderman, *Protected & Served?*, 2022, 53–54.
- 60 Nearly 14 percent answered “other,” and 2.5 percent of responses were blank.
- 61 Respondents who had reported spending time in solitary confinement at some point during their incarceration (n=248) were asked for the most common reason(s) for that placement and were able to choose multiple responses. The percentages do not sum to zero due to respondents reporting multiple reasons.
- 62 By comparison, the *Protected & Served?* survey found that about two-thirds of GNCNB and transgender respondents with detention experience—68.1 percent and 67.1 percent respectively—said they missed medication for two weeks or more. Frazer, Saenz, Aleman, and Laderman, *Protected & Served?*, 2022, 54–55.
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- 72 *Concrete Closets* found that 47 percent of participants had experienced some type of abuse in their intimate relationships. Lydon, Carrington, Low, et al., *Coming Out of Concrete Closets*, 2015, 53. These concerns are, of course, not unique to people in prison, but incarcerated people have fewer options for seeking help or healthier relationships.
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- 99 See "Previous surveys of transgender people in prison," on page 18.
- 100 This is a higher proportion than the general LGBTQ+ population that reported participating in sex work: *Protected & Served?* reported that about 18 percent of respondents reported they had engaged in sex work for money in the past five

years, and about 25 percent of transgender/GNCNB people reported doing so. Notably, the same survey finds that 45 percent of sex workers had been arrested in the past five years. See Frazer, Saenz, Aleman, and Laderman, *Protected & Served?*, 2022, 42–43.

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