

PROTECTED & SERVED ?

2022 Community Survey
of LGBTQ+ People and
People Living with HIV's Experiences
with the Criminal Legal System

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A Message from Lambda Legal

It's no secret that LGBTQ+ people and people living with HIV have had a tumultuous relationship with the criminal legal system. Just look at our history. From Marsha P. Johnson and Sylvia Rivera leading the Stonewall Riots in 1969 in protest of police violence and the raids of queer bars, to the enactment of HIV criminalization laws during the AIDS pandemic, to the use of sodomy laws to mark LGBTQ+ people as "unindicted felons" until Lambda Legal's *Lawrence v. Texas* victory in the U.S. Supreme Court in 2003, the criminal legal system has been used as a weapon to surveil, police, criminalize, discriminate, and harass us. This is especially true for people who hold multiple marginalized identities, such as transgender people of color. That's why for 50 years, we at Lambda Legal have challenged policies and government agencies that enable discrimination against or target LGBTQ+ people and people living with HIV.

And we continue to do so today because, sadly and painfully, these abuses persist: States across the country are proposing and enacting laws that criminalize young trans and nonbinary people and their families for seeking health care, LGBTQ+ people continue to be incarcerated at higher rates than non-LGBTQ+ people, and states continue to criminalize people living with HIV and people engaged in sex work.

Bias and discrimination against our communities run rampant in the systems that are supposed to "protect and serve" us. We know this because Lambda Legal continues to receive countless requests for help from people who have had negative experiences throughout the criminal legal system. We have also served as counsel in groundbreaking cases challenging discriminatory practices by prison systems and police departments. We have worked with community members and policymakers to repeal unconstitutional laws and push for more protections to keep our community members safe. And Lambda Legal's Fair Courts and Youth in Out-of-Home Care projects are busy advocating for systemic change to our judicial and child welfare systems.

Lambda Legal's first-ever *Protected and Served?* survey in 2012 looked at government misconduct by the police, courts, prisons and jails, and school security. And it confirmed what we already knew through our own experiences and the experiences of our community members: Whether it's by the police, courts, prisons, or school security, our communities experience significant discrimination at the hands of government agents. Over the years, that first report has been an invaluable tool in informing litigation and policy work and has been cited over 150 times by litigators, advocacy groups, scholars, the press, and government entities, including the U.S. Department of Justice and the U.S. Commission on Civil Rights.

Since the release of our first report, we've made tremendous progress in the fight for LGBTQ+ and HIV civil rights, which has been met with widespread, often

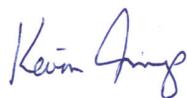


violent backlash. The criminal legal system continues to enable discrimination and inflict violence against LGBTQ+ people, people living with HIV, Black people, and many other marginalized communities. But public awareness and anger have surged, and the calls for drastic reform, accountability, and abolition are louder and more united than ever.

At this pivotal moment, we share with you our findings from the *Protected and Served? 2022* community survey, which we hope will be a vital resource for our communities. This time around, we expanded the survey to include the experiences of detained people, young people, people engaged in sex work, and immigrants, and we asked questions about their interactions with the court system, the U.S. immigration system, government systems focused on youth, and broader law enforcement.

In addition, for this latest iteration, we are honored to partner with Black and Pink National, a prison abolitionist organization dedicated to ending the criminal punishment system and liberating the LGBTQIA2S+ people and people living with HIV/AIDS who are affected by that system through advocacy, support, and organizing. The goal of this partnership is to lift up and center the experiences of LGBTQ+ people and people living with HIV who are or have been detained, whose stories too often are out of public view and largely ignored. Black and Pink National's expertise informed and helped guide this survey and report.

Because the 2022 survey included new areas of focus and framed many questions differently from the 2012 survey, it was not designed to provide specific measures of stasis or change over the past ten years. But on at least two measures, the disparities most likely will leap off the page, just as they did in our 2012 report—people who identify as Black, Indigenous, and people of color (BIPOC) and/or as transgender, gender nonconforming, or nonbinary (TGNCNB) still report significantly worse experience with the criminal legal system. These disparities are stark and raise a moral call to focus and to act. Thus, we hope that this report, like the 2012 report, will inspire, inform, and support your research, advocacy, litigation, and policy efforts to address the abuse experienced by LGBTQ+ people and people living with HIV in the criminal legal system. And we also hope it reminds you that your experiences and lives matter, and that your voices can make a difference.



Kevin Jennings (He/Him)
CEO
Lambda Legal

A Message from Black and Pink National

Liberation. Freedom from shackles. Life expectancy beyond 35. Autonomy. Choice. Are these hopes, dreams, and desires unreasonable? Or beyond what one should aspire to? For decades, Black and Brown LGBTQ+ people, especially Black and Brown trans people, have fought to access even a bite-sized sample of "Life, Liberty, and the Pursuit of Happiness." You see, the criminal legal system has always done what it was intended to do: keep Black and Brown people in order. It's time we call for an end to over-policing, mass incarceration, and the mistreatment of our people at the hands of these systems.

It is for this reason that Black and Pink National was excited to join efforts with Lambda Legal and Strength in Numbers for the second iteration of *Protected & Served?*. All too often the experiences of LGBTQ+ people and people living with HIV are downplayed or altogether dismissed, especially within the criminal legal system. We witnessed this first-hand in 2015 when Black and Pink National released our report *Coming Out of Concrete Closets*. Incarcerated members from across the country shared their experiences of navigating the system while inside. These experiences included the emotional pain and hurt from having to hide their gender identity and/or sexual orientation, excessive use of solitary confinement, sexual assault, little to no access to necessary medical care, and so much more. Disturbingly, eight years following the release of *Coming Out of Concrete Closets* and 10 years after the release of Lambda Legal's first-ever *Protected & Served?* report, LGBTQ+ people and people living with HIV have shared the exact same, or similar, experiences in the *Protected & Served?* 2022 survey. It is unsurprising that many participants from the current survey reported some level of mistrust in the criminal legal system.

As an abolitionist organization, Black and Pink National believes in building upon the work started by community leaders and movement builders such as Angela Davis, Ruth Wilson Gilmore, Mariame Kaba, Mia Mingus, Shira Hassan, and many more. These movements turn to abolition and transformative justice in the eventual dismantlement of the prison industrial complex. Furthermore, Black and Pink National stresses the importance of community care for both freeworld and incarcerated members. These parallel processes are essential to ensure that those who are currently experiencing harm while incarcerated or in community are still receiving care and mutual aid. We call on other organizations, especially those who cite racial and/or social justice as a value, to join us in calling out these governmental acts of aggression, invest in BIPOC and TGNCNB leadership, and continue exploring transformative justice practices.

Finally, and most importantly, we want to thank the community for making this report possible. Due to the number of inside members who bravely shared their experiences with us, participants inside at the time of the survey reflected almost 20% of total participants. The stories and information collected here are

essential as we call out the real life experiences of governmental misconduct. Similarly, trust from and collaboration with the sex work community directly impacted the way in which we asked questions, as well as the quantity of responses we received from sex workers (almost 20% of participants). Therefore, we were able to highlight the importance of seeing sex work as an LGBTQ+ issue. Lastly, we thank the national staff and national volunteer chapter network for getting surveys in front of members across the country. For everyone who played a role, this report is as much yours as it is ours.

In Solidarity,



Andrew Aleman, LCSW
Deputy Director of People Power & National Partnerships
Black and Pink National

Acknowledgments

Lambda Legal, Black and Pink National, and Strength in Numbers extend deep appreciation to the community members, LGBTQ+ organizations, HIV organizations, sex worker advocates, and other allies for supporting this important work and for sharing the *Protected and Served?* survey.

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Finally, and most importantly, we want to thank those who took the time to share their lived experiences with us. We are especially grateful to those who completed the survey while detained. Without the trust, support, and vulnerability from all of you this report would not exist. This report is as much yours as it is ours.

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Introduction

OUR VOICE IS OUR POWER: In 2022, Lambda Legal, in partnership with Black and Pink National, launched the *Protected and Served?* community survey. With this project, we aimed to learn more about the experiences of lesbian, gay, bisexual, transgender, and queer/questioning (LGBTQ+) people and people living with HIV with the criminal legal system, to assess these communities' levels of trust in government institutions, and to create a new resource for community members, advocates, policymakers, and researchers for LGBTQ+ and HIV liberation.

This report describes the findings of *Protected and Served?*. In addition to asking structured questions that provide a quantitative (numerical) account of the participants' experiences, the survey also asked for qualitative data (open-ended questions); these answers were analyzed systematically, and the qualitative findings are included throughout the report.¹ *Protected and Served?* focuses on the widespread harm caused to LGBTQ+ people and people living with HIV by the criminal legal system, including the adult carceral system, immigration system, juvenile systems, the courts, and schools. The report also examines intersectional disparities within these impacted groups of people.²

TEN YEARS IN THE MAKING: In 2012, Lambda Legal first published *Protected and Served?*, a groundbreaking report that explored government misconduct and harm by police, prisons, school security, and courts against LGBTQ+ people and people living with HIV in the United States. The survey found low trust in institutions and high rates of government misconduct against LGBTQ+ people, especially people of color and transgender people, in the criminal legal system. Advocates, government officials, and community members used the original report to support legal arguments; educate the public; train judges, attorneys, and others involved in the legal system; and in many other ways to help identify and uproot discrimination and bias and hold government actors accountable.

Since that original survey, awareness of the ways that the criminal legal system harms Black, Indigenous, and people of color (BIPOC), LGBTQ+ people, people living at those intersections, and others who experience marginalization has grown significantly, thanks in no small part to the 2020 racial uprisings against police violence in response to the murder of George Floyd, a Black cisgender man, by a white Minneapolis Police Department officer. LGBTQ+ people and

***Protected and Served?* focuses on the widespread harm caused to LGBTQ+ people and people living with HIV by the criminal legal system, including the adult carceral system, immigration system, juvenile systems, the courts, and schools.**

¹ This survey is an unusual sample of participants. While all LGBTQ+ people and people living with HIV in the United States were invited to take the survey, those who chose to take it appear to have experienced crimes and misconduct much more frequently than one would expect of a representative sample. Therefore, it is most appropriate to refer to the findings as representing participants in the survey and not as representative of LGBTQ+ people and people living with HIV overall.

² Intersectionality is the idea that systems of inequality and marginalization are all connected, overlapping, and interdependent—LGBTQ+ people of color (for example) experience marginalization not only as “LGBTQ+ people” and as “people of color,” but also in a unique way as “LGBTQ+ people of color.”

organizations have been at the forefront of protests against police violence and the push to address the systemic violence against marginalized communities inflicted by the criminal legal system in this country.

OUR LEGACY OF PROTEST AND FIGHTING BACK: Queer leaders like Bayard Rustin and Pauli Murray helped shape the civil rights movement of the 1960s, which fought for Black dignity and lived equality, including freedom from harassment and violence from police. **The modern movement for LGBTQ+ rights and liberation was sparked by protests against police violence and the government's failure to acknowledge, much less address, the needs of our communities.** At the Stonewall Inn in New York City in 1969, and even earlier at Cooper Do-Nuts in Los Angeles in 1959 and at Compton's Cafeteria in San Francisco in 1966, drag queens and transgender women bravely led resistance against constant police harassment and violence and demanded dignity and respect. In the 1980s, the AIDS epidemic ravaged our communities, and while we mourned so many lives, we also organized, confronted the U.S. government's indifference to the death and suffering of tens of thousands of our community members, fought against systemic discrimination, and took some of these fights to the courts, where we experienced both wins and losses.

For years, we fought for dignity and our basic rights in direct opposition to state laws that criminalized LGBTQ+ people for merely existing. Such laws were used to justify discrimination and violence by both public and private institutions in employment, schools, health care, public spaces, and family law. And for our communities, the scourge of systemic racism and poverty further compounded anti-LGBTQ+ discrimination, leading to increased policing, arrests, and incarceration and further reinforcing marginalization.

The impact of policing and excessive community surveillance enraged activists, who witnessed the mass incarceration of their community members along with the rapid growth of the prison industrial complex (PIC). Communities worked together to build abolitionist and anti-capitalist movements which fought against these systems and worked to address social, political, and economic issues within their spheres. LGBTQ+ leaders have played a major role in the advancement and sustainability of these movements. Abolition has always been a queer and trans movement.

In 2003, in *Lawrence v. Texas* the Supreme Court of the United States held that the U.S. Constitution protects the liberty of LGBTQ+ people to forge intimate personal relationships and engage in private, consensual sexual conduct. While *Lawrence* was a watershed case for LGBTQ+ equality, it was also a victory over police, government misconduct, and the laws that criminalized us. We have made many legal advancements since *Lawrence*, including marriage equality and protections against discrimination in employment, in schools, and in health care. Yet our communities continue to experience high rates of incarceration, school bullying, family rejection of young LGBTQ+ people, and violence.

While *Lawrence* was a watershed case for LGBTQ+ equality, it was also a victory over police, government misconduct, and the laws that criminalized us.

TODAY, OUR FIGHT CONTINUES: Transgender, gender nonconforming, and nonbinary (TGNCNB) people are under relentless attack. The year 2023 holds the distinction of having the highest total number of anti-trans bills introduced in state legislatures across the United States, disproportionately impacting TGNCNB youth. And once again, those in power weaponize the law and the authority of the state to criminalize our existence by banning access to health care, legalizing censorship and discrimination in schools, and punishing parents and caretakers who support and affirm their LGBTQ+ children.

We continue to fight against unjust laws that disproportionately harm LGBTQ+ people and people living with HIV. Since the beginning of the AIDS epidemic, states, law enforcement, and prosecutors have used laws that criminalize and stigmatize people because of their HIV status. For decades, arms of law enforcement have harassed and discriminated against LGBTQ+ people, and specifically trans women of color, with loitering laws—now commonly referred to as “Walking While Trans” laws—which can criminalize trans people on the suspicion that they are engaged in sex work because of how they are dressed or where they are standing. But today, advocates are building support not just to eliminate the loitering laws that often are tools of police harassment, but also to decriminalize sex work, showing that government justifications for those age-old laws tend to be a mix of paternalism, selective morality, and hypocrisy. As our movements have come together, more organizations and lawmakers have joined the fight.

Recognizing that our communities continue to face discrimination and abuse by government entities, we must be equipped with facts and data to bring about urgent and necessary change. Our hope is that *Protected and Served?* will support new research, advocacy, litigation, and policy efforts to address discrimination, bias, harassment, and violence against LGBTQ+ people and people living with HIV by the criminal legal system and hold government entities accountable. Additionally, we hope that this project will contribute to conversations about abolition of the prison industrial complex and reform of the system by working within or with it, two important movements seeking an end to systemic oppression and violence against marginalized communities in the name of the “law”.

Our hope is that *Protected and Served?* will support new research, advocacy, litigation, and policy efforts to address discrimination, bias, harassment, and violence against LGBTQ+ people and people living with HIV by the criminal legal system and hold government entities accountable.

How the Survey was Conducted

In spring 2022, Strength in Numbers conducted 17 interviews with representatives from LGBTQ+ and HIV-focused organizations, sex worker advocates, and allies to inform the content of the survey, outreach techniques, and the wording of survey questions.

From May 1 to September 30, 2022, the survey was available online at www.ProtectedAndServed.org in English and Spanish using a platform called



Qualtrics. Participants were eligible to take the survey if they consented to take it, identified as LGBTQ+ and/or living with HIV, were age 18 or over, and lived in the United States (including Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa). Consenting organizational partners and supportive people disseminated the survey website link to their networks, typically via email and/or social media. The survey was also promoted by the P&S? team via social media, as well as by paid social media ads on Facebook and Instagram. And for one day, the survey was promoted on the Grindr application. Because of the ongoing COVID-19 pandemic, there was limited in-person advertising at community events, such as Pride marches, educational panels, and conferences.

The survey contained eight sections: (1) trust in institutions; (2) experiences of crime and reporting crime; (3) other experiences with police (for those who had them), including police misconduct and how misconduct was addressed, as well as expectations of how police or other law enforcement officer would behave in face-to-face contact (for those who had not had experiences with them); (4) court experiences; (5) detention experiences; (6) sex work experiences (for those who had done sex work); (7) youth experiences (for those ages 18-24 at the time of the survey); and (8) demographic information. At the ends of sections 2 through 7, the survey asked open-ended qualitative questions, each of which was structured as “Is there anything else you would like to tell us about . . .”.

In addition to the online survey, a more limited paper version was available for detained people to take, which also provided an opportunity for qualitative responses. Completed paper surveys were mailed back to the team, who entered and combined the data with the responses from the online survey. See page 12 for more information on the differences between the online and paper surveys.

The surveys were anonymous. All data are self-reported. The responses describe the perceptions of the survey participants and, like all self-reported data, are limited in this way.

How Data Analysis was Conducted

Quantitative data were analyzed in Stata and R, commonly used statistical packages for data analysis. All statistics were checked by a second analyst. To preserve anonymity and assure that statistics are based on sufficient sample sizes, percentages with fewer than 20 participants in the denominator or five in the numerator are not shown.

Qualitative data were analyzed in Dedoose, a coding software for qualitative data analysis. Inductive and deductive coding were used. The open responses included descriptions of treatment by the government actors and institutions described in the survey, the impact of treatment, and a few themes that came up across questions, such as the Prison Rape Elimination Act (PREA), domestic

violence, racism, trust, and examples of positive and negative behavior by government actors.

Further information about methods is available upon request from the authors.

Understanding the Statistics in This Report

This report is written for a wide variety of audiences; thus, certain terms may be more familiar to some audiences than others. We include sidebars comparing the differences between this sample, which is heavily composed of those affected by the criminal legal system, and other samples, such as those drawn from population-based surveys. These comparisons are included for context and broad themes only; direct comparisons between samples are not appropriate because of the differences in sampling techniques and source populations. The same is true for comparisons between this report and the 2012 report. We designed this survey with results of the prior survey in mind, to give closer attention to particular elements of the criminal legal system and frame questions differently to gather more information in particular areas. Still, even with these differences, at least two common themes emerge unmistakably—the disproportionately greater rates of abuse by law enforcement, and the resulting diminution of trust in law enforcement, reported by BIPOC and TGNCNB survey participants.

Just as some terms are more familiar to those more experienced in this topic, some ways of expressing statistics may be new to some audiences. The report uses phrases like “more common” when we mean that something was more commonly reported in one subgroup or another who took the survey, regardless of whether the difference referenced is a statistically significant one.

For readers who are not familiar with odds ratios, we offer the following information. Odds ratios (ORs) above one (1) mean that something is “more likely,” while odds ratios under one (1) mean it is “less likely.” We use phrases such as “more likely” to indicate that the odds of one thing being reported by one group are statistically significantly more likely. Odds ratios in parentheses indicate how much more or less likely. For example, if we said, “Survey participants who had face-to-face contact with police were twice as likely to say that they did not trust local police at all compared to those who did not have face-to-face contact with the police (31.6% vs. 18.7%, OR=2.00),” this means that the odds of people who have had face-to-face contact with police saying that they do not trust local police at all (which are just under 1 to 2) divided by the odds of those who have NOT had face to face contact with police saying that they do not trust police at all (which are just under 1 to 4) is 2.00.

Odds are different from percentages, which may be a more familiar way of presenting data, because they compare the frequency of an attribute to the

absence of that attribute (out of 100 people, 30.6 say that they do not trust the police at all, meaning 69.4 say that they trust the police at least a little bit rather than showing the percentage who have that attribute—in this case, 30.6%).

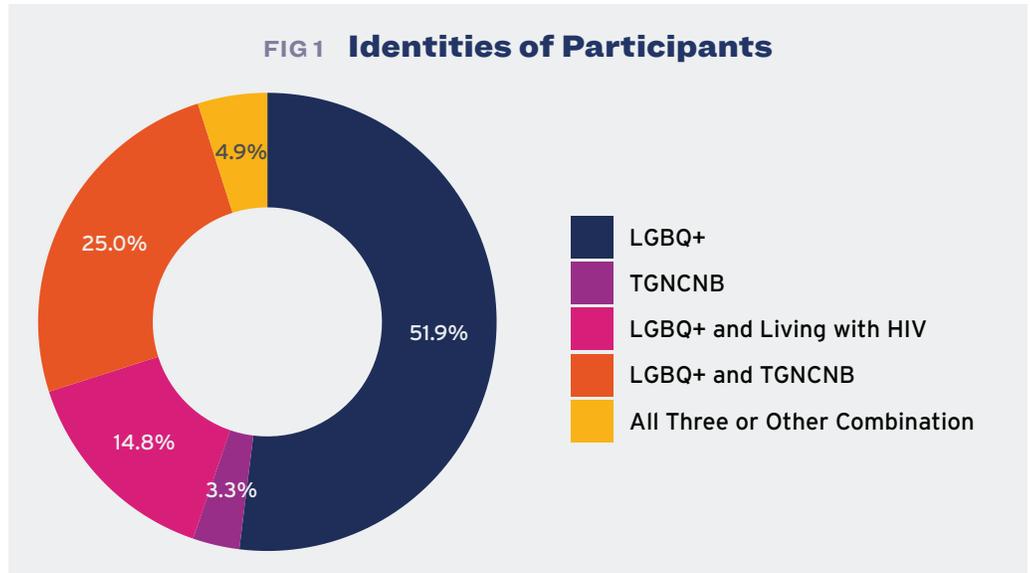
The p-value, which accompanies an odds ratio (and some other types of statistical tests), refers to how certain we are that the finding is correct. When we report significant statistics, we report those with p-values smaller than 0.05, which means that we are at least 95% certain that the differences between the groups are actually there. This is a standard level of statistical significance in many texts.

Findings

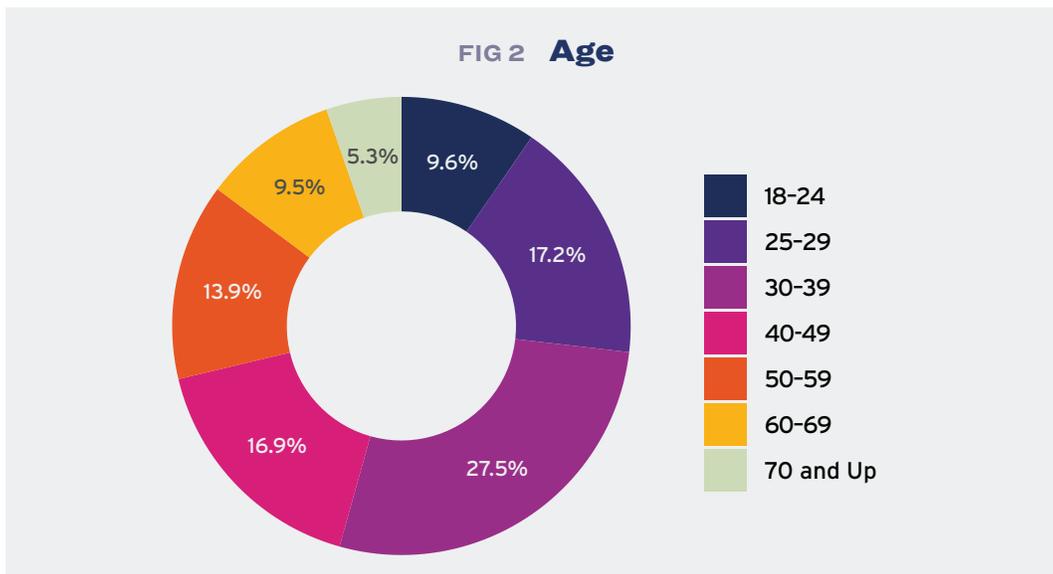
Who Took the Survey?

There were 2,546 survey participants;³ they came from all 50 states, Puerto Rico, and the U.S. Virgin Islands. The largest number of responses were from California (14.6%), followed by New York (12.6%) and Texas (8.5%).

In order to take the survey, participants had to report that they were LGBTQ+ and/or living with HIV. About half (51.9%) of participants were LGBTQ+ only (not TGNCNB or living with HIV) and another quarter (25.0%) were LBGQ+ and TGNCNB. About one-seventh (14.8%) were LBGQ+ and living with HIV, and smaller numbers of participants held other combinations of these identities.

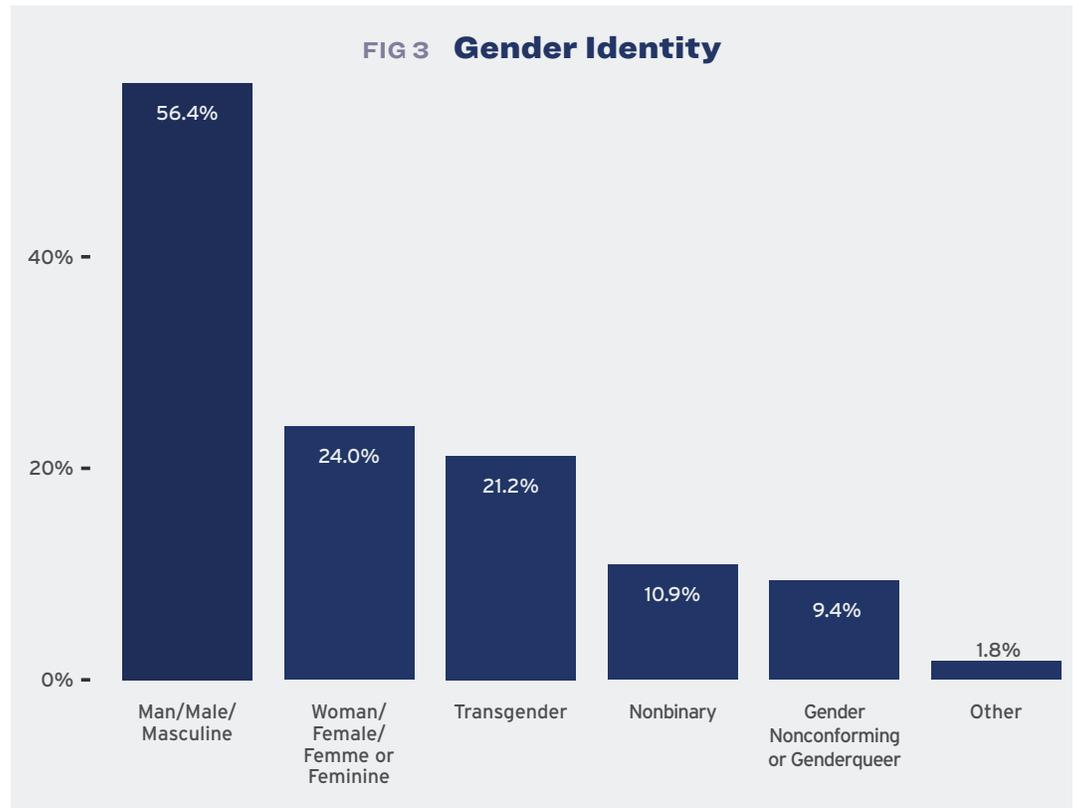


The largest age group in the survey was age 30-39 (27.5%); about one in ten participants were 18-24 (9.6%) and 5.3% were age 70 and older.



³ We received a total of 8,979 survey responses; however, 6,300 (the round number is coincidental) were determined to be bots, were ineligible to take the survey, or did not complete at least 50% of the survey. Details about bot cleaning methodology are available by request of the first author.

The most commonly selected gender identity (participants could choose as many gender identities as described them) was male or masculine (56.4%), followed by female or feminine (24.0%). About one-third (33.1%) of participants were transgender, gender nonconforming, and/or nonbinary. Of the 21.2% who were transgender, 26.8% were transfeminine, 16.8% were transmasculine, and 56.4% were trans and selected either both feminine and masculine or neither feminine nor masculine.



Of those who identified as transgender, 29.4% identified as transfeminine, 16.8% as transmasculine and 53.7% as transgender and neither masculine nor feminine or as both masculine and feminine.

How did we measure and express the gender identities of participants?

On the survey, we asked participants to answer the following question:

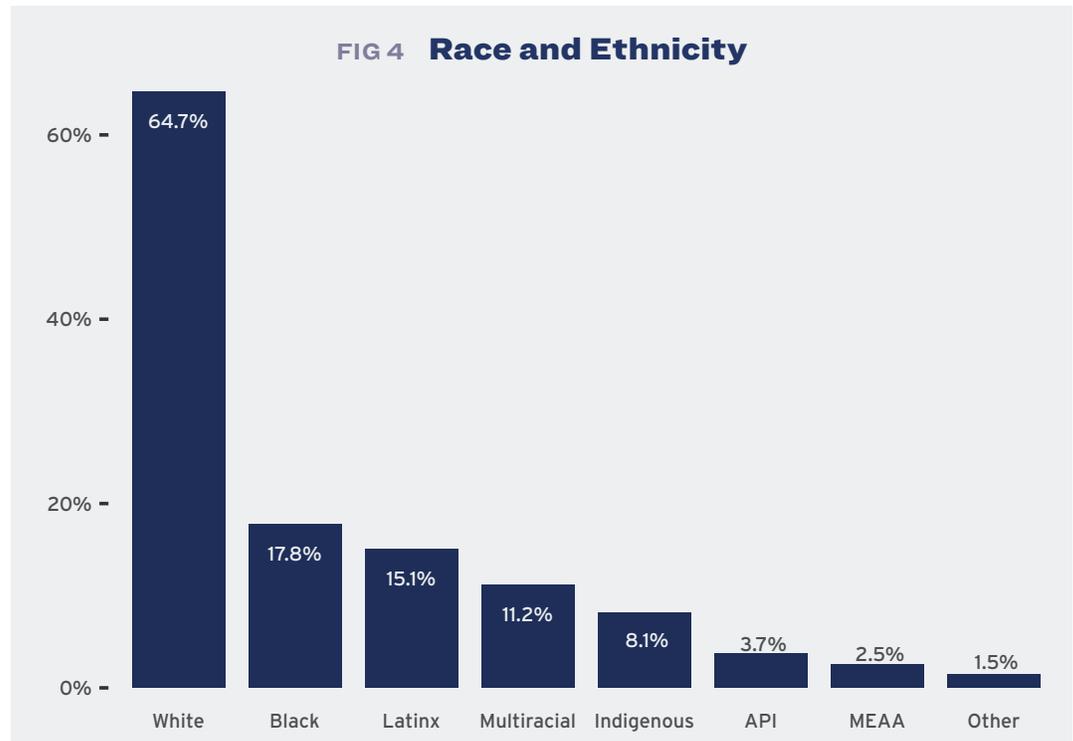
What is your current gender identity? Please check all that apply.

- Man/male/masculine
- Woman/female/femme or feminine
- Transgender
- Nonbinary
- Gender nonconforming or genderqueer
- I prefer not to disclose
- A gender identity not listed here (please specify): _____

We then recoded some of the categories for some analyses we conducted; for example, “transfeminine” participants are those who selected both “woman/female/femme or feminine” and “transgender.” GNCNB participants include all those who selected “nonbinary” and/or “gender nonconforming or gender queer,” as

well as those who selected both “man/male/masculine” and “woman/female/femme or feminine.” It is also worth noting that some trans people identified as neither male/masculine nor female/feminine—or as both. In the text, we refer to this group of people as “trans, neither/both” when we are examining the distribution of genders within transgender participants.

While the most common race or ethnicity (participants could select all that applied to them) among all participants was white (64.7%), **43.0% of survey respondents were people of color.** Over one in six (17.8%) were African-American, Afro-Caribbean, or Black, 15.1% were Latina/o or Hispanic and 11.2% were biracial or multiracial. Fully 8.1% were Native American, American Indian or Indigenous and 3.7% were Asian, Asian-American, or Pacific Islander. About one percent (27 people, or 1.1%) took the survey in Spanish.



How did we measure race and ethnicity and how do we refer to racial and ethnic groups?

While the U.S. Census has long measured race and ethnicity in two separate questions, many survey researchers have begun to use a “check all that apply” method that asks people to indicate all of the racial and ethnic categories that they identify with. The survey asked participants to do this in the following question:

How do you describe your racial and/or ethnic identity? Please check all that apply.

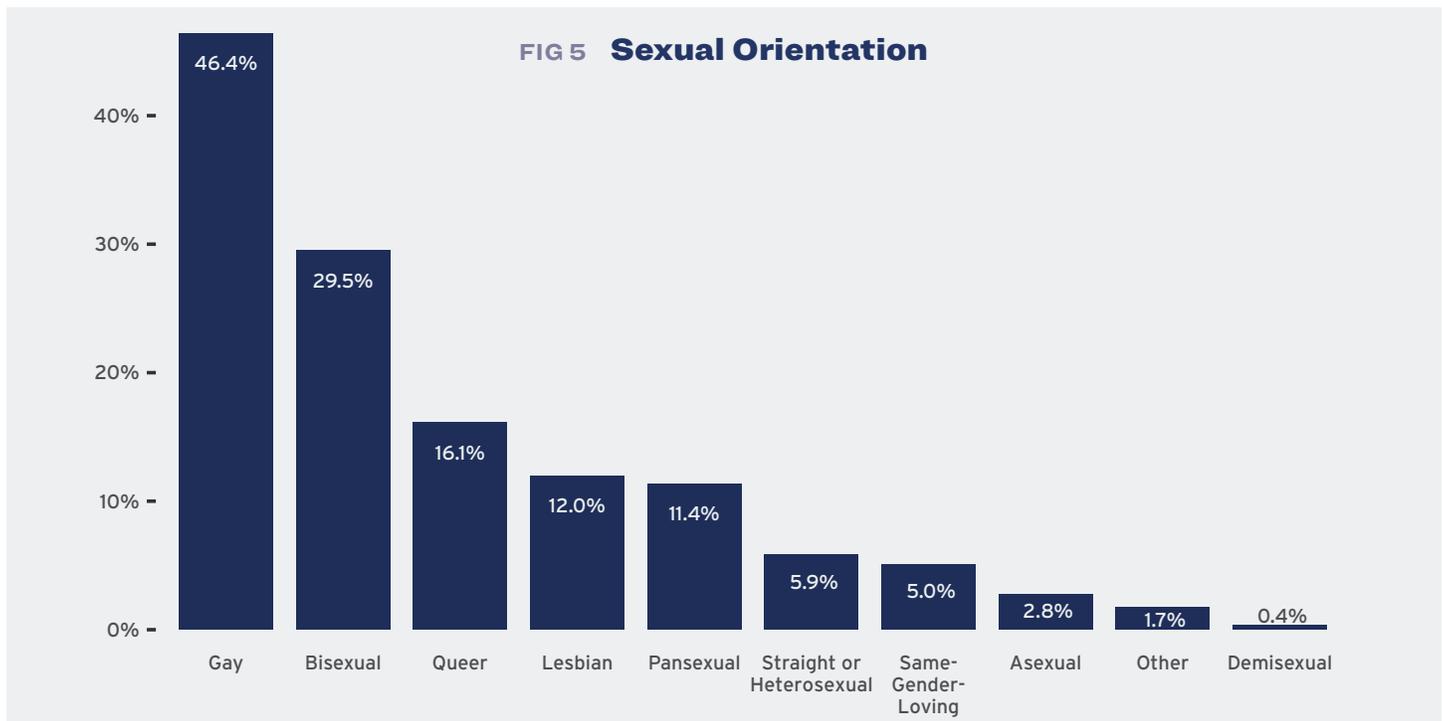
- Native American, American Indian, or Indigenous
- African-American, Afro-Caribbean, or Black
- Latina/o or Hispanic
- White or Caucasian
- Middle Eastern or Arab-American
- Asian, Asian-American, or Pacific Islander

- I prefer not to disclose
 - A race/ethnicity not listed here (please specify): _____
-

Those who selected more than one race or ethnicity were included in the categories they selected and also in a “biracial/multiracial” category. This category also included those who wrote “biracial” or “multiracial” in the “please specify” line of this question.

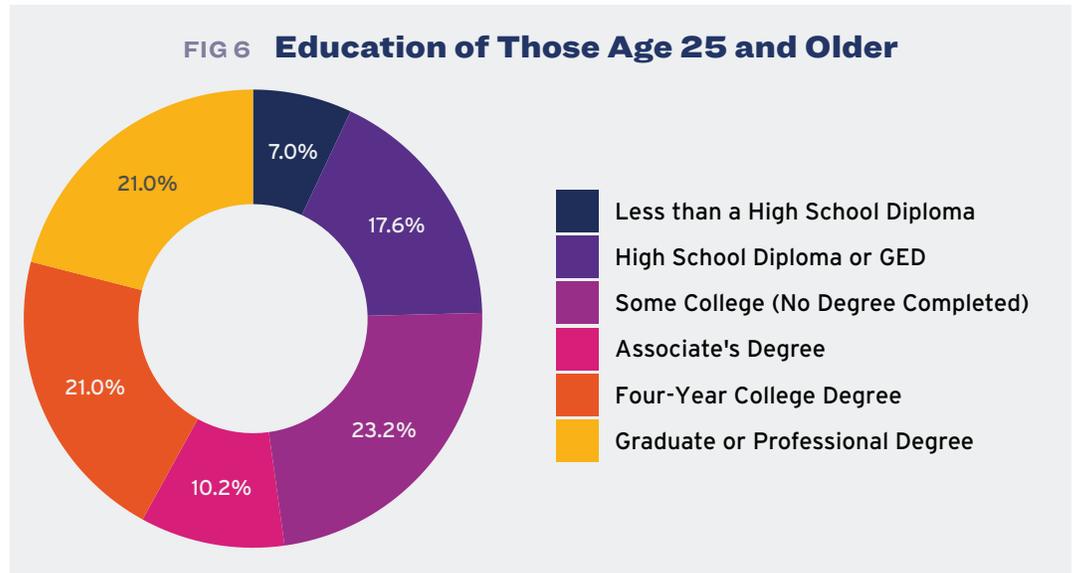
In this report, we use shorter labels to indicate racial and ethnic categories: Indigenous, Black, Latinx, white, MEAA (for Middle Eastern or Arab-American), API (for Asian and Pacific Islander), and multiracial. We use “people of color” to refer to those who selected one or more of these categories, in contrast to those who selected only “white” and no other race or ethnicity. We use “people of color” in analyses to show patterns when all of the groups of people of color have similar differences from those that are white only (for example, when every group of people of color has a higher, and similar, rate of an outcome compared to white participants). Graphs that show race and ethnicity do not include groups that did not meet sample size criteria.

A plurality (46.4%) of participants identified as gay and nearly one in three (29.5%) identified as bisexual. About one in six (16.1%) identified as queer, 12.0% as lesbian, and 11.4% as pansexual.



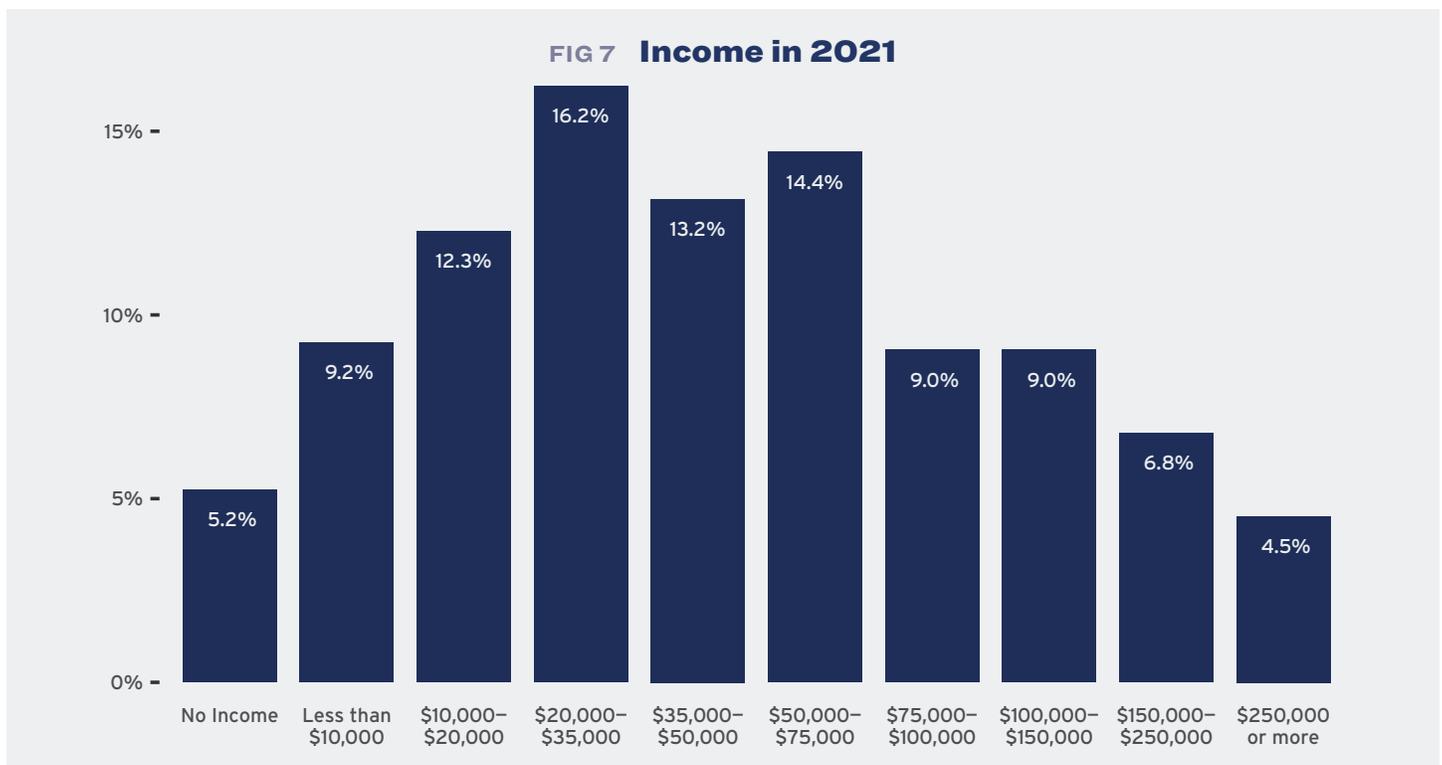
The survey also asked participants about their immigration status. Nearly nine in ten (89.4%) were U.S. citizens, and a further 6.0% were permanent residents. There were also 2.4% who were undocumented, 2.1% who were on student or employment visas, and 0.2% who had a temporary status such as Temporary Protected Status (TPS) or Nicaraguan Adjustment and Central American Relief Act (NACARA).

Among survey participants ages 25 and older, the most common educational status was having completed “some college” (23.2%). About one-sixth (17.6%) had a high school degree or General Educational Development (GED) diploma, while just over one in five (21.0%) had a graduate or professional degree.

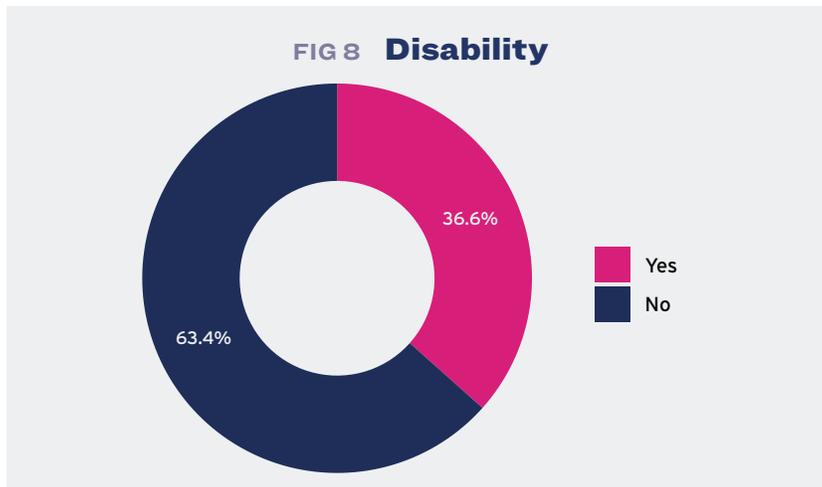


Income varied: most participants earned between \$20,000 and \$75,000 in 2021 (the survey did not ask participants who were detained at the time of the survey about their income).

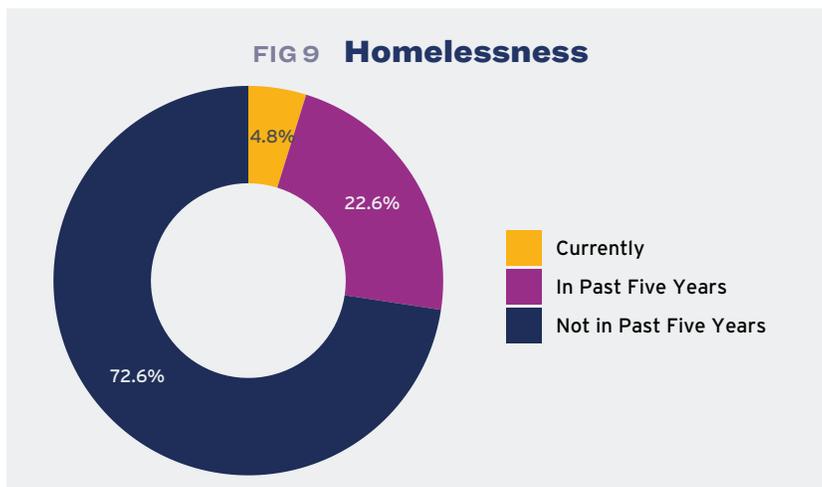
About one in five (18.3%) had children under 18 living with them at least part of the time.



Over one-third (36.6%) were living with a disability.



Experiences of homelessness were common: 4.8% of participants were currently homeless and 22.6% had been homeless in the past five years.



What questions were asked of participants in detention?

This box describes the differences between the main survey, which was available online through Qualtrics, and a modified paper survey that was available for detained participants.

There were 421 survey participants who were in detention at the time they took the community survey. Because the survey was initially designed to be taken online and programmed to show only relevant questions, it had to be modified to apply to this population and to be taken on paper.

Detained participants reported on their experiences with the court system in the past five years as defendants in criminal court only. The modified paper survey did not include questions on other roles or experiences in other courts. As with other participants, if detained participants had not appeared in court during this timeframe, their responses to any other questions about court experiences were not included in the analysis. The survey asked whether detained participants experienced mistreatment by any court employee as it related to their disability, immigration status, HIV status, sexual orientation, gender, or race while appearing as a defendant in the criminal court system.

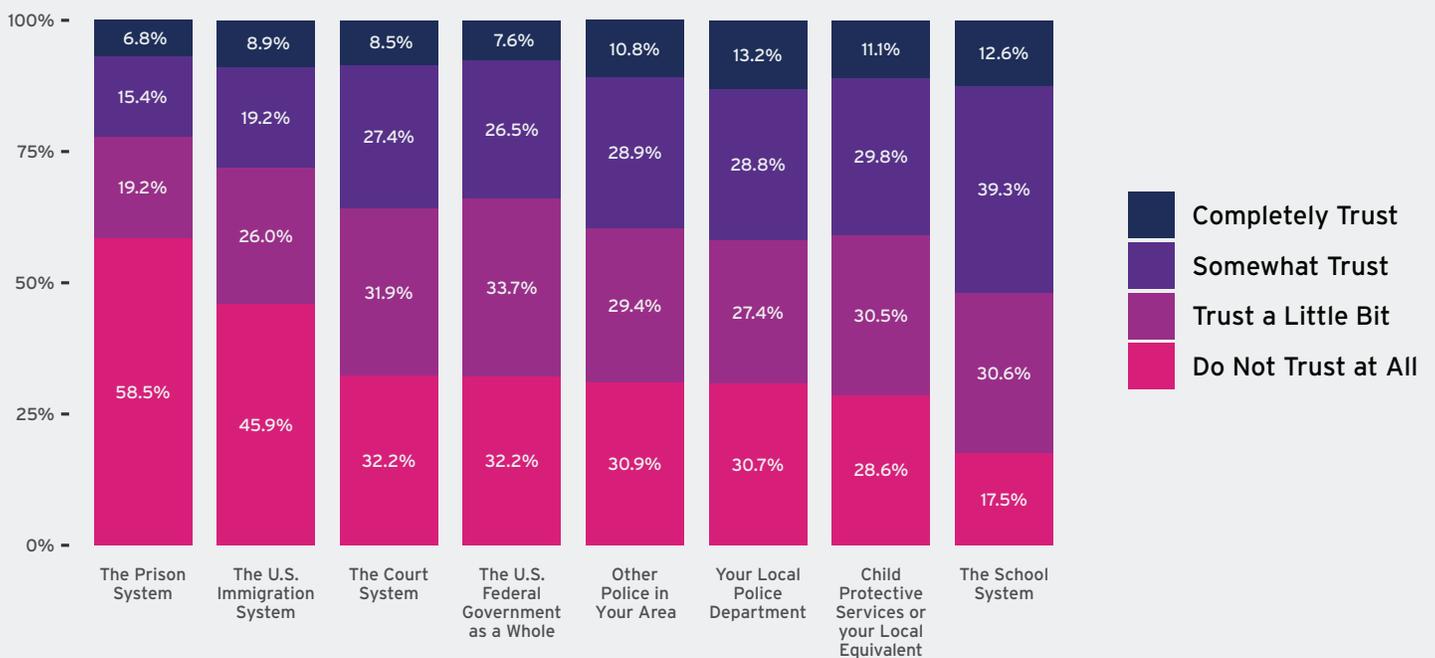
Participants also reported on their experiences with assault in detention and if they were granted accommodations for disabilities as well as accommodations that matched their gender identity. They were asked about their trust in institutions (e.g., local police, other police, the immigration system). Alongside demographic questions about race, age, gender identity, sexual orientation, education, and immigration status, they were asked to report on their HIV status, their experience with homelessness, and any interruptions in needed medication. Participants in detention were not asked to report on any victimizations with property crime, domestic violence, hate incidents, personal assault, sex work, or any police encounters in the past five years. The paper survey also excluded questions relating to participants' childhood and adolescence (experience with foster care and police or security in high school).

For more information on the experiences of detained participants, please explore the companion [Spotlight Report: Detained Participants](#).

Trust in Government Institutions

Similar to the *Protected and Served?* 2012 report, this survey measured trust in eight government institutions. Most recent research finds that trust in these types of institutions—the federal government and police in particular—is declining (Gallup, 2022). In the *P&S?* 2022 survey, the government institution most commonly “not trust[ed] at all” was the prison system, with over half (58.5%) of participants saying they “do not trust [the prison system] at all.” In contrast, just 17.5% said they do not trust the school system at all.

FIG 10 Trust in Institutions



Levels of trust differed meaningfully by age and gender, but race/ethnicity had very little effect. Those over age 50 trusted institutions more and were more likely to say they “trust a little bit” or “somewhat trust” than younger participants (ORs ranged from 1.29 for the immigration system to 2.50 for the local police; all were statistically significant). Both trans and GNCNB participants

were more likely to answer “do not trust at all” about all eight institution types (ORs ranged from 1.50 for schools to 3.00 for other police for trans vs. non-trans participants and from 1.44 for schools to 3.00 for other police for GNCNB participants vs. non-GNCNB participants).

As the next section will illustrate, many survey participants had contact with the police in the past five years. These participants were particularly unlikely to say that they trusted their local police. Almost twice as many of those who had contact with police said they do not trust their local police at all compared to those who did not have contact with police (31.6% vs. 18.7%, OR=2.00).

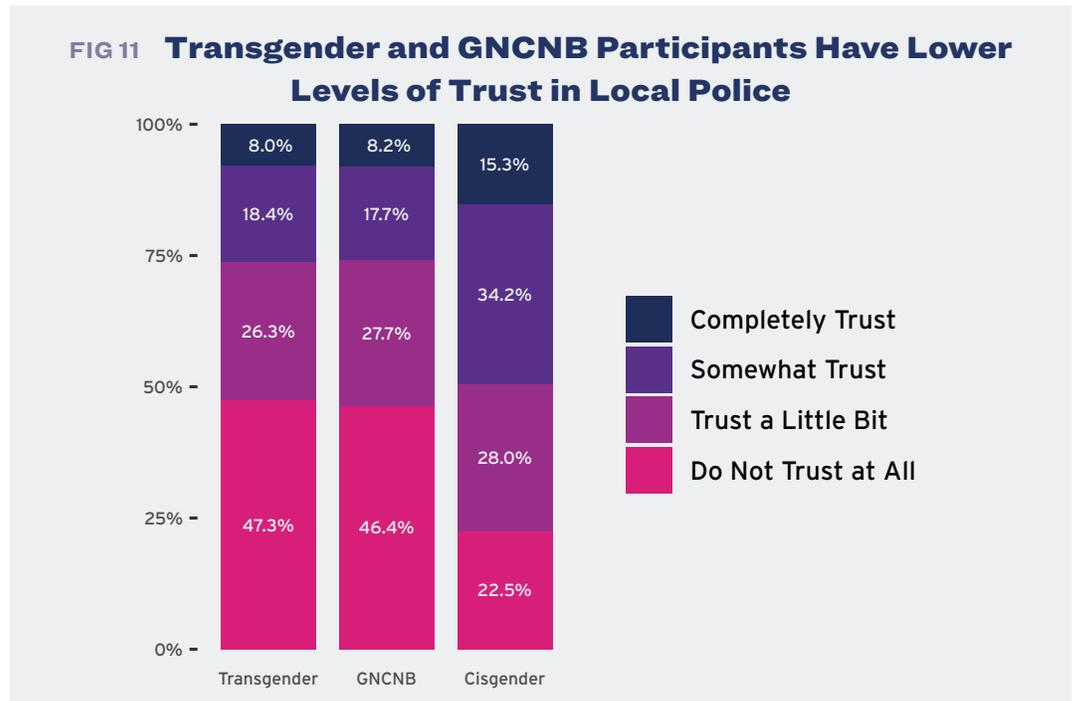
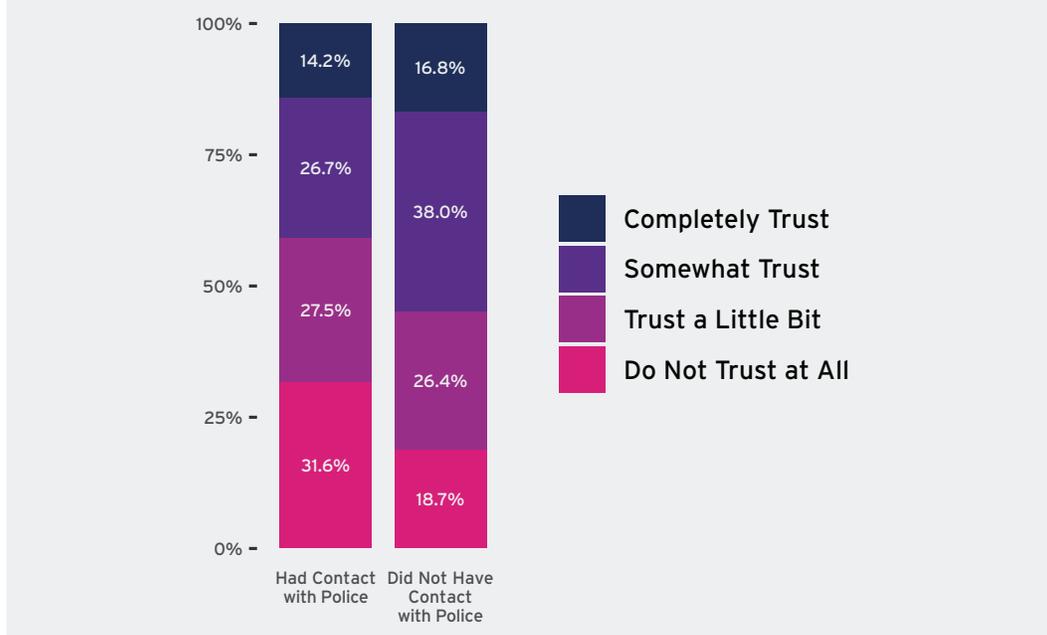
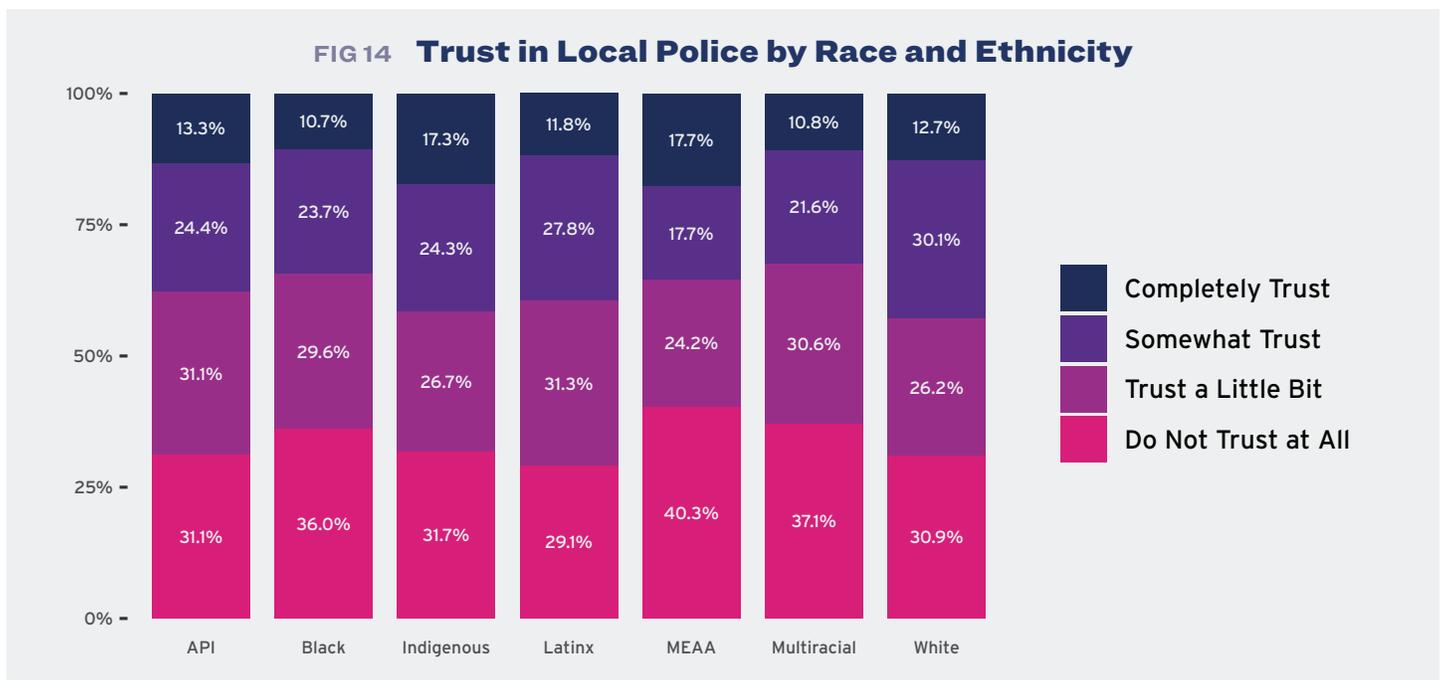
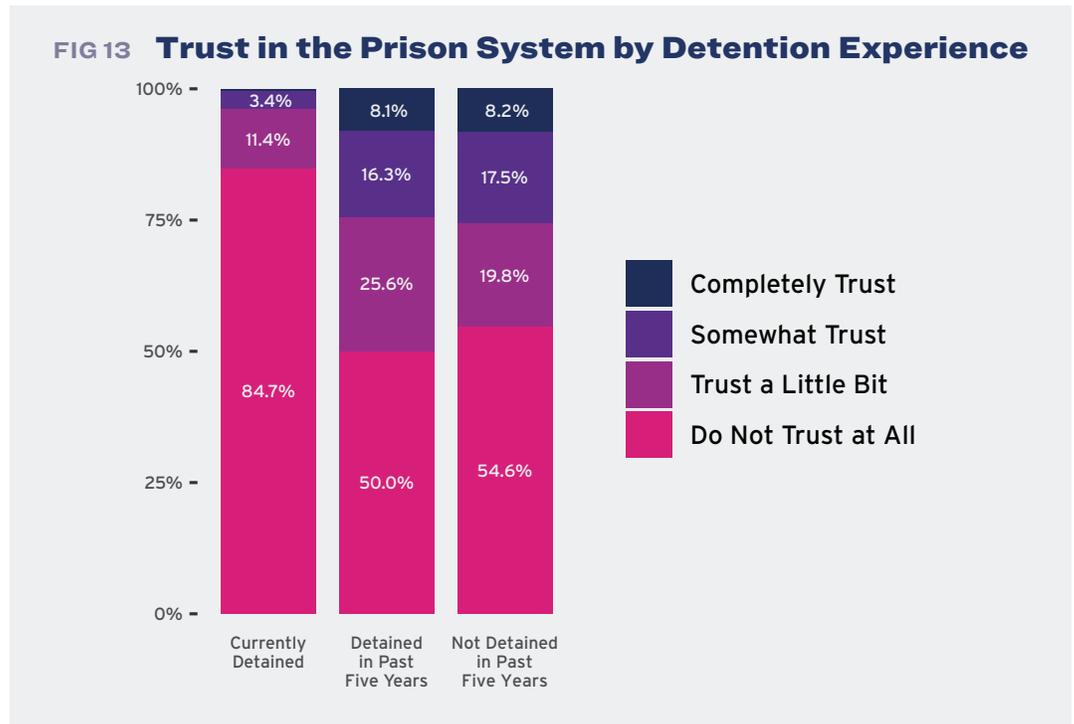


FIG 12 Participants Who Had Contact with Police in Past Five Years Have Lower Levels of Trust in Local Police



Participants who had contact with the police in the past five years were twice as likely to say that they do not trust their local police at all.

Unsurprisingly, those who were currently detained were much more likely to say that they do not trust the prison system at all (OR=4.86, 84.7% vs. 53.3%). More surprisingly, those who had been detained in the past five years (but were not currently) reported similar levels of trust in the prison system as those who had not been detained in the past five years.



The differences in trust in local police between racial and ethnic groups were small; the only statistically significant differences were among Black (36.0% of Black participants did not trust the police at all vs. 29.5% of non-Black participants, OR=1.34) and multiracial (37.1% vs. 29.9%, OR=1.38) participants, and these differences are not statistically significant when differences in age distributions are accounted for (Black and multiracial participants were younger, on average, than their counterparts, and younger participants had lower levels of trust in the police, so what look like racial differences can be explained by age differences). Finally, noncitizens were more likely to trust each institution type listed compared to citizens (data not shown).

Experiences and Expectations of Police Behavior

Police and other law enforcement officers are charged with protecting and serving the public. The modern movement for LGBTQ+ rights and liberation was sparked by protests against police violence and the government's failure to acknowledge, much less address, the needs of our communities. These issues continue today. In 2020, throughout the United States and across the globe, people engaged in protests and demonstrations against racial and police violence. For BIPOC LGBTQ+ people, police violence and misconduct are compounded based on race or ethnicity as well as sexual orientation or gender identity (Lambda Legal, 2015).

LGBTQ+ people and people living with HIV face disparate levels of policing in all aspects of our lives, and many of us experience bias and discrimination in interactions with law enforcement, including when seeking help. The 2012 *Protected and Served?* survey found that 73% of participants reported face-to-face contact with law enforcement in the past five years (Lambda Legal, 2015). Other studies have found that **LGBQ people are more likely to be stopped by the police than straight, cisgender people, including while driving and even while walking on the sidewalk (Luhur, Meyer, & Wilson, 2021). For decades, police have targeted LGBTQ+ people through profiling, stings, and raids.** Law enforcement officials persistently profile LGBTQ+ people, particularly transgender women of color and LGBTQ+ youth of color, as being engaged in sex work (Stoudt, Fine, & Fox, 2012; see also Mogul et al., 2012; Make the Road New York, 2012). Due to homophobia, biphobia, and transphobia within police departments, LGBTQ+ people of color, transgender people, and youth experience particularly high rates of harassment and discrimination by law enforcement (Mallory, Hasenbush, & Sears, 2015).

Since the 2012 survey, a number of police departments have made changes to their guidelines and training materials to address biases and prejudices in their interactions with LGBTQ+ people. These changes have largely been driven by litigation and community advocacy against abusive and discriminatory practices that target communities of color and LGBTQ+ people. Even with these new policies and training requirements, studies show that law enforcement departments and government agencies continue to fall short when it comes to providing proper oversight, enforcing these policies, and providing ongoing training or accountability measures to ensure that officers understand and comply with them (U.S. President's Task Force on 21st Century Policing, 2015; New York City Department of Investigation, 2017).

For the *Protected and Served?* 2022 report, we wanted to dig deeper and better understand the experiences of LGBTQ+ communities and people living with HIV with police and other systems of law enforcement. The survey found that participants' experiences and levels of trust in police and other law enforcement varied based on their identities and lived experiences. Some survivors of

LGBTQ+ people and people living with HIV face disparate levels of policing in all aspects of our lives, and many of us experience bias and discrimination in interactions with law enforcement, including when seeking help.

harassment and violence said that the police took their reports seriously and treated them with courtesy and respect. Others, however, indicated that the police did not take their complaint seriously, treated them badly, or were even the perpetrators of the harm.

Over half (57.2%) of those who participated in the survey had face-to-face contact with police in the past five years. Of those, less than a quarter (23.6%) had contact once, 56.7% had contact two to five times, and about one in five (19.7%) had contact more than five times. Those under age 50 were about 85% more likely to have had contact with police compared to those age 50 and over (59.6% vs. 44.5%, OR=1.84). Of those who had contact with police, those under age 50 were particularly likely to have had contact more than five times (21.1% vs. 9.5%, OR= 2.56).

People of color overall were no more likely to have had contact with police in the past five years than those who were white only (data not shown); however, multiracial and Black participants were more likely to have had contact with police. There were significant differences between those who were multiracial compared to those who were one race only (64.7% vs. 56.3%, OR=1.42)⁴ and those who were Black compared to those who were not Black (64.0% vs. 55.8%, OR=1.41).

TGNCNB participants were also more likely to have had contact with police in the past five years (66.3% vs. 53.2%, OR=1.74). Nearly three-quarters (74.4%) of Black TGNCNB participants had had contact with police.

The survey asked those who did have contact with police how the officers behaved toward them during their most recent face-to-face experience. They were asked three types of questions about their treatment, measuring how seriously the police took them (vs. how skeptical or dismissive they were), how fairly they were treated, and how courteously they were treated (vs. being treated with hostility).

Participants reported mixed experiences, with over one-quarter (26.5%) saying the police took them very seriously and a similar percentage saying the police treated them with skepticism or dismissed them (26.1%). Just about one in four (24.8%) said the police treated them very fairly, while about one in five (20.2%) said the police treated them very unfairly. About three in ten (29.3%) said they were treated courteously, while under one in ten (9.0%) were treated with hostility.

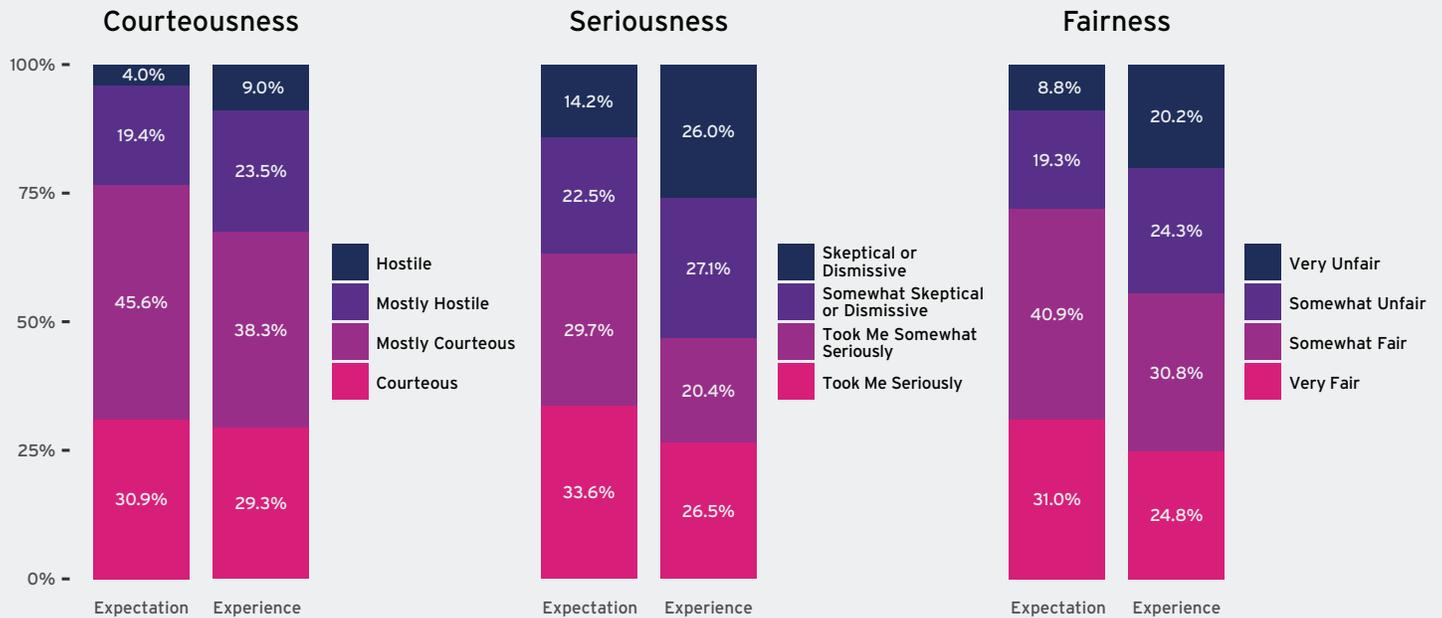
Those who *did not* have contact with police had more positive expectations of their encounters than the reality of those who *did* have contact with the police. For example, while over three in ten (31.0%) said they expected to be treated fairly, only about one in four (24.8%) said the police did treat them fairly. Just

Nearly two-thirds of Black participants had contact with police in the past five years compared to slightly over half of non-Black participants.

⁴ When controlling for age, those who were multiracial were marginally statistically significantly different in terms of their contact with police (p=0.06).

4.0% expected to be treated with hostility, while nearly one in ten (9.0%) experienced this.

FIG 15 Police Treatment: Expectations Among Participants Who Did Not Have Contact With Police and Experiences Among Those Who Did



These gaps between expectations and experiences were also evident among trans people, gender nonconforming and nonbinary people, and people of color. Overall, in terms of both expectations and real experiences, trans people, gender nonconforming/nonbinary people, and people of color were more likely to say that police were or would be very hostile, very skeptical, and very unfair to them (not all data are shown). For example, compared to those who were not TGNCNB, TGNCNB people were over four times as likely to expect that the police would be very unfair to them (19.6% vs. 5.7%, OR=4.03). TGNCNB people who had experience with the police were also over twice as likely to report that the police treated them very unfairly (28.6% vs. 15.8%, OR=2.14).

Open-ended responses illustrated that police behaved differently toward trans participants after they transitioned compared to before. As one white trans nonbinary participant said, *“Every interaction I have had with police in my lifetime, especially after I came out as trans and started appearing more gender nonconforming, has been overwhelmingly negative.”* A white transwoman also explained, *“I am a transwoman. The police have viewed me as the one at fault and/or treated what I had to say as being worth nothing. Wasn’t that way before I transitioned.”*

The survey also asked those who had face-to-face contact with police if they had been stopped because police thought they were doing sex work; 15.5% said yes, while a further 8.9% were not sure. Being stopped because police

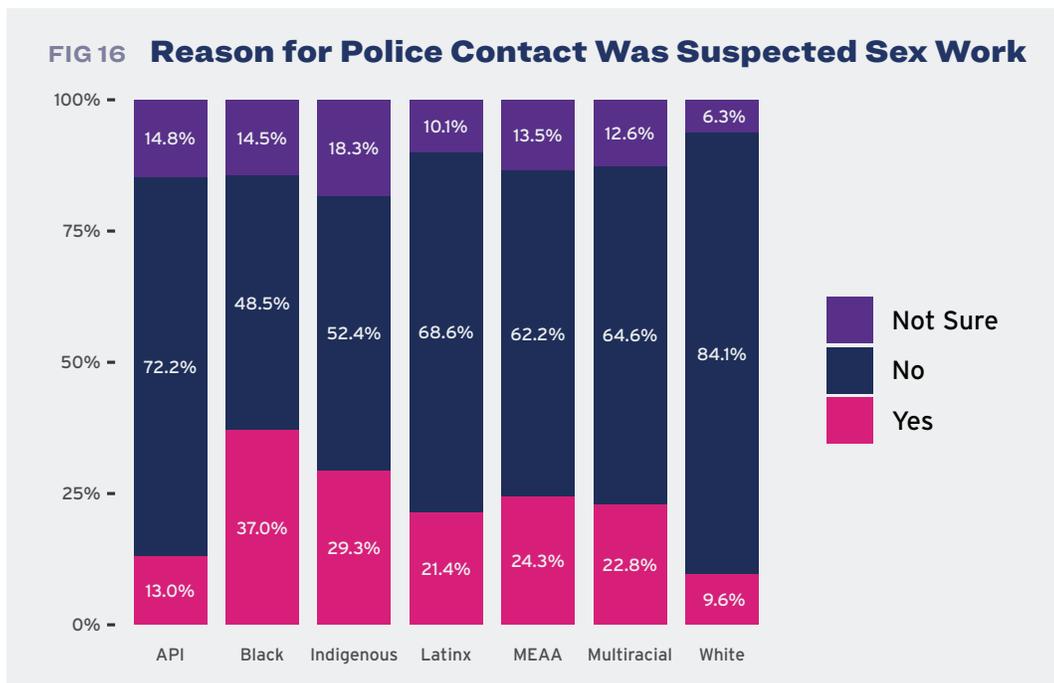
Overall, in terms of both expectations and real experiences, trans people, gender nonconforming/nonbinary people, and people of color were more likely to say that police were or would be very hostile, very skeptical, and very unfair to them.

suspected them of engaging in sex work was more common among trans survey participants compared to non-trans survey participants (21.0% vs. 14.1%, OR=1.61) (excluding those who were not sure). This was particularly true of those who identified as trans but did not identify as male or female or who identified as both male and female (31.8% vs. 13.5%, OR=2.98). People who were not U.S. citizens were much more likely to have been stopped because the police suspected they were doing sex work (41.9% vs. 11.5%, OR=5.56). Finally, people of color (26.0% vs. 8.3%, OR= 3.86), particularly those who were Black (37.0% vs. 11.3%, OR=4.62) or Indigenous (29.3% vs. 14.7%, OR=2.40), were more likely to say they had been stopped because police perceived or assumed they were a sex worker.

Additionally, of those who had face-to-face contact with police, 23.6% said police asked for proof of their immigration status. People of color were more likely than were those who were white (only) to be asked for proof of their immigration status (40.8% vs. 11.4%, OR=5.35). This was particularly true of Black participants (56.6% vs. 17.0%, OR=6.38, see figure 17).

“Every interaction I have had with police in my lifetime, especially after I came out as trans and started appearing more gender nonconforming, has been overwhelmingly negative.”

— a white trans nonbinary participant



Those who were not U.S. citizens were much more likely to have been asked for proof of their immigration status compared to U.S. citizens (77.9% vs. 15.5%, OR=19.11).

Nearly half (45.2%) of participants who encountered the police face-to-face indicated they experienced misconduct, such as being accused of an offense they did not commit (31.2%), being verbally assaulted (25.1%), or being sexually harassed (13.4%). Unsurprisingly, people of color (57.6% vs. 37.0%, OR=2.31), particularly those who were Black (71.3% vs. 40.2%, OR=3.68), were more likely to indicate that they experienced police misconduct, as were those who were living with HIV (60.9% vs. 38.1%, OR=2.53), who were non-citizens (76.1%

FIG 17 Police Asked for Proof of Immigration Status

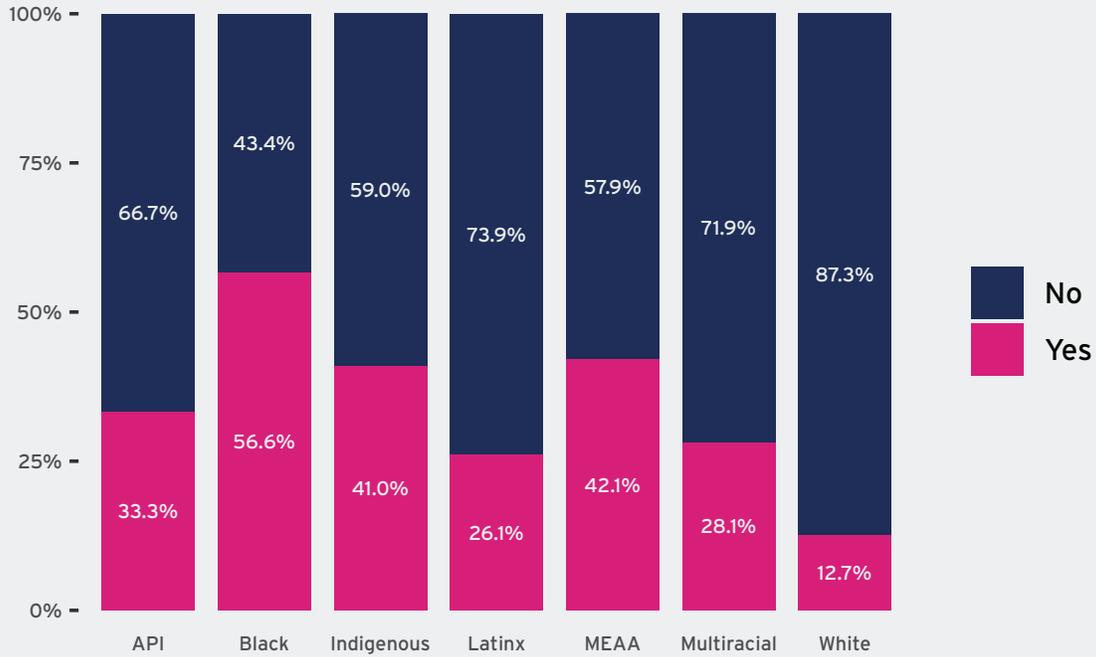
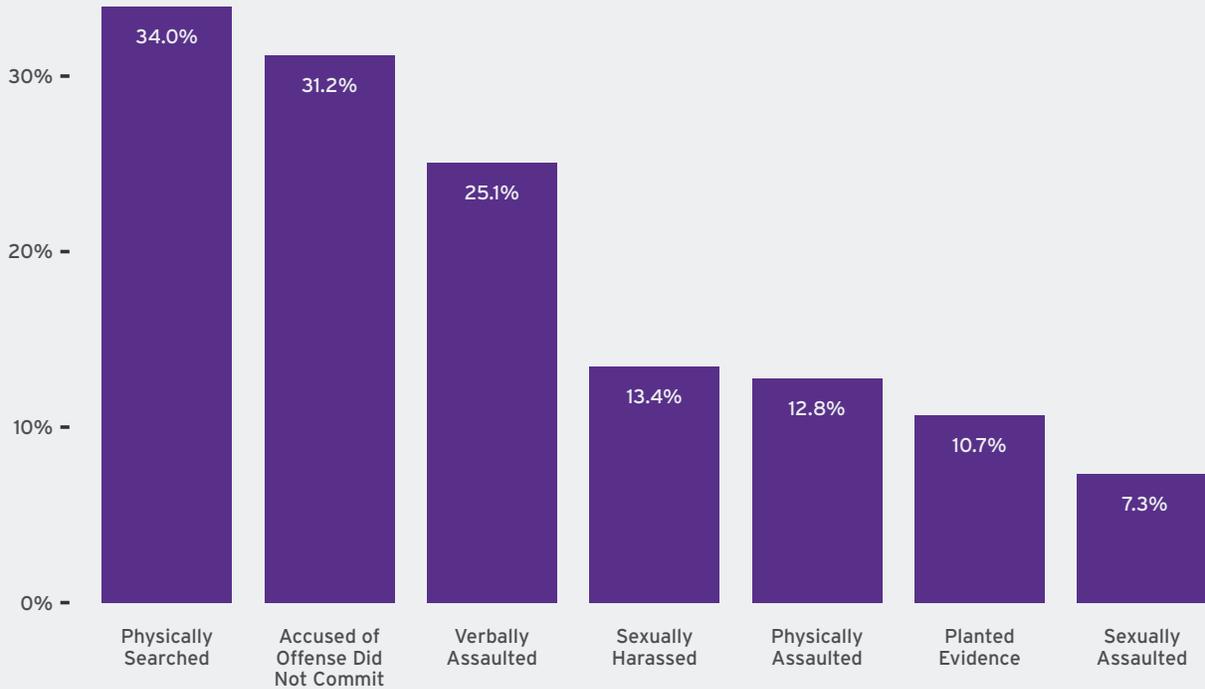


FIG 18 Police Behavior in Most Recent Face-to-Face Contact



vs. 40.3%, OR= 4.73), or who were TGNCNB (55.7% vs. 40.0%, OR=1.89). In addition to these forms of misconduct, 34.0% of participants who had face-to-face contact with police were searched by them.

Of those who experienced misconduct, one-third (33.3%) reported the misconduct to another police or law enforcement officer, official, or monitoring board. Of those, less than half (46.6%) had their complaint fully addressed. Just 12.2% who knew the status of their claim had seen the officer's actions found to

be improper and disciplinary action taken against the officer, while 13.3% had withdrawn their complaint, 31.7% had their claim dismissed, and 13.3% indicated that the officers had been cleared.

What do population-based surveys tell us about experiences of crime?

Because this survey is not a representative sample, we cannot make comparisons between these findings and population-based data; however, these statistics are helpful reference points for understanding our data in context.

From 2016 to 2020, there were 14,122,389 property-crime incidents and 14,191,683 offenses reported. Overall, the five-year prevalence of property crime in the population (per 100,000 people) decreased from 2.45% in 2016 to 1.96% in 2020 (FBI Uniform Crime Reporting Program, n.d.).

Overall, the five-year prevalence of assault decreased from 0.92%, or 2.4 million reported cases, in 2016 to 0.78%, or 2.5 million reported cases, in 2020 (Morgan & Thompson, 2020).

The five-year prevalence of rape/sexual assault slightly increased from 0.06%, or 162,940 reported cases in 2016, to 0.07%, or 192,820 reported cases in 2020. Within this five-year window, the highest number of reported cases was in 2018 at 0.13%, or 347,090 reported cases (Morgan & Thompson, 2020).

The prevalence of intimate partner violence among sexual and gender minorities for lifetime experience ranges from 8.8% to 56.9%. Within a 12-month period, the prevalence ranges from 8.6% to 27.5% (Brown & Herman, 2015).

Experiences of Crime and Hate Incidents

The survey asked participants whether they had experienced certain crimes in the past five years, including property crime (37.4%), physical assault (27.5%), intimate partner violence (22.7%), and sexual assault (20.2%). Experiences of crime were common among participants, with 54.6% having at least one crime experience. Younger participants (under age 40) were more likely to have experienced each of these crimes (data not shown, differences between younger and older participants were statistically significant for all types of crime).

People of color were particularly likely to experience crime (66.0% vs. 47.1%, OR=2.18)⁵. Nearly three-quarters (74.8%) of Black participants had experienced at least one of the crimes measured in the survey; this was true of Indigenous participants as well (74.8%). Middle Eastern and Arab American participants experienced crime at high rates (71.7%), as did multiracial participants (69.8%).

⁵ This was true even when controlling for the differences in age between people of color and those who were white only.

FIG 19 Experiences of Crime

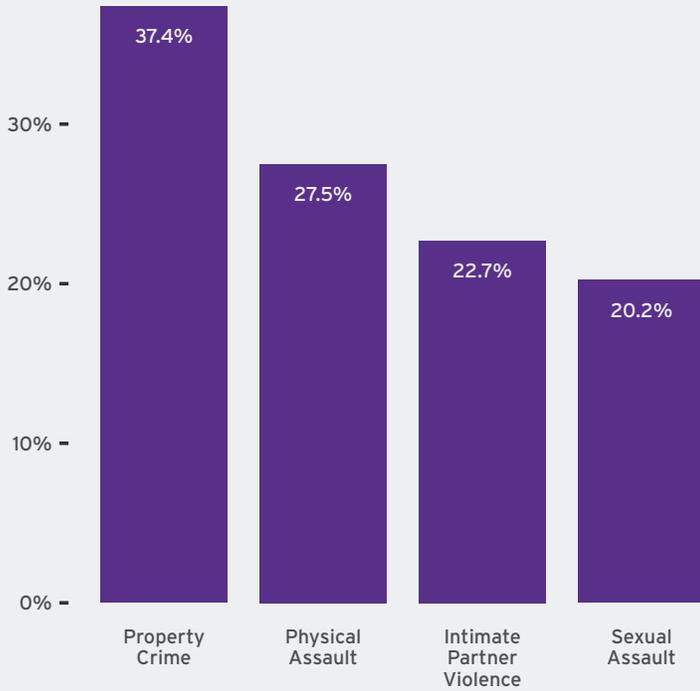
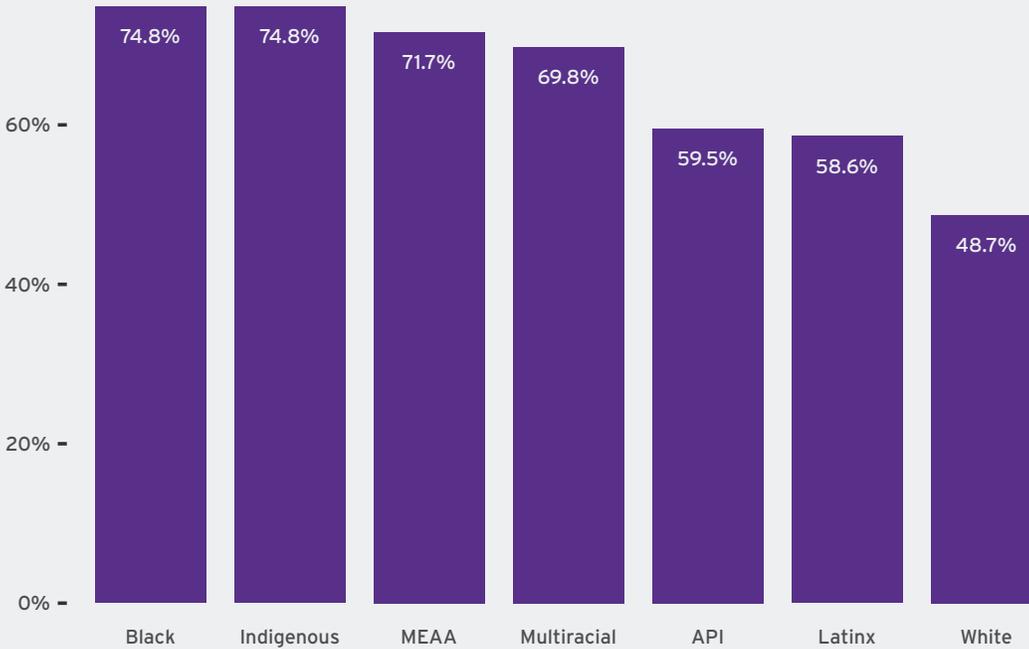


FIG 20 Experienced Any Crime by Race and Ethnicity



People living with HIV were about twice as likely to experience crimes as those not living with HIV (68.0% vs. 48.36%, OR=2.27); this difference held even when controlling for race, gender, and age (data not shown). This was particularly true for assault: **people living with HIV were over three times as likely as those not living with HIV to indicate they had been assaulted** (45.9% vs. 19.2%, OR=3.58). People with lower incomes (under \$35,000 in 2021) were much more likely to experience crimes. Odds ratios ranged from 1.56 for hate incidents to

2.36 for sexual assault and were statistically significant even when controlling for race and age.

Of trans participants, transmasculine people (68.8%) were more likely than transfeminine (59.7%) or trans (both/neither) (67.0%) participants to have experienced one of the crimes measured in the survey. TGNCNB people were more likely than those who were not TGNCNB to experience physical assault, sexual assault, intimate partner violence (IPV), and hate incidents. Odds ratios for TGNCNB people ranged from 1.81 for assault to 2.47 for hate incidents, and significance held even when accounting for differences in race, age, and income.⁶

Hate incidents—which may or may not have been considered crimes—were more common than any of the types of crime the survey asked about: 53.3% of participants indicated that they experienced one or more hate incidents in the past five years. These participants were further asked if the most recent hate incident was related to their sexual orientation, gender identity, HIV status, race or ethnicity, disability, or immigration status.

FIG 21 Experienced Any Crime Among TGNCNB and Cisgender Participants

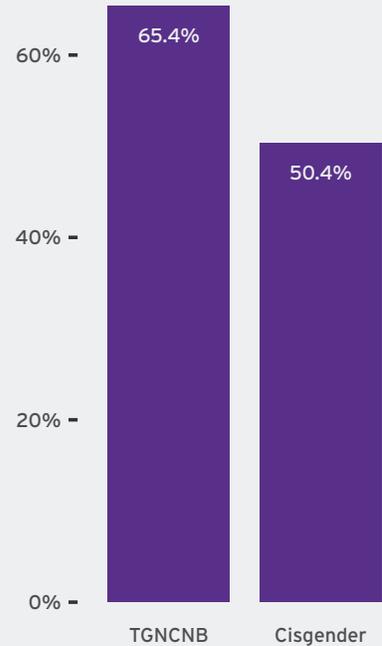
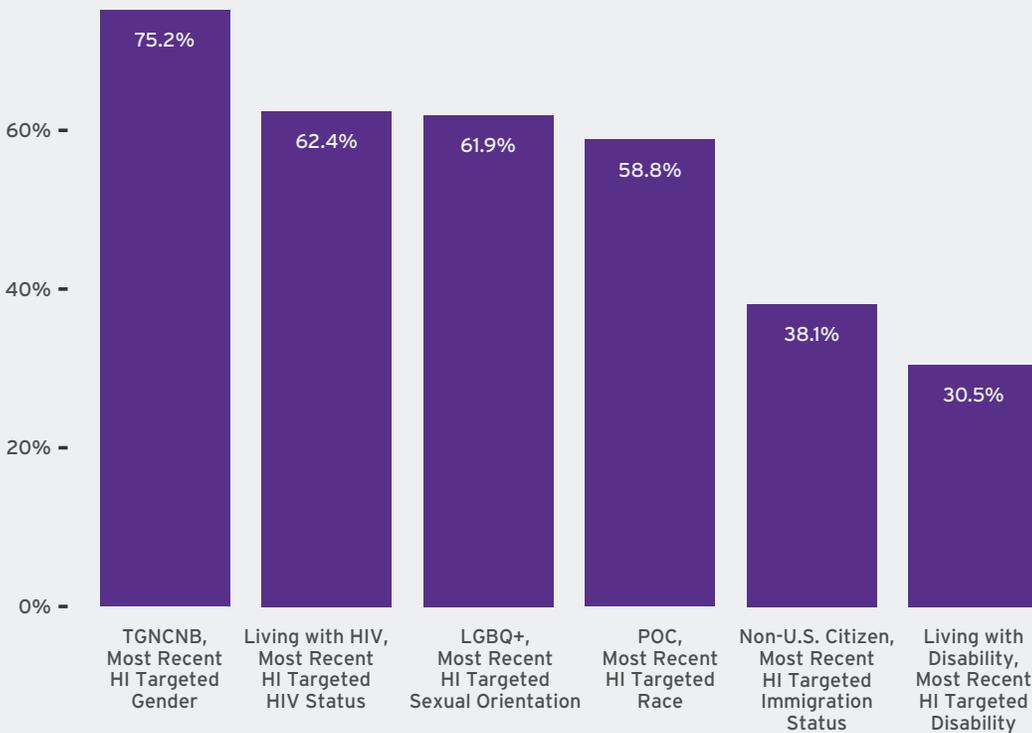


FIG 22 Identity Targeted in Most Recent Hate Incident



Hate incidents—which may or may not have been considered crimes—were more common than any of the types of crime the survey asked about: 53.3% of participants indicated that they experienced one or more hate incidents in the past five years.

⁶ TGNCNB people were more likely to experience property crime as well, but this difference did not hold when controlling for race, age, and income.

How did we measure experiences of crime and hate incidents?

Many readers will be curious about how we measured the experiences of crime and hate incidents that are described in this section. Below are the question wordings we used that are summarized by the phrases “property crime,” “assault,” “sexual assault,” “intimate partner violence,” and “hate incident” in the text and graphs; these include original formatting for clarity and emphasis.

Property Crime: In the past five years, have you been robbed or experienced vandalism, arson, or another property crime?

Assault: In the past 5 years, did an incident of personal assault (e.g. being hit, beaten up, hit, attacked with a weapon) happen to you *other than domestic or intimate partner violence*? Please do not include sexual assault in this question as this will be asked separately.

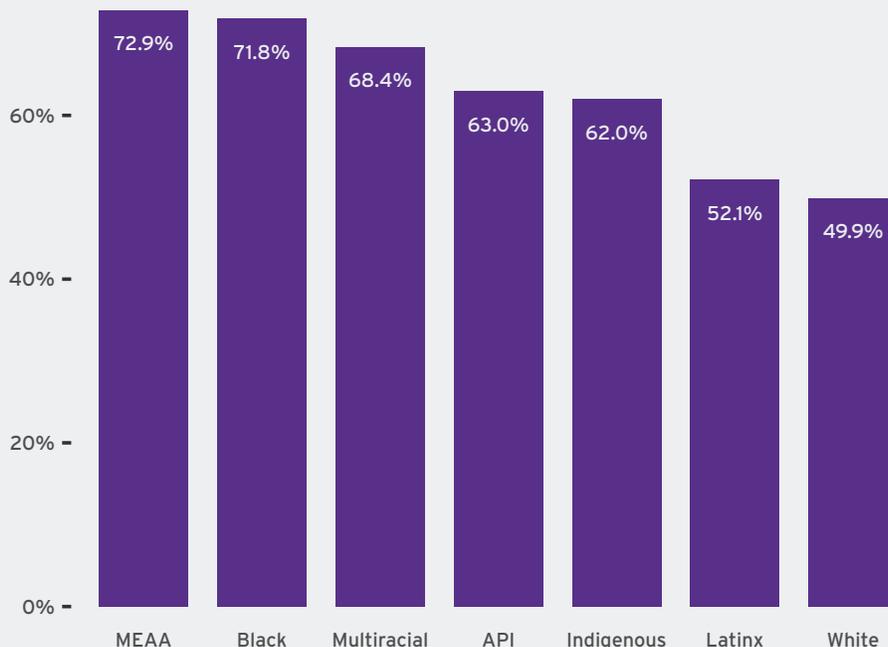
Sexual Assault: In the past 5 years, did an incident of sexual assault happen to you *other than domestic or intimate partner violence*?

Intimate Partner Violence: In the past 5 years, have you experienced domestic or intimate partner violence?

Hate Incident: In the past 5 years, have you experienced any negative experience you know or suspect was a result of bias or prejudice (a hate incident)?

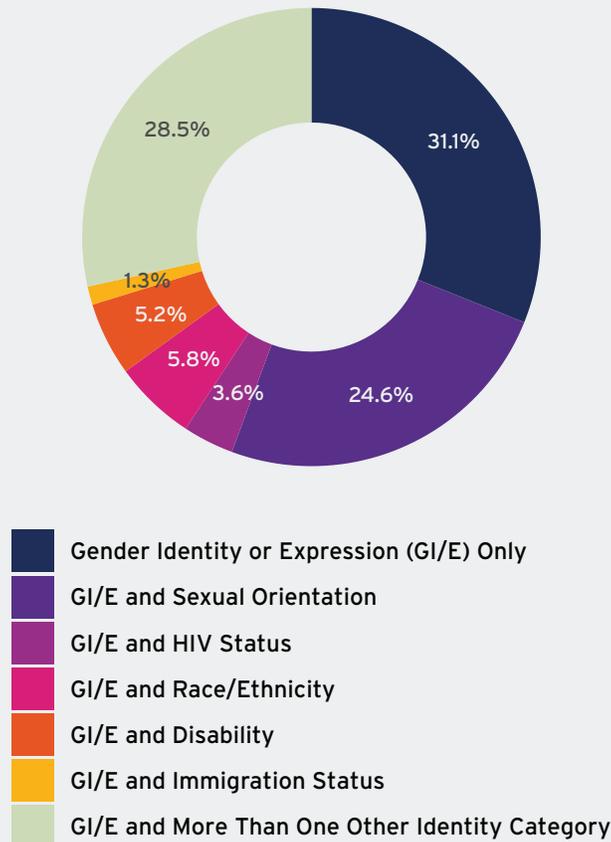
When conducting surveys about crime and reporting of crime, it is important to remember that participants may have had experiences that they did not share in the survey. This is also true of other experiences, such as accounts of reporting negative experiences to police or other parties and negative outcomes of experiences they have had.

FIG 23 Experienced Any Hate Incident by Race and Ethnicity



Hate incidents also could have been based upon more than one identity category. For example, among TGNCNB people targeted for a hate incident based upon their gender identity or expression, over two-thirds indicated that there was another reason they experienced the same hate incident, such as sexual orientation (24.6%) or race/ethnicity (5.8%).

FIG 24 TGNCNB Participants Targeted for a Hate Incident Based on Gender Identity or Expression



Among TGNCNB people targeted for a hate incident based upon their gender identity or expression, over two-thirds indicated that there was another reason they experienced the same hate incident, such as sexual orientation (24.6%) or race/ethnicity (5.8%).

Aftermath of IPV and Hate Incidents

The survey asked those who responded that they had experienced IPV or a hate incident in the past five years about a series of negative consequences that may have occurred after. Sadness and depression were very common after IPV (76.5%) and hate incidents (79.7%), as were feelings of isolation (49.5% of those who experienced IPV and 33.5% of those who experienced hate incidents). Additionally, many survivors of IPV and hate incidents lost jobs or access to income, had ongoing medical issues, or lost access to housing.

FIG 25 Effects of Domestic or Intimate Partner Violence

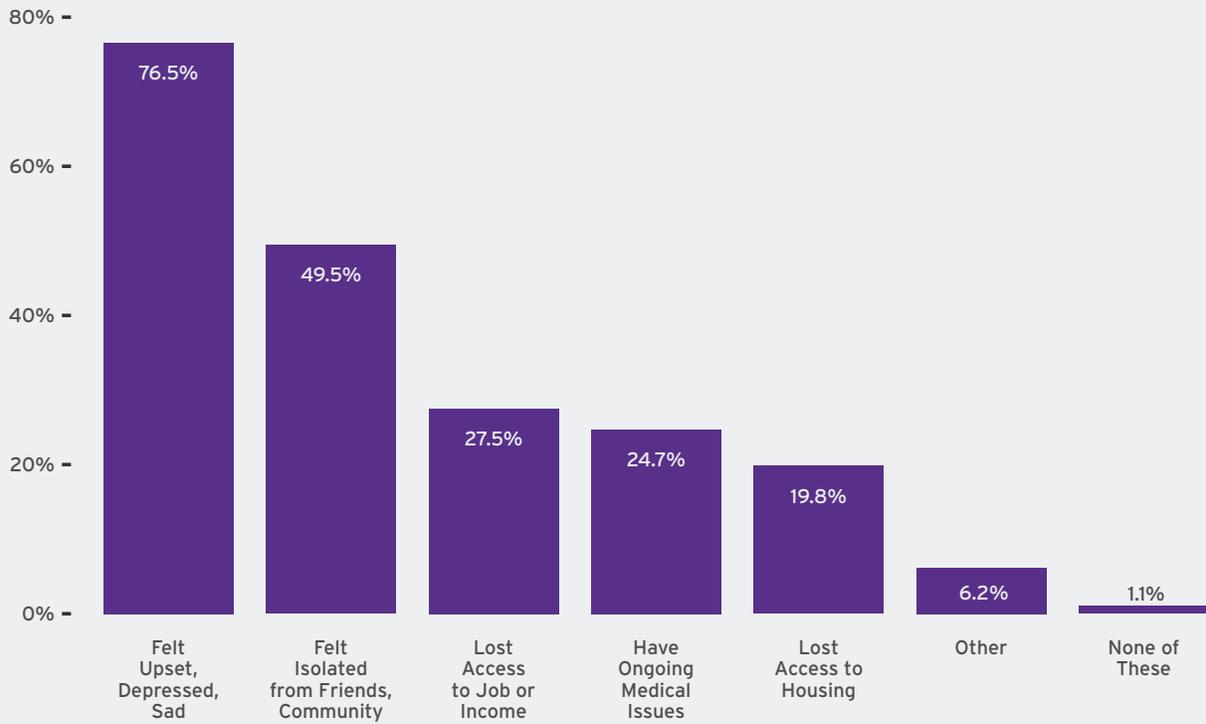
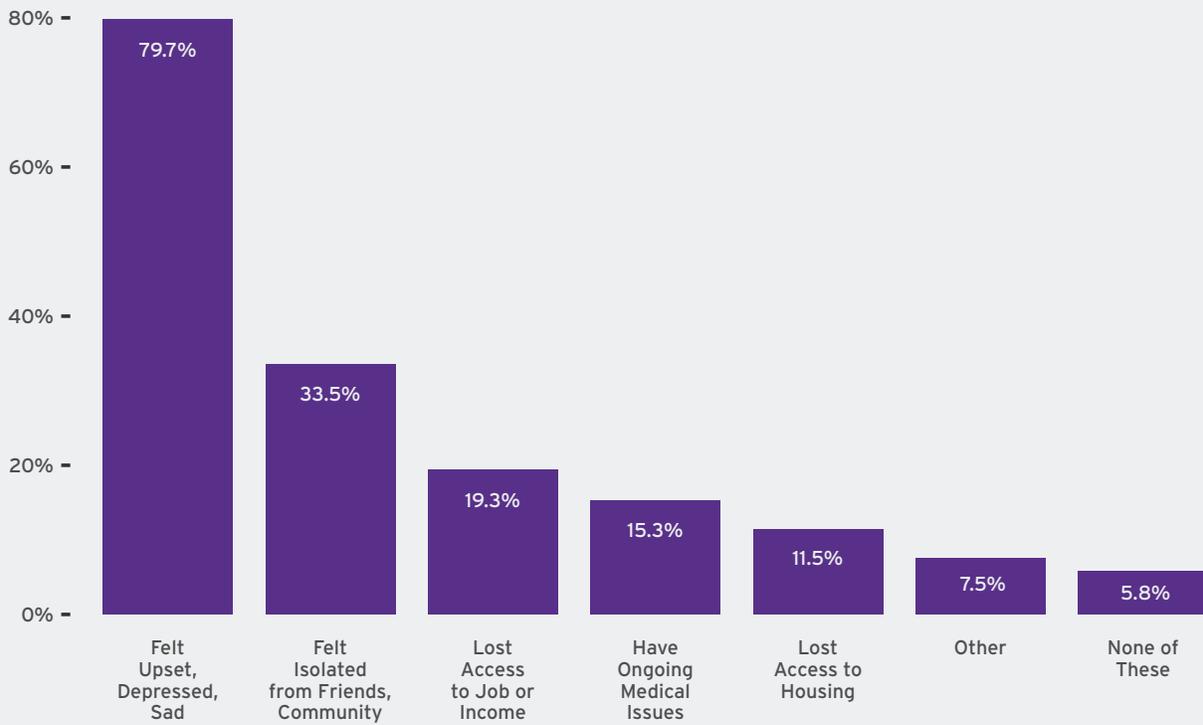


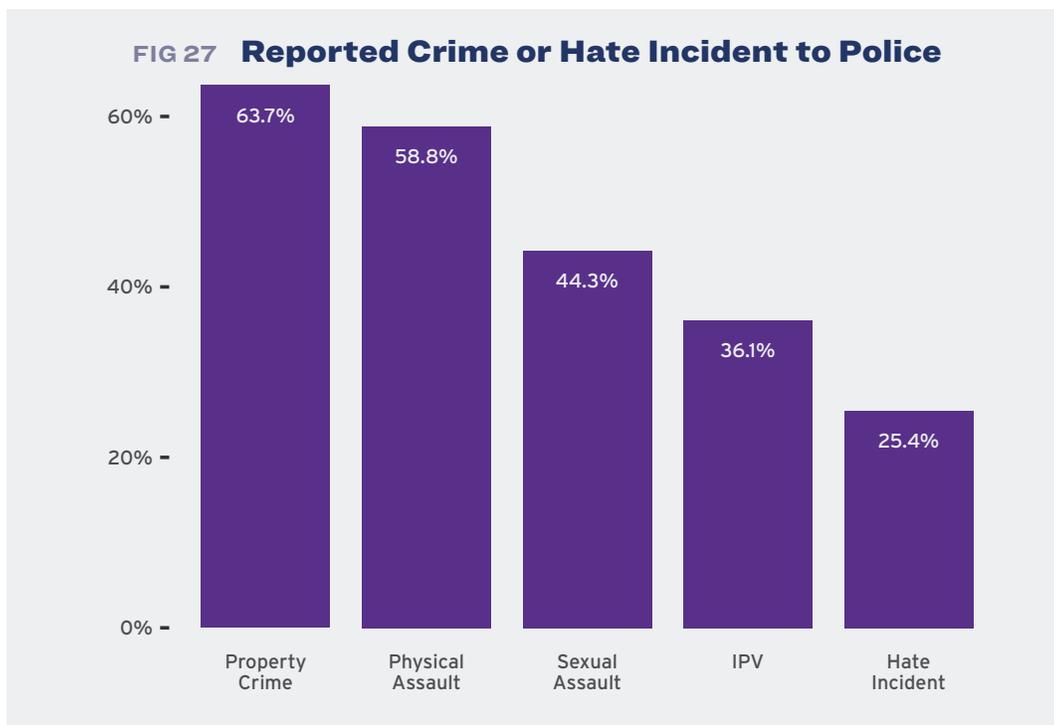
FIG 26 Effects of Hate Incident



Reporting Crime and Hate Incidents to Police and Others

Participants were asked to think about the most recent instance of each type of crime (or hate incident) experienced in the past five years and asked where they had reported the crime (if at all): to police, a nonprofit or community-based organization (CBO), friends and family, another place, or nowhere. For all four types of crime measured in the survey, reporting to the police was more common than reporting to a friend or family member, to a nonprofit or CBO, or to no one. Participants could select more than one location where they reported crime.

Participants who had experienced property crime (63.7%) more frequently reported it to police than participants who had experienced other crimes (e.g., assault, sexual assault, and IPV). Reporting property crimes is common because when survivors are insured, they cannot collect insurance payments without a police report (Tarling & Morris, 2010).



Reporting sexual assault, IPV, and hate incidents (which may or may not have been crimes) was less common than reporting property crime or physical assault. Recent statistics show that about half of instances of IPV are reported; LGBTQ+ people report crime at lower rates than the overall population (Morgan & Thompson, 2020). The findings from the *P&S?* survey echo previous research on this topic.

While reporting to a nonprofit or CBO was less common than reporting to police, one in five IPV survivors (20.0%) reported to a CBO, as did nearly as many survivors of physical assault (19.5%).

FIG 28 Reported Negative Experience to Nonprofit or CBO

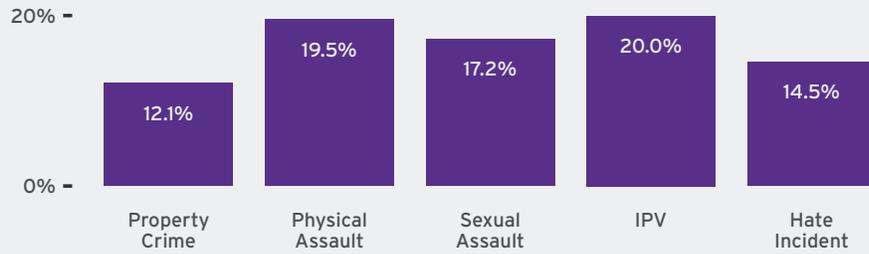


FIG 29 Reported Negative Experience to No One

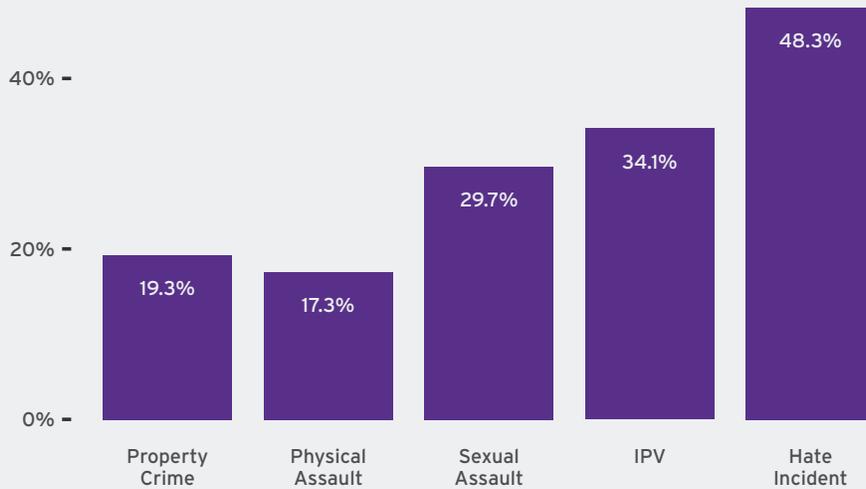
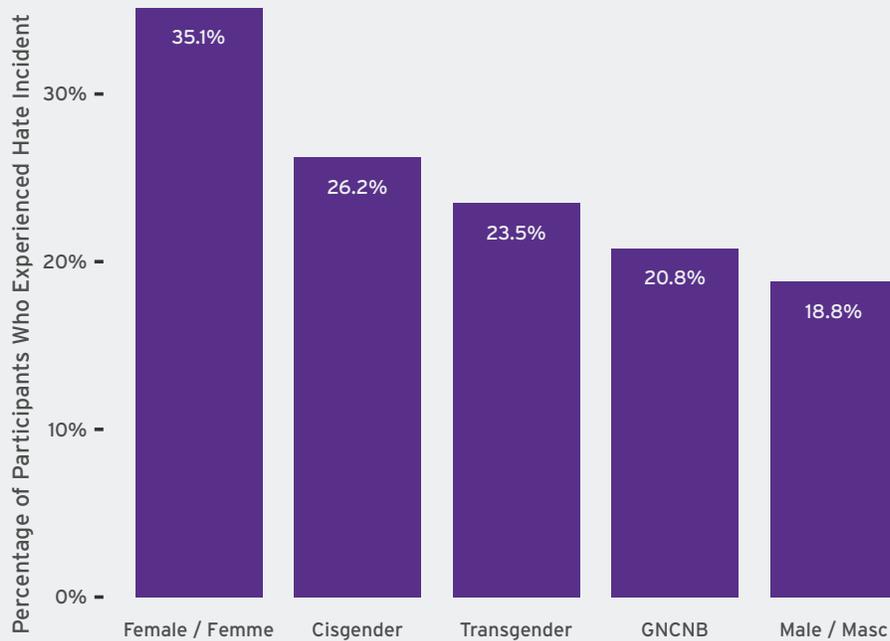


FIG 30 Reported Hate Incident to the Police by Gender



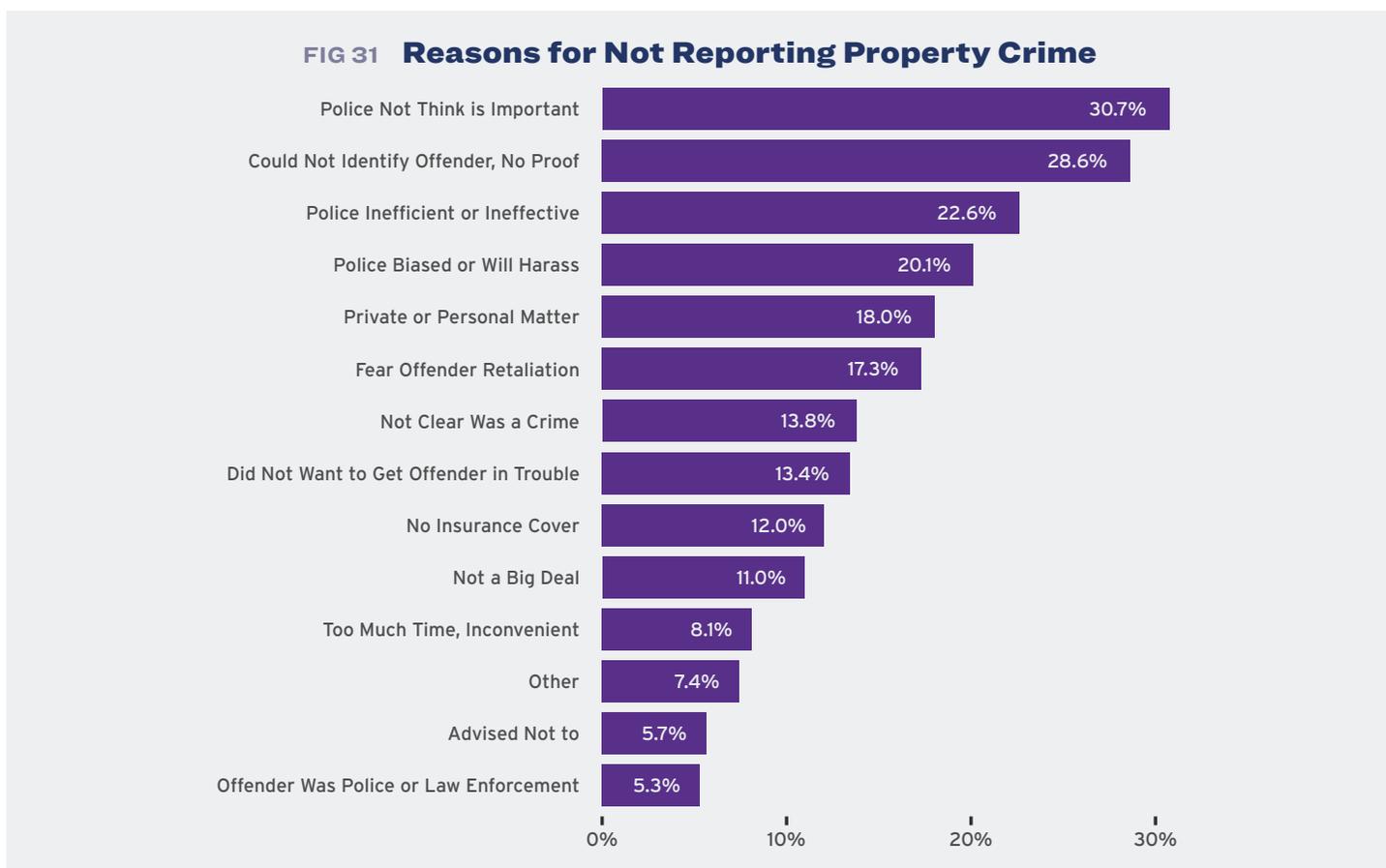
Nearly half of all hate incidents were unreported (48.3%), a much higher prevalence than property crime or physical assault.

Those who did not report the crimes they experienced were more likely to say they do not trust the police at all. For example, among participants who experienced sexual assault, those who said they do not trust the police at all were about one-fifth as likely to report it as those who said they trust the police a little, somewhat, or completely (20.4% vs. 58.0%, OR=0.19).

Reasons Participants Chose Not to Report Crime

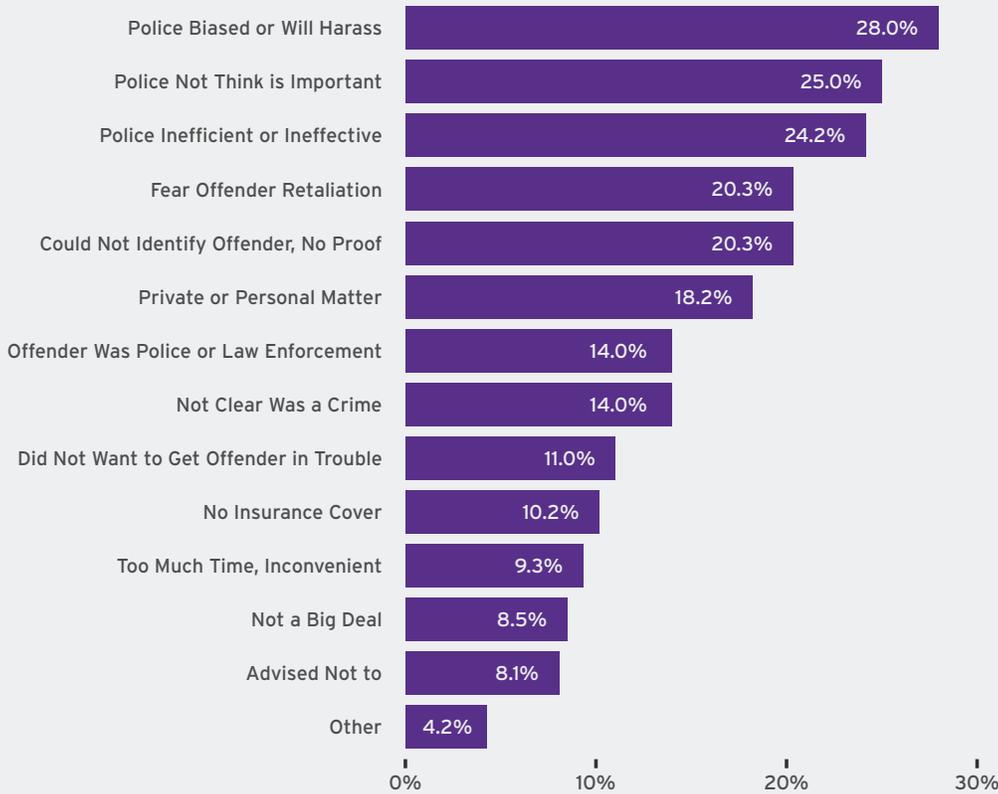
Of the top five reasons participants gave for not reporting property crime to the police, three had to do with the police (police will not think it is important, police are inefficient or ineffective, police are biased or will harass). In total, slightly over half (50.2%) of those who did not report property crime did so for reasons related to the police (the three listed above plus “police were the perpetrator[s]”).

Of the top five reasons participants gave for not reporting property crime to the police, three had to do with the police.



The top three reasons that participants did not report physical assault were related to the police, including police being biased or harassing the survivor (28.0%), police thinking it is not important (25.0%), or the police being inefficient or ineffective (24.2%). In all, 55.5% of those who had experienced physical assault did not report due to police-related reasons. Further, 14.0% of those who did not report said it was because police themselves had perpetrated the physical assault.

FIG 32 Reasons for Not Reporting Physical Assault



The top three reasons participants gave for not reporting physical assault or sexual assault to the police all had to do with their expectations of police behavior.

FIG 33 Reasons for Not Reporting Sexual Assault

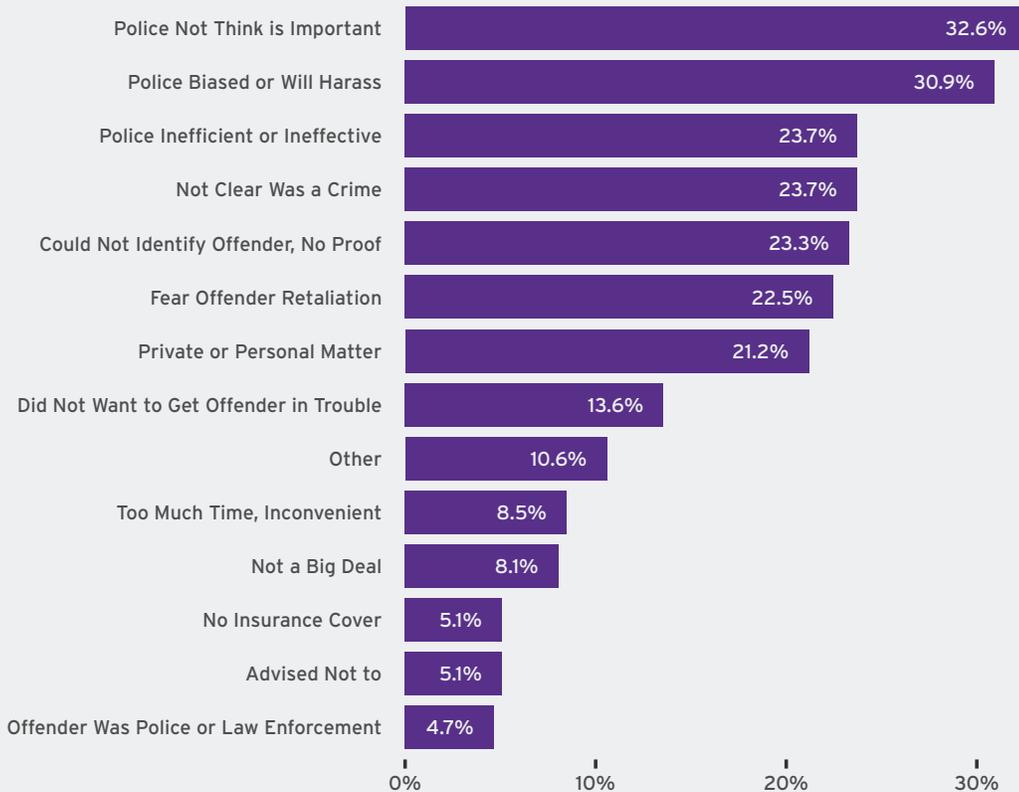
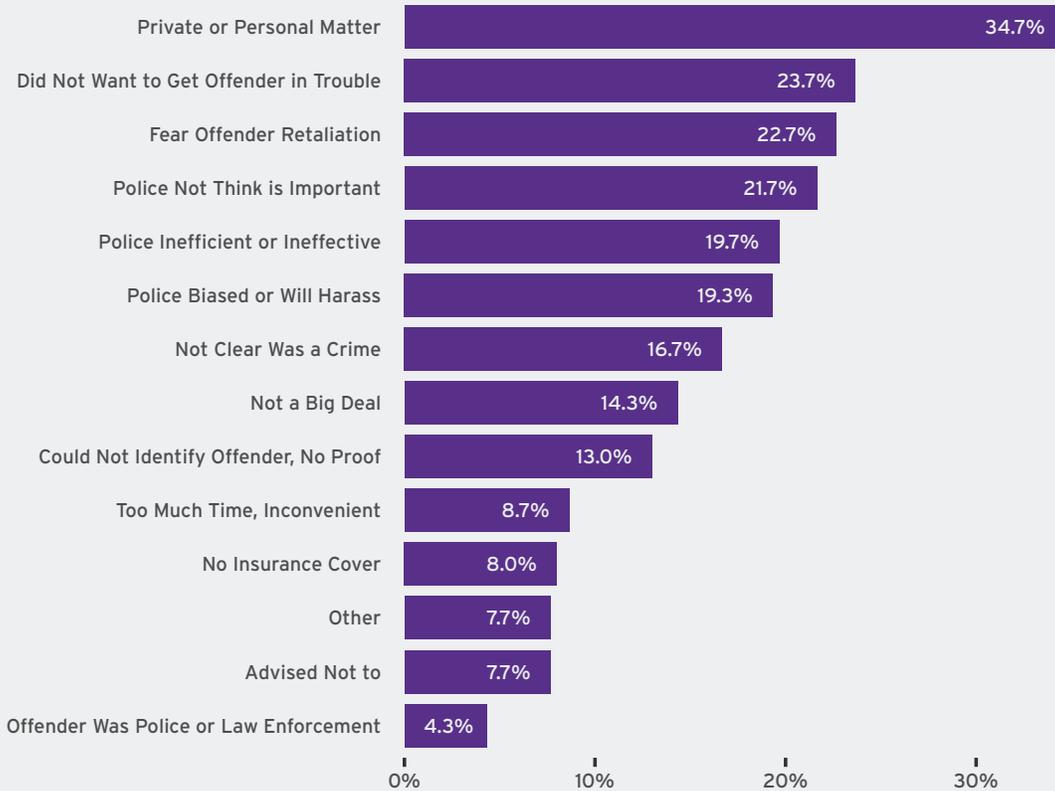


FIG 34 Reasons for Not Reporting Intimate Partner Violence



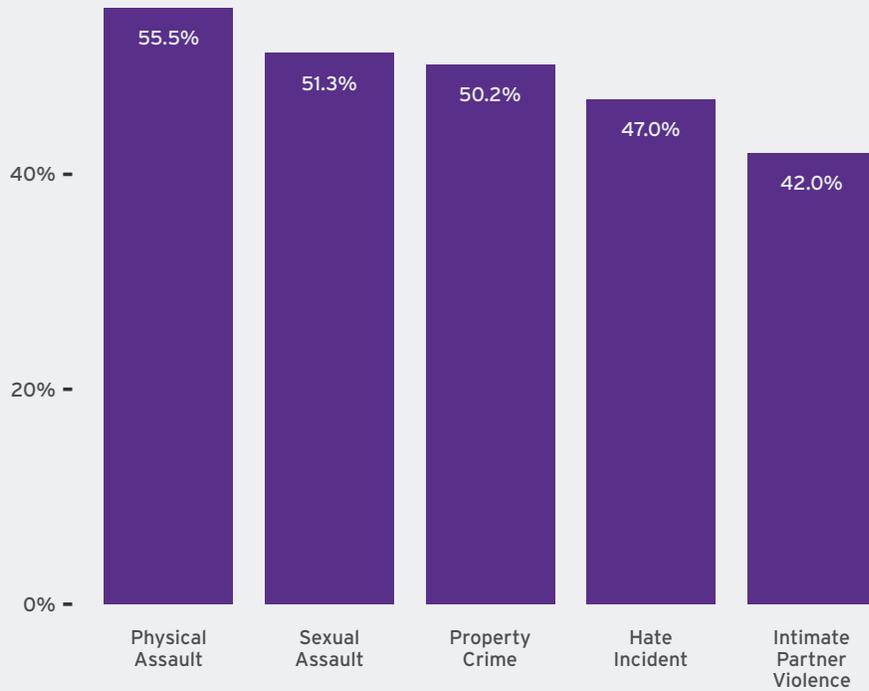
Among those who did report the crime they experienced to police, the responses to open-ended questions largely reflected traumatic experiences such as mockery, victim blaming, racism, homophobia, and transphobia. A white gay male participant wrote, *“As a victim, the indifference I was confronted with [from the police] may have been more insidious than outright hostility, but no less traumatic than the incident itself.”* A multiracial trans nonbinary participant explained, *“Every time I have reported an incident to the police it had been met with general disinterest, like it was a chore for them and blatant homophobia/transphobia. I’ve even had assault dismissed by an officer as ‘deserved.’”*

Among those who did not report, police-related reasons applied to 55.5% of those who had experienced physical assault, 51.3% of those who experienced sexual assault, and 50.2% of those who experienced a property crime. These percentages were slightly smaller for hate incidents (47.0%) and intimate partner violence (42.0%).

“Every time I have reported an incident to the police it had been met with general disinterest, like it was a chore for them and blatant homophobia/transphobia. I’ve even had assault dismissed by an officer as ‘deserved.’”

— a multiracial trans nonbinary participant

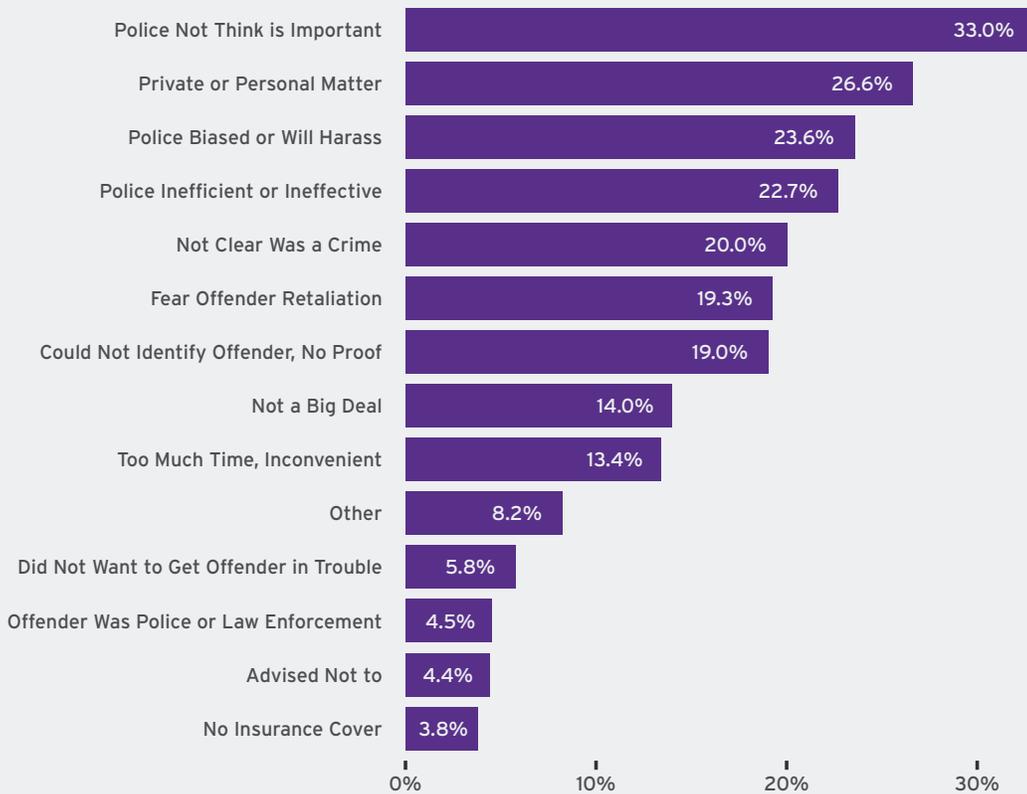
FIG 35 Did Not Report Negative Event for Police-Related Reasons



“As a victim, the indifference I was confronted with [from the police] may have been more insidious than outright hostility, but no less traumatic than the incident itself.”

— a white gay male participant

FIG 36 Reasons for Not Reporting Hate Incident



One-third of participants who did not report a hate incident to the police said this was because they felt that the police would not think the incident was important.

The prevalence of police-related reasons for not reporting crime did not vary significantly by race; however, TGNCNB people were much more likely to say that they did not report crime because of police-related reasons (with the exception of property crime). For example, they were more than twice as likely as cisgender people to say they did not report intimate partner violence because of police-related reasons (52.2% vs. 32.9%, OR=2.23).

Survey participants who reported hate incidents to police were particularly likely to also respond to open-ended questions on the survey with accounts of police being very dismissive. As one white lesbian described, *"In minimizing what happened, I was told they get threatened all the time."* Participants expressed a great deal of frustration and eroding trust in law enforcement. As one white trans nonbinary person explained, *"I think I was discriminated against and ignored. When I reported to them, I often could not get good help. They would tell me that I could not exercise some rights due to busy work or law, and I could not even get their protection. This made me very frustrated, and I didn't know who could help me when the problem happened."*

Others explained how reporting hate crimes to police put them in more danger. As one white gender nonconforming pansexual participant stated, *"I was almost arrested for reporting that my neighbor threatened to shoot me. When they took their suspect into custody, I told them that they had the wrong person, and then they accused me of lying. They also exposed my face to their suspect (the [perpetrator's] brother)."*

Police Attitudes and Behavior After Reporting Crime

Those who reported crime to the police encountered a variety of attitudes and responses. For example, over one-quarter (27.1%) of those who had been physically assaulted indicated that the police were skeptical or dismissive of them, and a similar number (26.6%) said the police treated them very unfairly. However, nearly three in ten (27.5%) said the police treated them courteously.

Fewer of those who experienced sexual assault said that the police treated them very fairly, with under one in ten (9.3%) agreeing with this statement, and nearly one-third of those who had experienced sexual assault (25.5%) or IPV (30.5%) said that the police were skeptical or dismissive.

TGNCNB participants were much more likely to say that the police treated them very unfairly after they reported property crime (25.5% vs. 17.2%, OR= 1.66) or IPV (39.2% vs. 21.1%, OR=2.41). They were also more likely to say that police treated them very skeptically or dismissively after assault, property crime, IPV, or hate incidents (data not shown) compared to those who were not TGNCNB. Participants' accounts of police responses after reporting crime did not differ significantly by race. Some indicators differed by age or income (data not shown).

TGNCNB people were much more likely to say that they did not report crime because of police-related reasons (with the exception of property crime). For example, they were more than twice as likely as cisgender people to say they did not report intimate partner violence because of police-related reasons (52.2% vs. 32.9%).

FIG 37 Police Treatment After Physical Assault

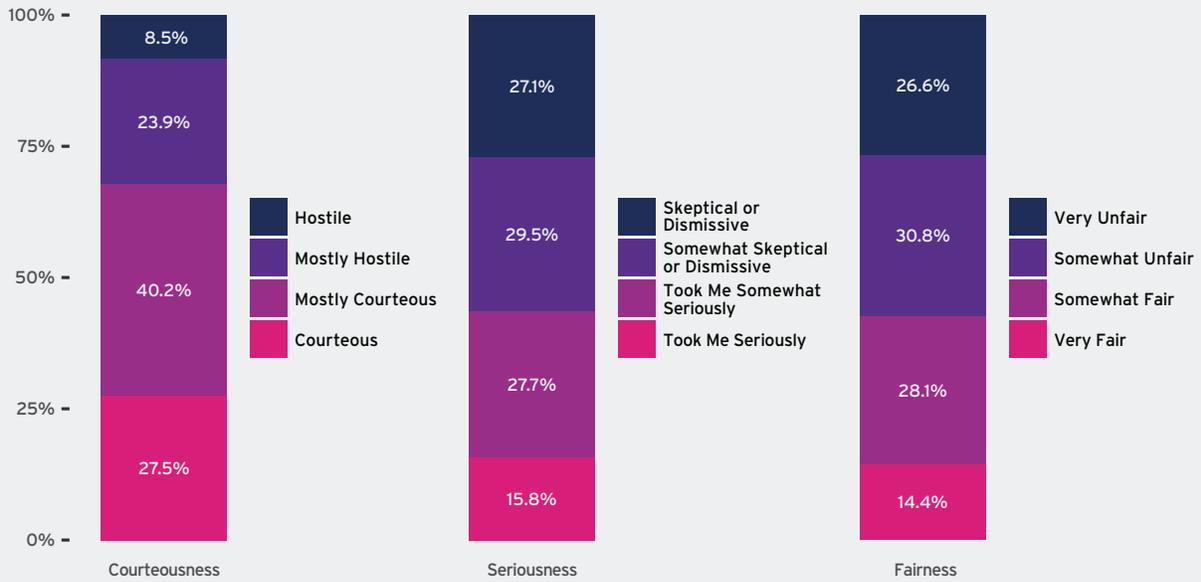
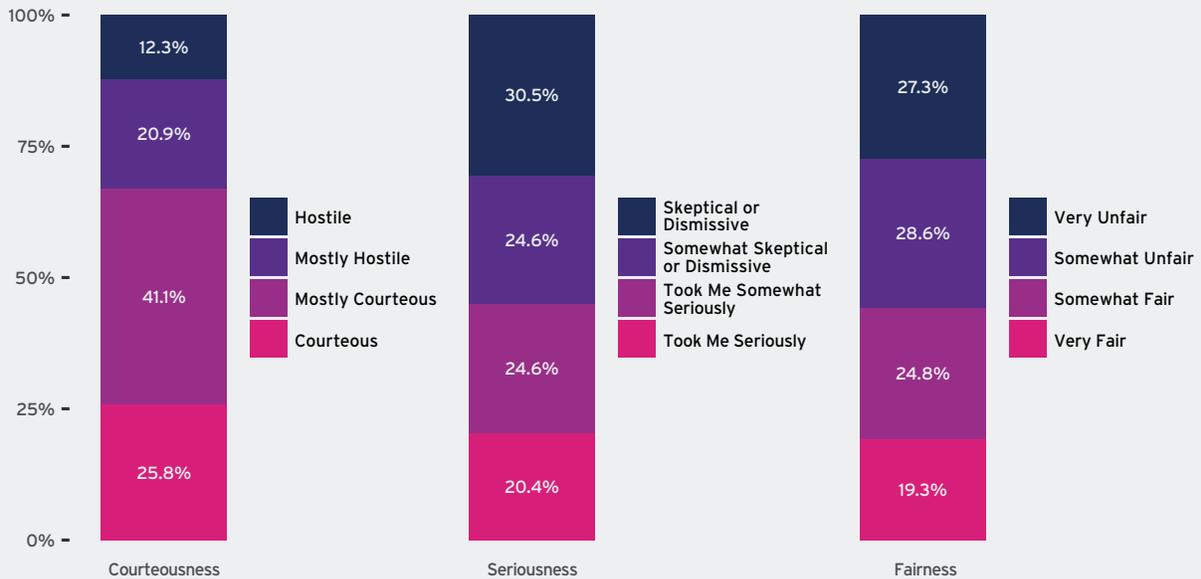
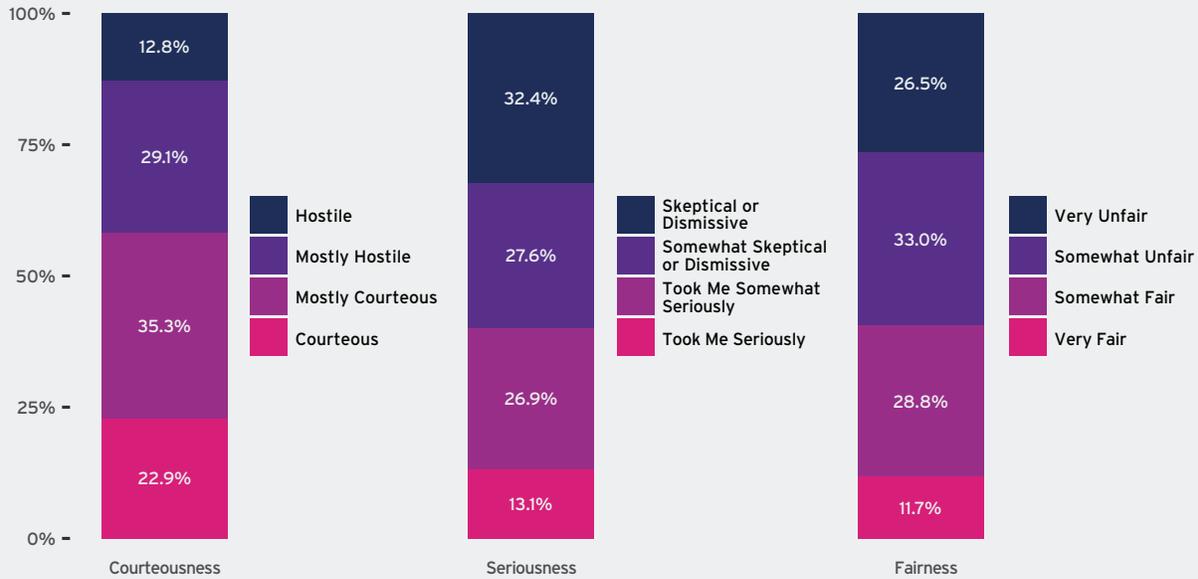


FIG 38 Police Treatment After Intimate Partner Violence



Participants who reported a hate incident to the police had the highest prevalence of experiences of police who were skeptical or dismissive (32.4%) of the five types of negative experiences measured in the survey. The police were also slightly less courteous to them than to participants who reported any type of crime rather than a hate incident.

FIG 39 Police Treatment After Hate Incident



Court Experiences

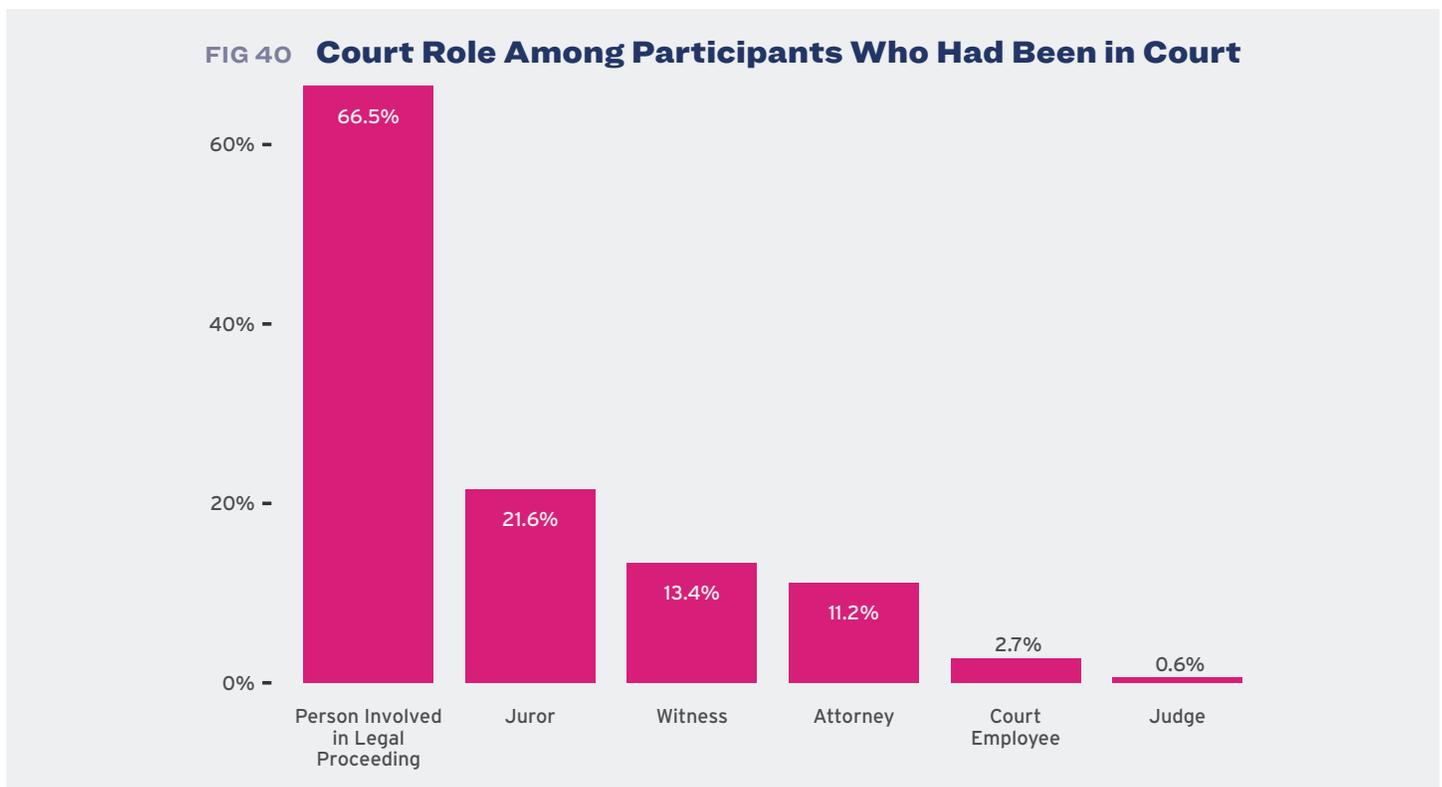
LGBTQ+ people and people living with HIV are in court every day as parties to a case, witnesses, jurors, attorneys, and judges, and have a vital role in the administration of justice. For some, the courthouse is a symbol of justice and fairness, but for many LGBTQ+ people and people living with HIV, the courts are simply another place where they are mistreated, face discrimination, and have their privacy violated.

Studies have found a high prevalence of discrimination and harassment directed at LGB people in courts (Judicial Council of California, 2001; Bowen & Zuckerman, 2001). In 2012, *Protected and Served?* found that “as with all forms of discrimination, respondents with multiple marginalized identities—such as being a lesbian living with HIV, a gay man with a disability or a low-income transgender person of color—were more likely to report misconduct and abuse” (Lambda Legal, 2015). In 2015, the largest national survey of transgender and nonbinary people, with over 27,000 respondents, conducted by the National Center for Transgender Equality, found that 13% of respondents who visited courthouses over the previous year experienced discrimination or harassment by court staff based on knowledge or belief that they were transgender (James et al., 2016). In addition, studies have shown that bias and prejudice can influence jurors’ decisions in all types of cases involving LGBTQ+ people (Hill, 2000; White & Robinson, 2002; Kraus & Ragatz, 2011).

Experiences of harassment, mistreatment, and discrimination when accessing the courts cause serious emotional and physical harm to LGBTQ+ people and people living with HIV. In fact, the “injury caused by the discrimination

is made more severe because the government permits it to occur within the courthouse itself" (*Edmonson v. Leesville Concrete Co., Inc.*, 1991). When people are mistreated in the courts, they stop trusting the court system. Discrimination and harassment in the court system prevents people from doing their jobs, performing their civic service, accessing justice, and maintaining confidence in the judicial system.

Over one-third (35.1%) of survey participants had been in court in the past five years.⁷ Of those who had been in court and selected at least one role they had had, the most common role was as the person involved in the legal case (plaintiff or defendant), 66.5%, followed by juror (21.6%). Participants could have multiple roles in court over the past five years, and could appear in multiple types of court. The survey measured experiences in several types of courts, including civil, criminal, traffic, housing, family, immigration, juvenile, and tribal courts.⁸



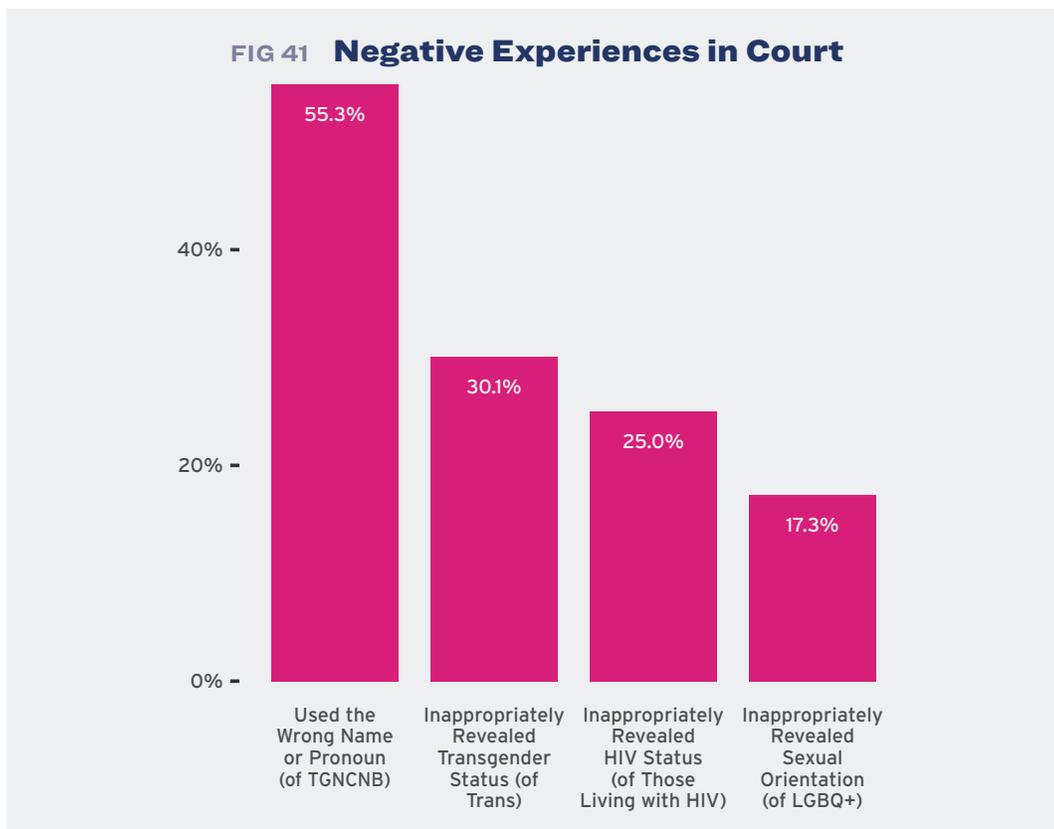
Overall, 85.3% of participants who had been in court were involved in a legal proceeding or served as a juror or witness, while 6.8% served a role related to

⁷ Approximately 200 participants responded that they had more than three different roles in court (in other words, in the past five years they had been a judge, an attorney, a witness, and a juror, or some other combination of four or more roles) or that they had been in more than three types of court. Because this is a very uncommon experience in reality, the researchers decided to exclude those responses, concluding that the participants misunderstood the question in some way. Those participants were not excluded from any other analysis, as their other responses to other sections of the survey did not show any such misunderstandings. For further details about the responses and how the data were cleaned, please contact the first author.

⁸ Because participants were only asked what type of court they had been in if they reported a negative experience, it is not possible to calculate the total number of participants who were in each type of court in the past five years.

employment in the court (attorney, court employee, or judge). Surprisingly, 8.0% served in both types of roles.

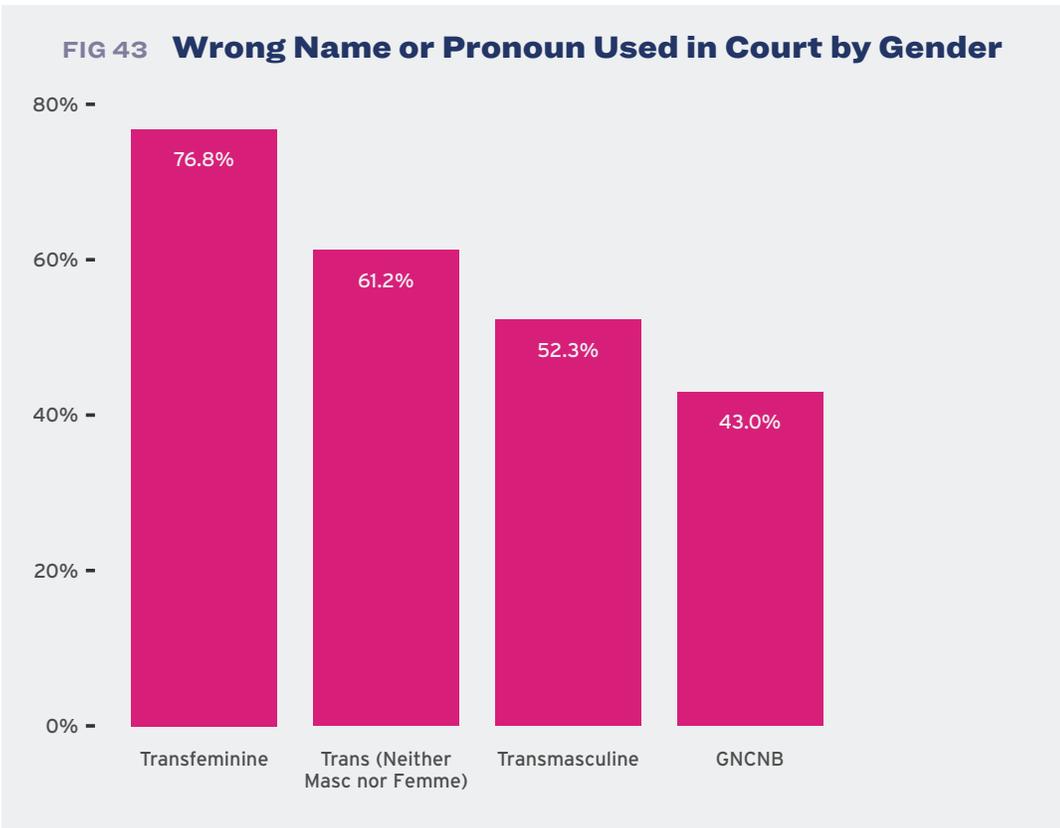
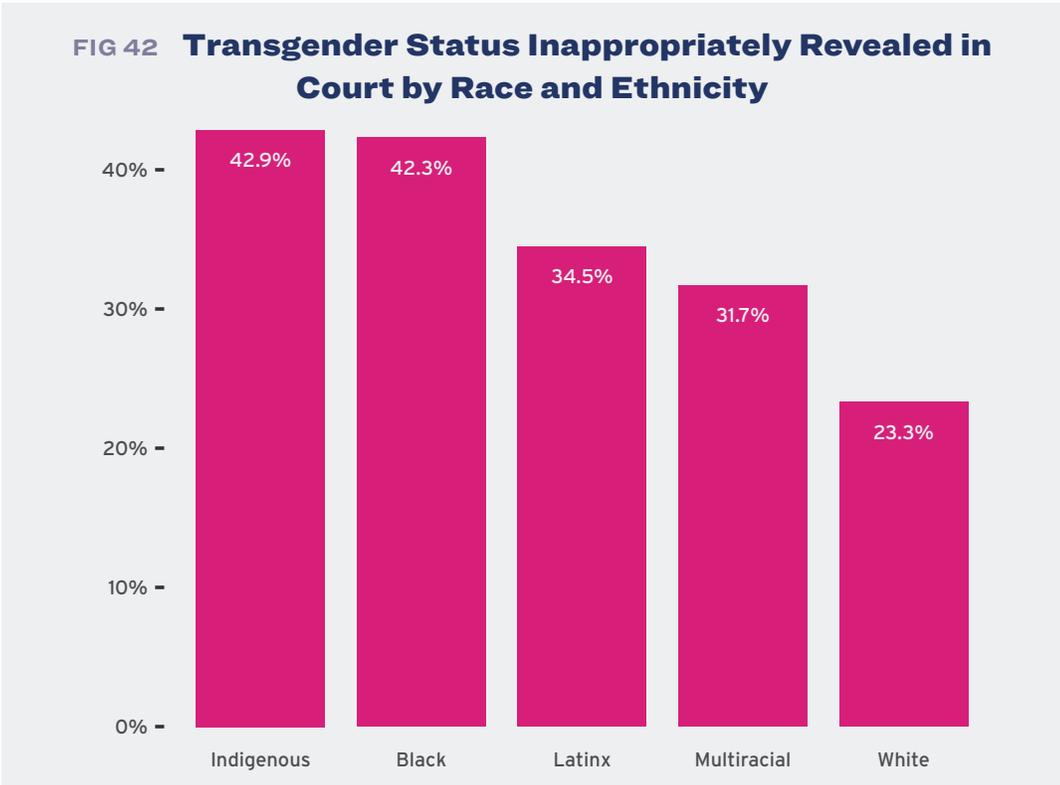
Negative experiences were common in court. Of participants who had appeared in court, 22.2% of those who were sexual or gender minorities, women, or living with HIV indicated that someone (judge, public defender, prosecutor, court clerk, court security, or any other court employee) “made negative comments” to or about them relating to sexual orientation, gender identity or expression, or HIV status. Similarly, 22.7% of those who appeared in court and were people of color, living with a disability, or were not currently a citizen experienced this in relation to their “race, disability, or immigration status.”



In addition to hearing negative comments, participants also experienced a number of other negative incidents in court. About three in ten (30.1%) transgender participants had their transgender status inappropriately revealed; a smaller proportion, 17.3% of those who were LGBTQ+, experienced having their sexual orientation inappropriately revealed, while 25.0% of those who were living with HIV said that their HIV status, which is private health information, was inappropriately revealed in court. Transgender participants of color were more likely to have their transgender status revealed in court than were those who were white (38.0% vs. 21.8%, OR=2.20).

Over half (55.3%) of all TGNCNB participants with experience in court stated that a court employee misgendered them. Indigenous TGNCNB participants were more likely than those who were not Indigenous to experience being misgendered in court (77.0% vs. 52.9%, OR=2.97). Transfeminine participants

were much more likely to be misgendered compared to transmasculine participants (76.8% vs. 52.3%, OR =3.02).



How did we measure negative experiences in court?

Survey participants who indicated they had been in court in the past five years were asked if a judge, public defender, prosecutor, court clerk, court security, or any other court employee had done any of the following:

- Inappropriately reveal your sexual orientation
- Inappropriately reveal that you are transgender
- Inappropriately reveal your HIV status
- Use the wrong name or pronoun to refer to you (referred to in this report as being “misgendered”)
- Make negative comments to you or about you relating to your sexual orientation, gender identity or expression, or HIV status
- Make negative comments to you or about you relating to your race, ethnicity, disability status, or immigration status

Those that indicated they had experienced one of the last two were asked follow-up questions about which types of negative comments they heard. Those for whom the question was not applicable were removed from the question during data cleaning (for example, those who were not transgender were removed from “inappropriately reveal that you are transgender”).

Participants who had negative experiences were asked which type of court they were in when the negative experience happened. Court options with sufficient responses for separate analysis included civil, criminal, and family court. Traffic, immigration, tribal, juvenile, housing, and “other” courts were combined due to small sample sizes. Only participants who had negative experiences were asked which courts they appeared in, so the percentages below show which type of court those who had each type of negative experience were in when the negative experience occurred. It is not possible from these data to make statements about how common it is to experience a given negative experience in a particular type of court.

The misconduct participants experienced took place largely in criminal court, suggesting that this was the most common court where participants were present in the past five years.

How did participants describe their experiences in court?

Participants provided hundreds of qualitative responses to contextualize their court experiences.

“I had to correct the prosecutor at least three (3) times in open court and ask the court to order the State to use correct pronouns (she, her, Miss.). The prosecutor argued that since I was housed in a male prison, I should be deemed male even though my name and gender marker had been updated to gender affirming already.”

— a white transfeminine participant

Several participants described the professional and personal impacts of having their sexual orientation, trans status, or HIV status inappropriately revealed in court.

“The court openly disclosed that I was a homosexual causing extremely painful issues between my family and myself. My family is conservative and having the court inform my family that I was gay before I ever had the chance has caused horrible heartache and a complete disruption in my relationship with my parents. It was far worse than the actual case itself.”

— a gay nonbinary participant

“Prosecutor intentionally outed me in information released to the media. (I had been semi-closeted due to my profession as a high school teacher in a conservative area). Prosecutor used both my orientation and my profession to paint me as dangerous, despite NO evidence to that effect.”

— a white gay male participant

Participants also described experiencing blatant racism, homophobia, biphobia, and transphobia from judges and lawyers—especially public defenders.

“My court appointed lawyer told me he didn’t want to defend me because I was African American, a homosexual, and due to the circumstances of my charge—told me that he didn’t want to help me at all.”

— a Black gay male participant

“I told my lawyer that I identify as transgender female after I told her it was like she didn’t want to fight for me at all and kept calling me by the wrong pronouns.”

— a white transfeminine participant

“My public defender somehow knew I was bisexual and to me he [did not] seem to really want to defend me or take a real interest in my case because of my sexuality.”

— a Mexican bisexual participant

Those who had been to court described many instances of judges or lawyers encouraging them to keep parts of their identities hidden. In several cases, it was unclear if lawyers were trying to protect their clients from the potential bias they might have experienced if their HIV status, trans status, sexual orientation, or other details were made public, while at other times, participants were told to keep that information to themselves out of disgust from the court staff.

“I revealed my gender identity to my public defenders, and they told me to keep my mouth shut and to keep that info to myself.”

— an Indigenous trans participant

“The judge asked for context regarding my illegal behavior—drug use/distribution—so I told him of some traumas I’ve had that I believe have led to a life of addiction. My sexuality was discussed to provide context and the judge asked me to keep that stuff private. He acted like I was his son who just came out to him. He was appalled and disgusted.”

— a white nonbinary participant

Other participants described positive experiences in court, including examples of judges and lawyers correcting others who misgendered them or calling others out for weaponizing participants’ sexual orientation, gender identity, or HIV status in the courtroom.

“The judge actually stepped in without prompting and corrected an attorney who intentionally was misgendering me.”

— a white transfeminine participant

The example above is mixed, because the judge’s correction was a positive intervention—but one that was only necessary because an attorney misgendered the participant in the first place.

“My ex tried to take custody of my children for being NB/trans, stating it was a risk to our kids. The judge scolded [my ex’s] attorney at the end of the case and told her to look up the definition of risk before she submits anything so hateful again in his courtroom.”

— a white trans and gender nonconforming participant

Sex Work

For the purposes of this report and survey, all participants who answered yes to the question, “In the past five years, have you ever exchanged sex or sexual performance for money or other things of value?” are included under the umbrella term “sex worker.” Those participants were then asked further questions about their experiences. Over one in six (18.4%) participants had engaged in sex work in the past five years. People of color disproportionately reported engaging in sex work (27.0% vs. 12.7% of white participants, OR= 2.54). Black and Indigenous participants had high rates of engaging in sex work (40.0% and 31.5%, respectively). TGNCNB participants (25.4% vs. 15.4%, OR=1.88) were more likely to report that they had done sex work than those who were not TGNCNB.

Transfeminine people had high rates of experiences of sex work (20.5%), as did those who identified as trans (both/neither) (33.9%). Sex workers were disproportionately under age 40 (21.5% of those ages 18-24, 28.2% of those ages 25-29, and 22.1% of those ages 30-39).

Nearly half (49.7%) of sex workers experienced some form of police misconduct while working in this capacity. The most common was demanding money (25.9%), followed by demanding sex (17.6%). It was also common for police to take sex workers’ phones to use for “sting” operations (looking for customers

Nearly half (49.7%) of sex workers experienced some form of police misconduct while working in this capacity.

How are “sex work” and “trafficking” defined?

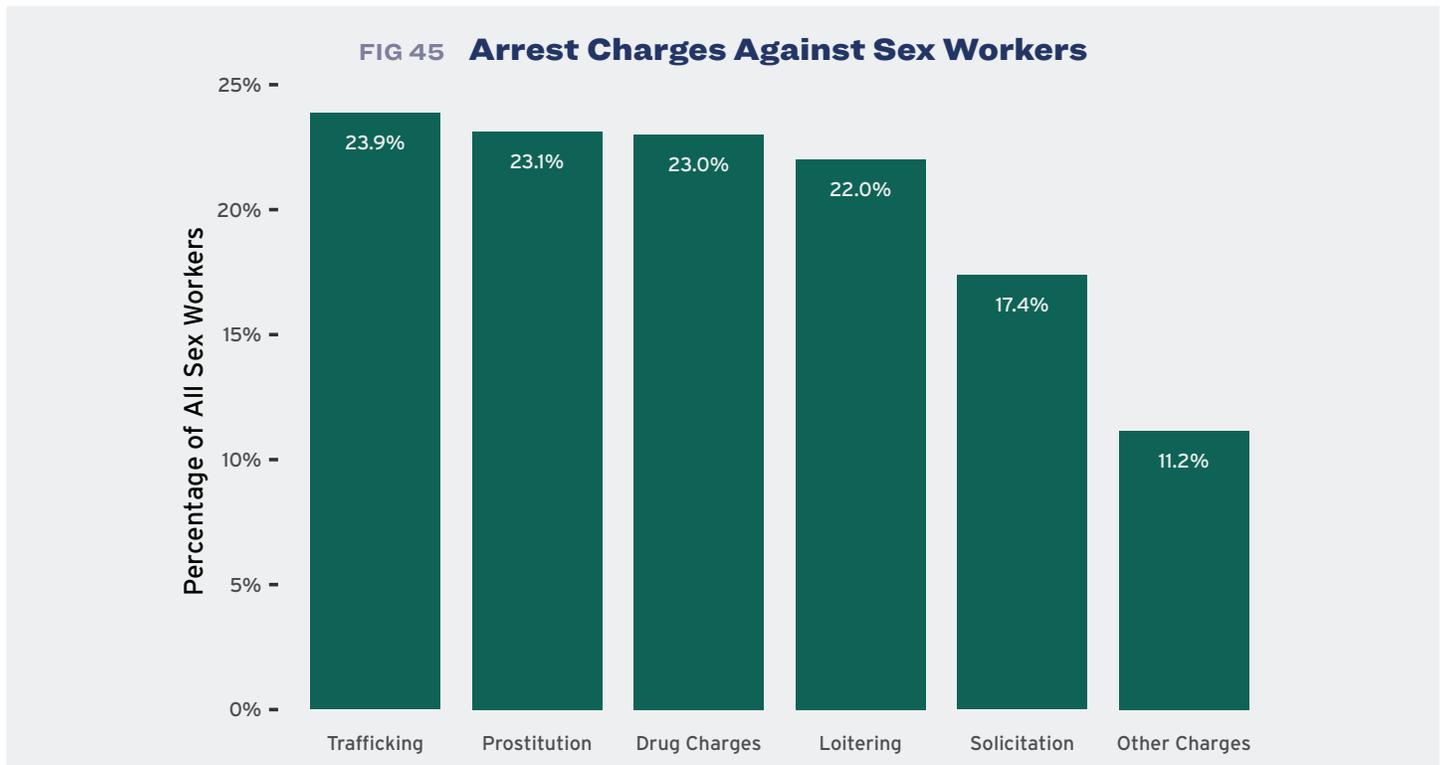
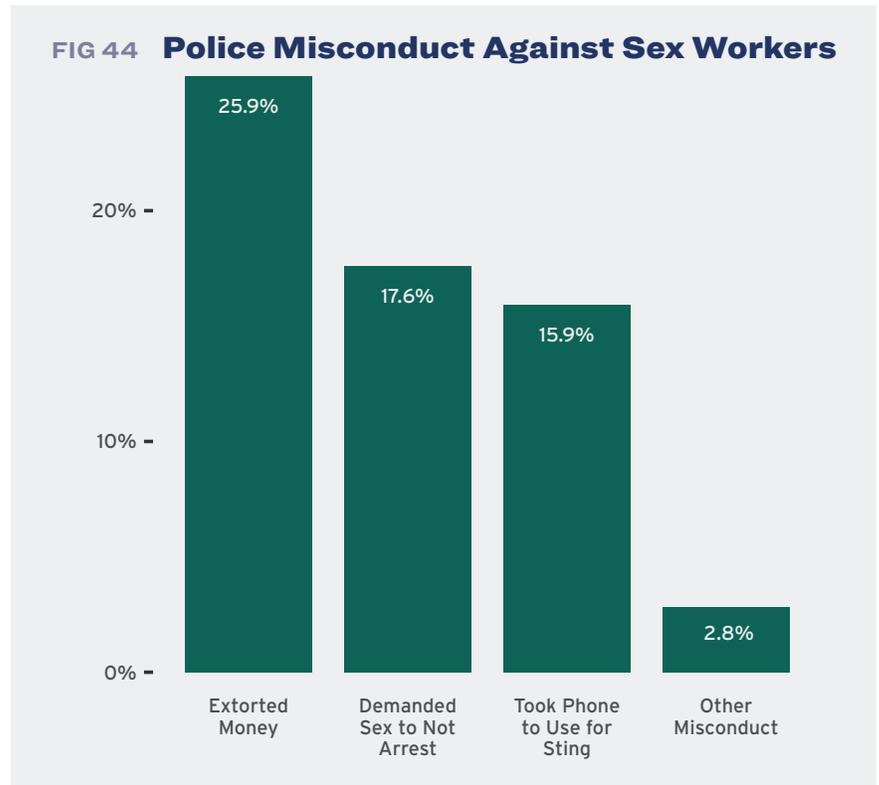
This report defines sex work as the exchange of sex or sexual performance for money or other things of value. We worked directly with the sex work community in crafting this language. Sex work is rooted in the values of autonomy, choice, and consent. Many identities exist within the sex work community, including some who may not identify as a “sex worker.” **For the purpose of discussing the survey findings in this report, all participants who answered yes to the survey question, “In the past five years, have you ever exchanged sex or sexual performance for money or other things of value?” are considered under the umbrella term sex worker.**

Human trafficking consists of two forms: sex trafficking and labor trafficking. For adults, both forms of human trafficking are defined as obtaining sex or labor from another person through the means of force, fraud, or coercion. This definition remains the same for minors and labor trafficking. However, sex trafficking of a minor is defined as recruitment, harboring, transportation, provision, or obtaining a minor for the purposes of commercial sex.

These definitions are extremely important to understand, as sex trafficking and sex work are often conflated. These connotations, and aspects of the anti-trafficking movement, can lead to enactment of laws such as the federal Allow States and Victims to Fight Online Sex Trafficking Act - Stop Enabling Sex Traffickers Act (FOSTA-SESTA). This law directly took away tools sex workers use for safety and communication with each other, highlighting one of many reasons why the decriminalization of sex work is important.

to arrest) (15.9%). As one white gender nonconforming sex worker said, *“In the last two years I was sexually assaulted by a sex work client. He was an officer.”* Another participant, who was Black and female said, *“They [the police] demanded sexual favors, or they would take my money.”* A nonbinary sex worker wrote, *“Simplemente ha sido notable la vigilancia que nos tienen.”* (*“The surveillance they have on us has simply been remarkable.”*)

Forty-five percent (45.0%) of sex workers had been arrested while doing sex work in the past five years. The most common charges were trafficking (23.9%), prostitution (23.1%), drug charges (23.0%), and loitering (22.0%), each of which affected over one in five sex workers arrested in the past five years.

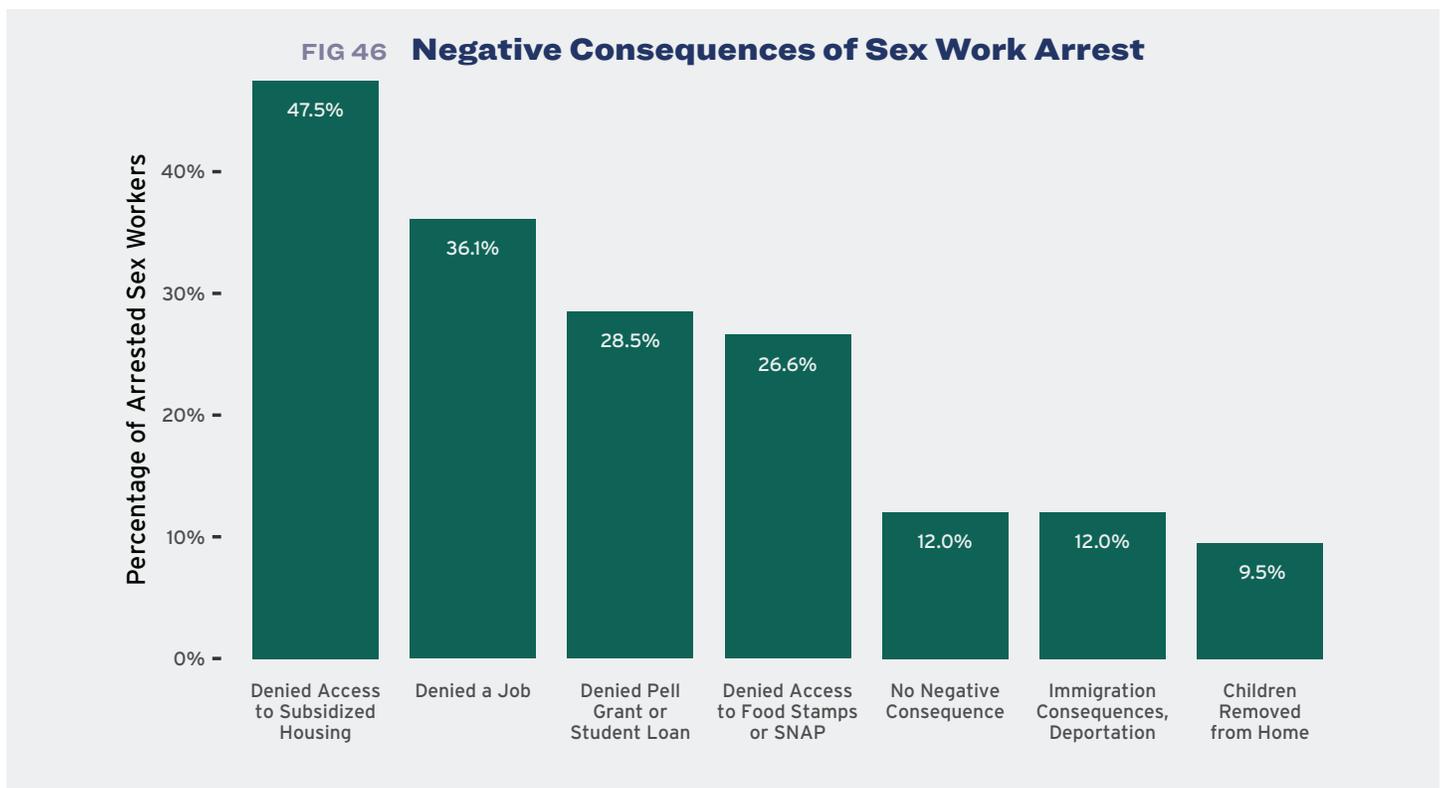


In over half of cases (51.6%), condoms were used as evidence that the survey participant was engaging in sex work during the arrest, plea process, or trial. A further 5.0% of sex workers who had been arrested were not sure if this had occurred or not.

How are condoms used as evidence of sex work?

In many jurisdictions in the United States, police and prosecutors consider the mere possession of condoms to constitute evidence of intent to engage in prostitution or prostitution-related crimes. Arresting and prosecuting people who carry condoms discourages the use of an extremely effective and affordable prevention tool, particularly for people engaged in (or profiled as likely to engage in) “street level” sex work. Such policies make managing sexual health more difficult, forcing individuals to weigh the risk of prosecution for a prostitution-related crime against the risk of transmitting or acquiring HIV and other sexually transmissible infections (STIs).

Many participants experienced negative consequences in the aftermath of their arrests, including being denied access to subsidized housing (47.5%), being denied a job (36.1%), being denied a Pell Grant (28.5%), and being denied access to food stamps or Supplemental Nutrition Assistance Program (SNAP) benefits (26.6%).



LGBTQ+ young people interact with law enforcement and government institutions on a daily basis. For over a decade, researchers and advocates have documented that LGBTQ+ youth are disproportionately represented in child welfare, juvenile justice, and runaway and homeless youth systems (“out-of-home care systems”) compared to the general population. Further, transgender, gender expansive, and gender nonconforming (TGNC) youth, who may identify across the sexual orientation spectrum, are in these systems at even higher rates than youth who identify as LGBQ (Wilson Remlin, Cook, & Erney, 2017). Approximately 20% of youth in juvenile facilities identify as LGBTQ+ (Center for American Progress & Movement Advancement Project, 2016).

Many LGBTQ+ young people are in the child welfare system or experience homelessness because when they came out to their families, they were rejected and forced to leave their homes. Once in the child welfare system, these young people are often met by staff who are ill-equipped to provide competent care to LGBTQ+ youth. LGBTQ+ youth are more vulnerable to discrimination and harassment, which often leads to conflict that is punished and criminalized, turning the child welfare system into a direct pipeline into the juvenile justice system.

Black and Pink National’s *Coming Out of Concrete Closets* report found, “Close to two thirds (58%) of respondents’ first arrest occurred when they were under the age of 18. Black and [Latinx] [participants] were more likely to have their first arrest occur when they were under 18 compared to white [participants] (66% versus 51%, respectively)” (Lydon et al., 2015).

The P&S? survey asked youth ages 18 to 24 about their past experiences in high school. School systems in the United States have responded to challenges such as violence and bullying on school campuses by increasing the use and presence of “school safety officers” and disciplinary measures. Research shows that this has led to increased rates of expulsion, surveillance, discrimination, and harassment, further harming and marginalizing Black and brown students and LGBTQ+ youth at disproportionately high rates compared to their white and non-LGBTQ+ peers. **LGBTQ+ students, and TGNCNB students, specifically, are also disciplined as a means of controlling their gender expressions. These experiences can cause LGBTQ+ young people to feel unsafe at school and ultimately to be “pushed out.”** (Kosciw et al., 2022).

Survey participants between the ages of 18 and 24 (9.6% of the total, or 244 participants) were asked about their high school experiences with school discipline and their experiences with foster care and the juvenile justice system before age 18. A wealth of literature underscores the role that school security and school discipline play in funneling youth into the legal system, and LGBTQ+ youth are disproportionately involved in the juvenile justice system (see, e.g.,

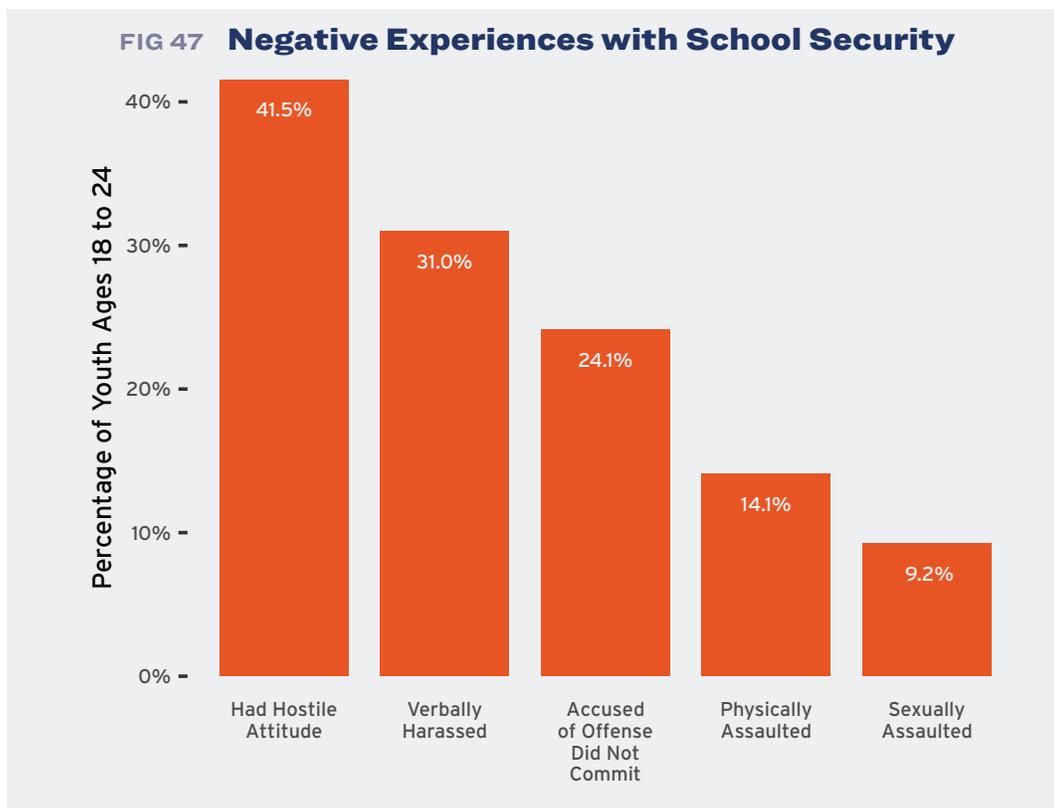
LGBTQ+ youth are more vulnerable to discrimination and harassment, which often leads to conflict that is punished and criminalized, turning the child welfare system into a direct pipeline into the juvenile justice system.

Development Services Group, 2014; Hunt & Moodie-Mills, 2012; Irvine & Canfield, 2018).

Over one in five (21.8%) participants ages 18-24 had been suspended from high school, and 7.9% had been expelled. Many youth (22.7%) had been accused of violating a dress code because of their gender expression, a number that was higher among TGNCNB participants (33.0%). About two in five (42.1%) had experienced at least one of these disciplinary measures. Many youth who had been suspended felt that the school had failed to support them and their needs. One white nonbinary young participant explained, *“I was constantly suspended and nearly expelled at all four schools I went to, and never offered mental health care or assistance.”* A Black transgender young participant simply stated, *“The school doesn’t like people like us.”*

“There’s no difference between a school security guard and a bully.”

— a Black gay young participant



“The school doesn’t like people like us.”

— a Black transgender young participant

About three in four (72.5%) participants had school security, school safety officers, or school police (called here “school security”) in their high school, and of those, about two in five (41.5%) experienced hostility from school security, including 10.6% of all who had school security who experienced hostility more than five times. Over one in three (31.0%) participants were verbally harassed, 14.1% were physically assaulted, and nearly one in ten (9.2%) were sexually assaulted by school security. Furthermore, 24.1% were accused by school security of an offense they did not commit. Qualitative data explained this further, as one Black gay young participant said, *“There’s no difference between a school security guard and a bully.”*

About one in eight (12.5%) youth were in foster care at some time before age 18, and over one in ten (11.0%) had been arrested before the age of 18. Because of what some have called the “foster care-to-prison pipeline,” youth with experience in foster care merit specific attention in any juvenile justice system interventions. However, small samples make it difficult to do many comparative analyses.

Youth with a history of foster care were more likely to have survived physical assault (63.0% vs. 27.1%, OR=4.57), sexual assault (55.6% vs. 24.6%, OR=3.83), IPV (65.4% vs. 18.4%, OR=8.39) and/or a hate incident (80.0% vs. 54.1%, OR=3.39) and were more likely to have been arrested before age 18 (37.0% vs. 7.4%, OR=7.35) compared to youth with no history of foster care.

Foster youth were twice as likely to indicate that they had engaged in sex work in the past five years (36.0% of foster youth vs. 18.8% of non-foster youth, OR=2.43).

Foster youth were twice as likely to indicate that they had engaged in sex work in the past five years (36.0% of foster youth vs. 18.8% of non-foster youth).

Detention

A 2017 study by the Williams Institute found that the rate of incarceration of lesbian, gay, and bisexual people is approximately three times higher than the already high general U.S. incarceration rate (Meyer et al., 2017). A shocking 47% of Black transgender people, and more than one in five (21%) transgender women of all ethnicities, are incarcerated during their lifetimes (Grant et al., 2017). In 2020, an estimated 11,940 detained people were living with HIV in state and federal prisons, reflecting a slow but steady decline since 1998 (Maruschak, 2022). Among jail populations, Black men are five times as likely as white men, and twice as likely as Latinx men, to be diagnosed with HIV (U.S. Centers for Disease Control and Prevention, 2018). Black people are also disproportionately represented among cases of AIDS-related deaths in prisons (Maruschak, 2022).

A shocking 47% of Black transgender people, and more than one in five (21%) transgender women of all ethnicities, are incarcerated during their lifetimes (Grant et al., 2017).

Once detained, LGBTQ+ people and people living with HIV experience high rates of abuse, denial of medical care, and discrimination in prisons, jails, immigration detention, and juvenile detention facilities. Under the U.S. Constitution, state constitutions, and other laws, people who are detained have a right to be protected from harm from other incarcerated people and staff. These harms include failure to protect from physical and sexual violence, denial of medically necessary care, and discrimination based on sexual orientation, sex, and disabilities. These institutions all too often fail to meet the basic standards of safety and treatment.

Black and Pink National's *Coming Out of Concrete Closets* report found that detained LGBTQ+ people and people living with HIV experience additional harms. For example, “78% of transgender, nonbinary gender, and Two-Spirit respondents experienced emotional pain of hiding their gender identity during incarceration/

throughout their interactions with the criminal legal system” (Lydon et al., 2015). Additionally, the pervasive use of solitary confinement harms many detained LtGBTQ+ people. The report found that “85% of respondents have been in solitary confinement at some point during their sentence; approximately half have spent 2 or more years there. Altogether, respondents have spent a total of 5,110 years in solitary confinement” (Lydon et al., 2015).

Sexual assault of LGBTQ+ people is a pervasive problem in prison settings, so much so that the U.S. Supreme Court has specifically articulated the constitutional duty of prison officials to protect vulnerable people from unnecessary risks of harm from sexual violence in their custody. In *Farmer v. Brennan* (1994), a case filed by Dee Farmer, a Black transgender woman, the Supreme Court ruled that incarcerated transgender people have a right to reasonable safekeeping because “[b]eing violently assaulted in prison is simply not ‘part of the penalty that criminal offenders pay for their offenses against society.’” Ms. Farmer’s case was a catalyst for the Prison Rape Elimination Act (PREA), a federal law designed to eliminate sexual abuse of detained people.

Despite laws and policies enacted to protect the rights of detained people, many continue to face abuse and discrimination due to failure to enforce such laws and the barriers they encounter in attempting to use the legal system. For example, incarcerated people must comply with the Prison Litigation Reform Act (PLRA), a federal law that makes it harder for people who are in prison to file complaints in federal court, forcing the detained person to exhaust the system’s grievance process before they are able to go to court. Reporting abuse can also lead to harassment and retaliation from prison officials and staff, causing further harm.

Over three in ten (31.4%) of all those who took the survey had been detained in prison, jail, immigration detention, or juvenile detention in the past five years, including those who were detained in prison or jail at the time of the survey (16.5% of the entire sample of participants.)⁹

The most common type of detention was prison (22.2%), followed by jail (12.5%), immigration detention (5.2%), and juvenile detention (4.7%). Survey participants

⁹ Detained participants were not asked about recent experiences in types of detention that were not their current detention location; for example, those detained in prison were not asked about whether they had been in immigration detention and are not included in the analysis of data about recent but non-current types of detention.

How do we define sexual misconduct in detention?

This report defines sexual harassment to include unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical harassment of a sexual nature. The survey also asked about sexual assault or any other sexual contact from a member of the staff. We intentionally did not provide legal definitions of sexual harassment, sexual assault, or sexual contact. We also did not ask whether the participant consented to any of these actions.

were asked about various types of misconduct staff members may have committed in the past five years while they were detained, including verbal assault, physical assault, sexual harassment, sexual assault, other sexual contact, accusing the survey participant of a crime they did not commit, or using the wrong name or pronoun. The next section describes the findings about negative experiences in detention.

The most common offense experienced in prison, affecting over four in five (81.6%) participants who spent time in prison, was verbal assault. In addition, many were also sexually assaulted (21.4%) or sexually harassed (54.0%) by staff. Qualitative accounts expanded upon the quantitative data to describe these experiences.

“I was sexually assaulted and harassed by officers AND inmates. When I put in a PREA complaint and got rape tested, I had officers tell me ‘You are a dumbass. We’re not going to get charged, so why try?’ and ‘You do this to yourself. If you didn’t flaunt yourself and act like a fairy, this never would have happened.’”

— a white nonbinary participant

Qualitative accounts also mentioned types of abuse that were not measured in the survey, such as breaking property and being kicked out of programs for being LGBTQ+.

“Staff at [this prison] write false conduct violation reports . . . you are always found guilty. [They p]urposely break property of inmates. Verbally harass and make racial jokes at inmates of color.”

— a Black pansexual participant

“I’ve also been denied PC [protective custody] because of being transgender. I’ve been given false disciplinary, denied programs, and kicked out of programs due to being trans. I’ve had COs [correctional officers] nitpick and harass me about my clothes and appearance because of being trans when any other inmate at wearing the same clothes would have been left alone. I’ve had COs and administration ignore my rape complaints, and/or claim it ‘Must have been consensual’, because I’m trans. I’ve also have had staff blame me for being sexually assaulted / harassed because I ‘brought it on myself’ by being openly transgender.”

— a white transfeminine participant

“[The staff] always . . . make offensive comments. If you right grievance it never goes thru, and they retaliate by threatening disciplinary action by falsifying violations of facility [rules] and treat you like crap.”

— an Indigenous trans participant

“I was verbally harassed about my sexual identity. I am a bisexual man. I was discovered by [them] monitoring my mail.”

— a Black bisexual male participant

FIG 49 Abuse Experiences in Prison

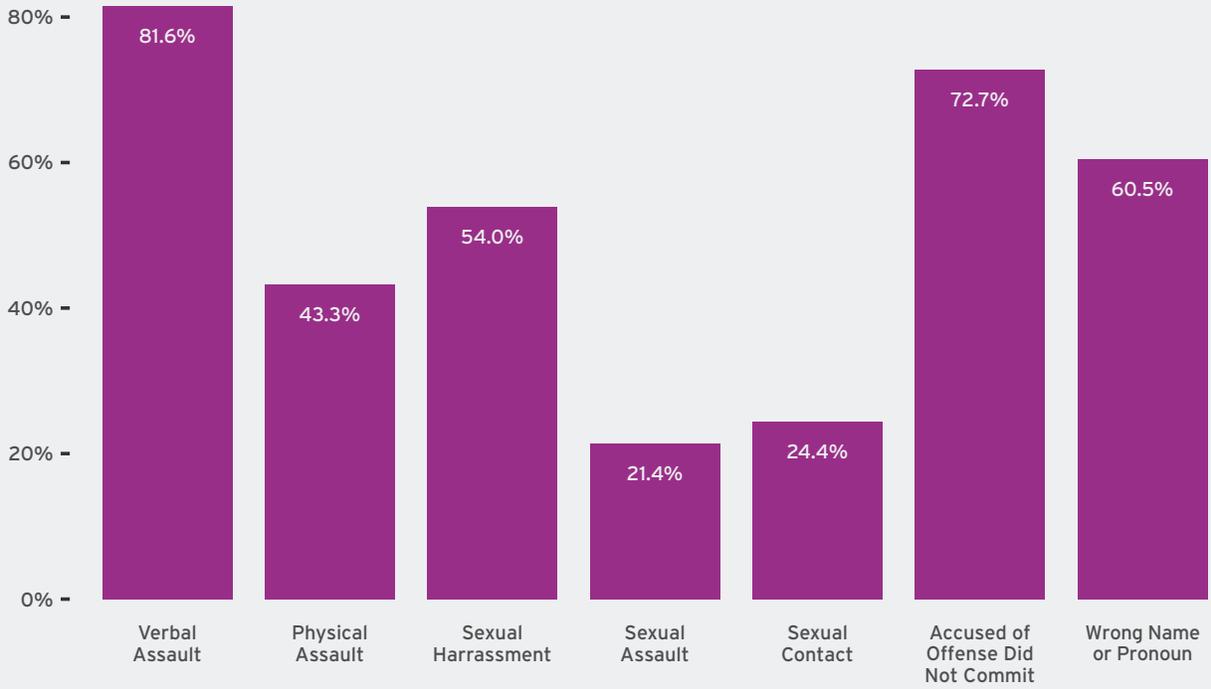


FIG 48 Abuse Experiences in Jail

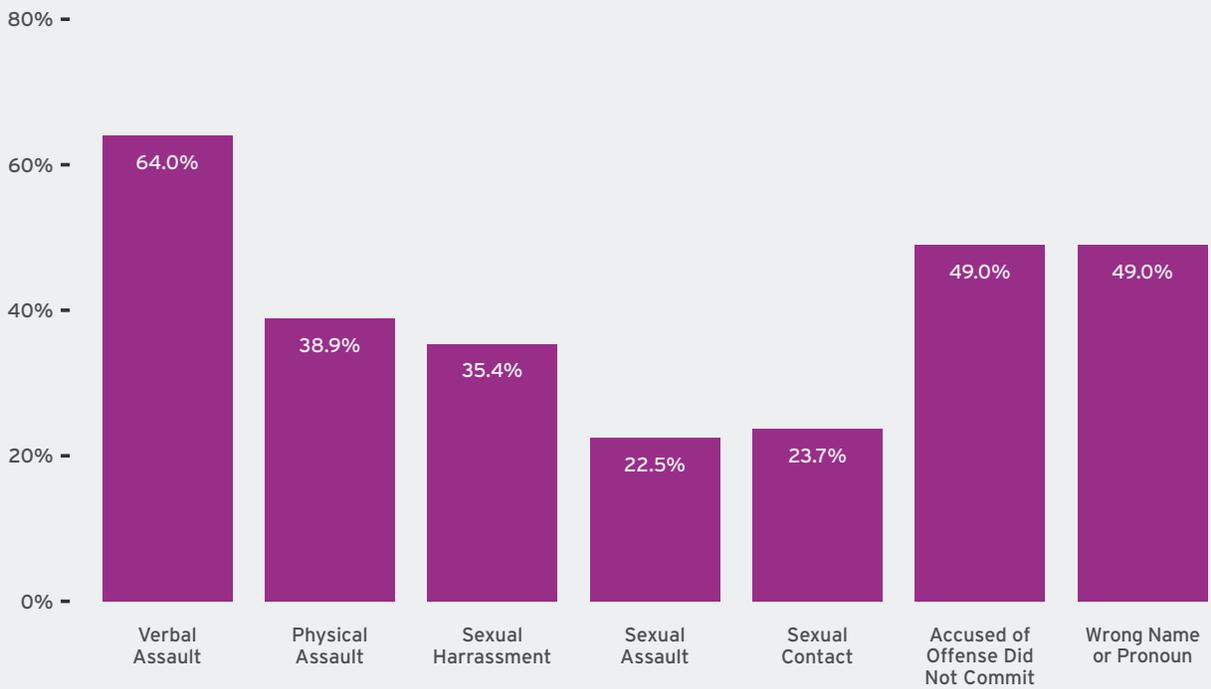


FIG 50 Abuse Experiences in Immigration Detention

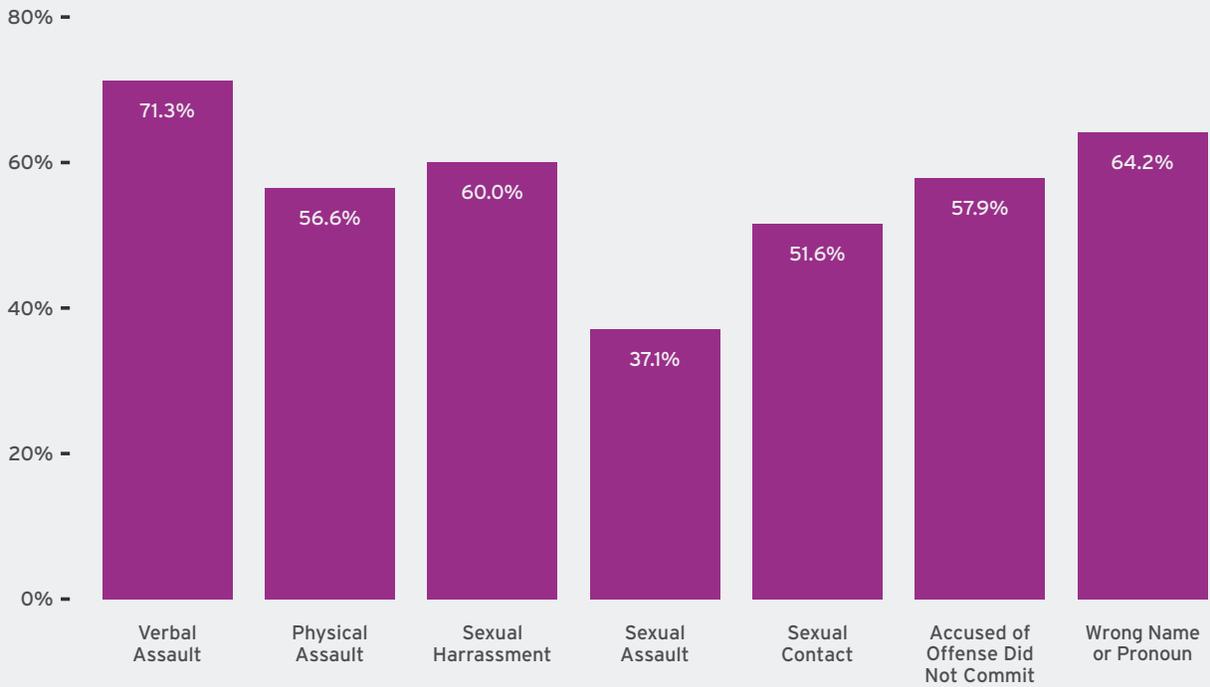
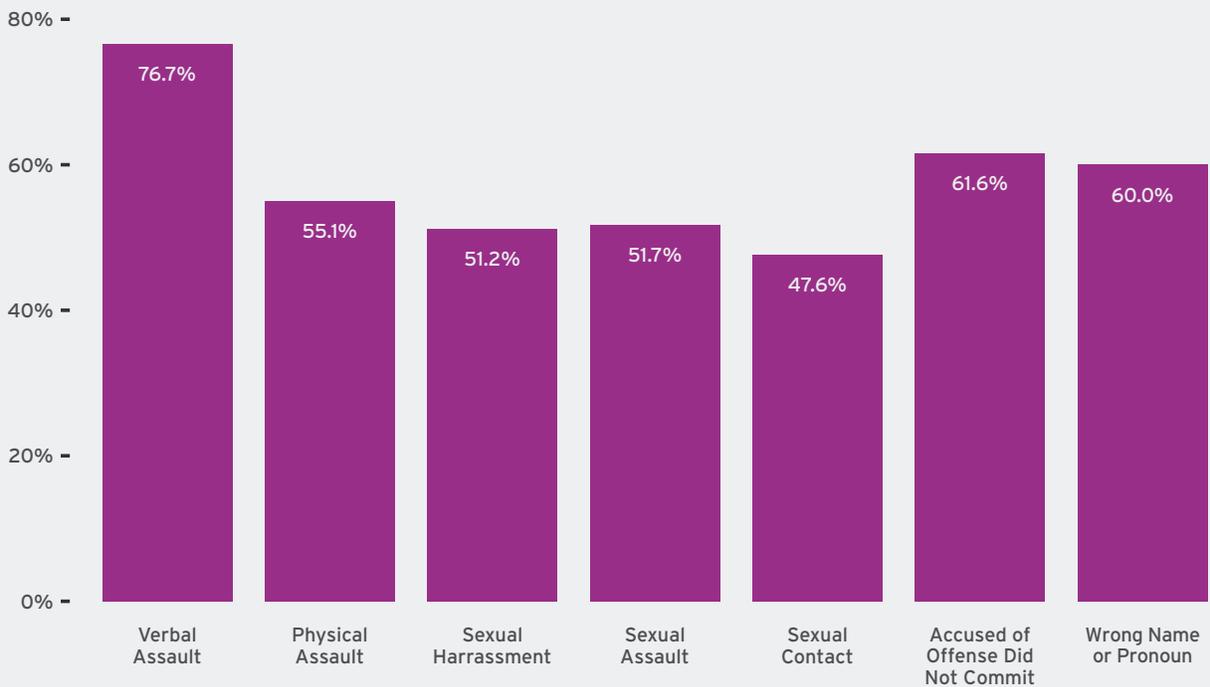


FIG 51 Abuse Experiences in Juvenile Detention



What does the Prison Rape Elimination Act (PREA) say about sexual contact and abuse in detention?

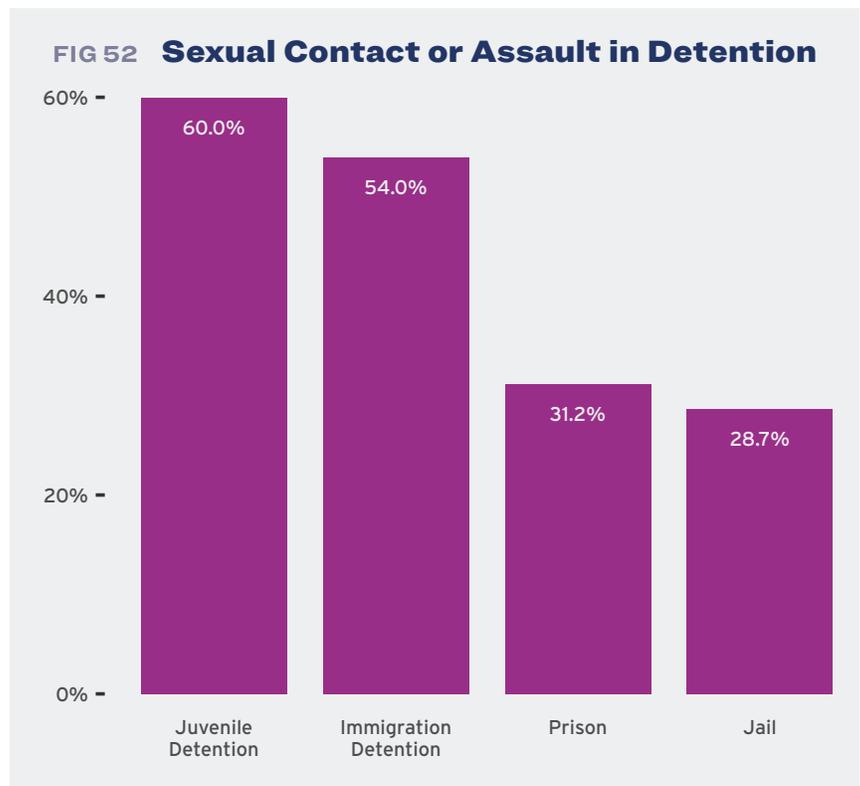
In 2003, Congress unanimously passed the Prison Rape Elimination Act (PREA) to respond to the overwhelming number of incidents of rape and other sexual abuse in government custody. PREA established a “zero-tolerance standard” for rape in prisons. PREA recognized that gay, lesbian, bisexual, transgender, intersex, and gender nonconforming people face a heightened risk of sexual victimization. In 2012, the Department of Justice released the final PREA Standards, which included comprehensive requirements for local, state, and federal prisons; jails, community corrections, and lock-up facilities for adults; juvenile detention facilities; and immigration detention facilities.

While PREA does not provide a private right of action, which means that you cannot sue under PREA, its standards can be used to help show that constitutional rights or other laws have been violated. Under PREA, any kind of sexual contact between an incarcerated person and a prison official qualifies as sexual abuse, with or without consent of the inmate, detainee, or resident. Any sexual contact between incarcerated people, without consent, is sexual abuse. Other federal and state laws criminalize sexual contact between officials and people in their custody regardless of consent, assuming that consent is not possible given the power dynamics in prisons.

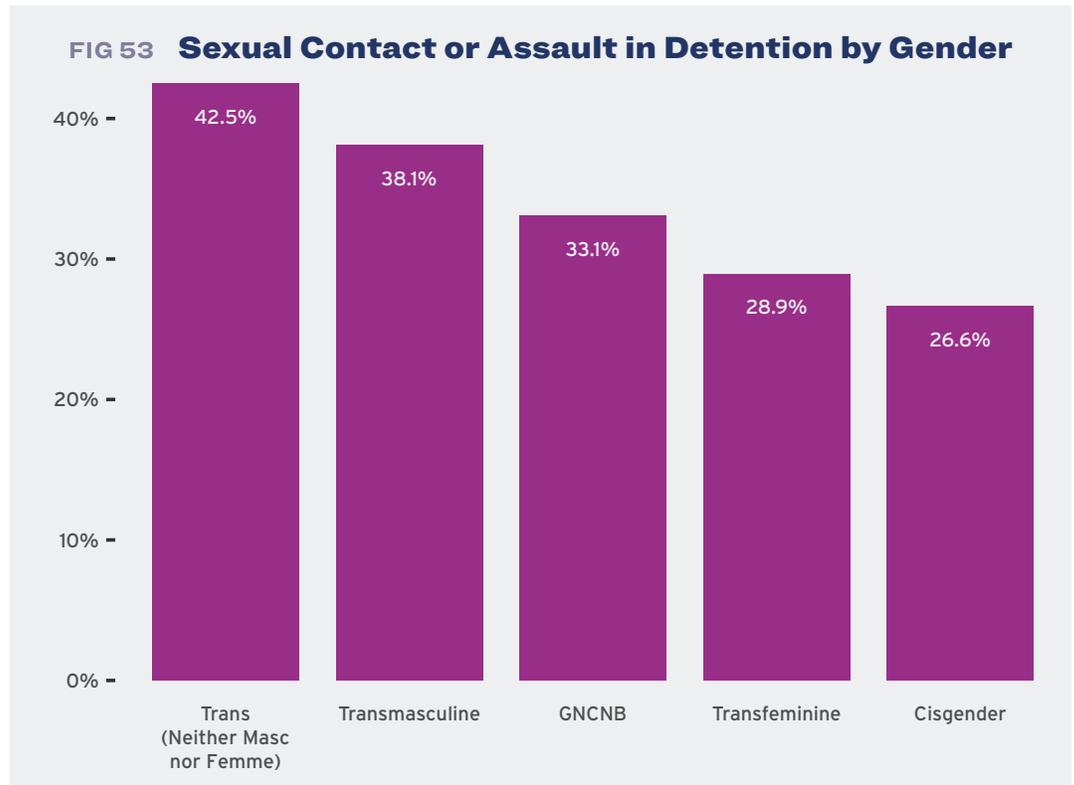
Experiences of sexual contact with or assault by staff were very common across all facilities, but particularly in juvenile detention (60.0%) and immigration detention (54.0%). TGNCNB participants experienced sexual contact or assault in detention at higher rates than cisgender participants (35.1% vs. 27.4%).

Sexual contact between staff and a detained person is sexual assault due to the power differences between detained people and staff; sexual contact and sexual assault were measured separately on the survey because survey participants may have distinguished between them, and it was important to capture all types of misconduct by staff.

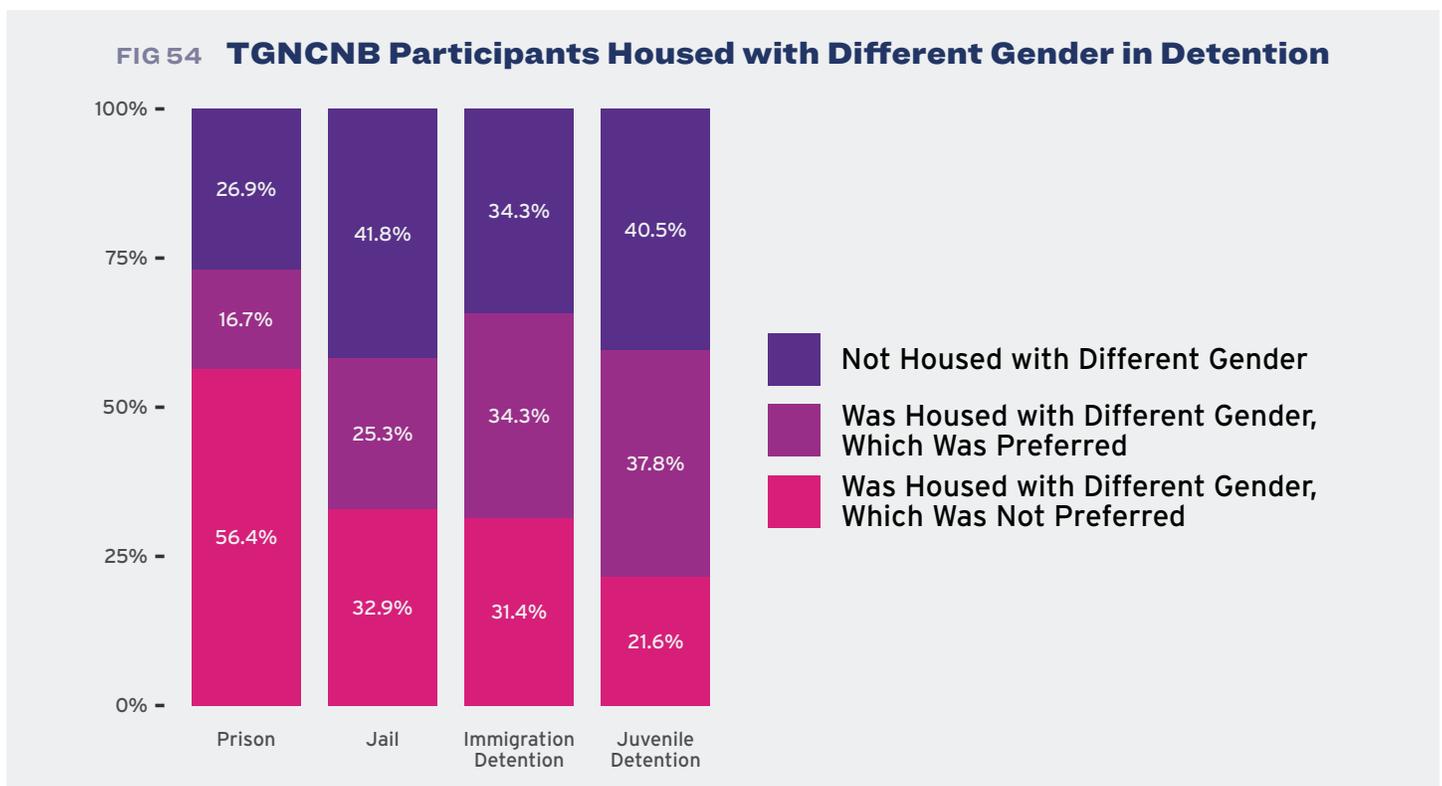
The federal PREA applies to local, state, and federal prisons; jails, community corrections, and lock-up facilities for adults; juvenile detention facilities; and immigration detention facilities. **A report by the Bureau of Justice Statistics that is required under the PREA found that just 7.1% of incarcerated youth**



experienced sexual victimization in 2018; only a small fraction of the 51.7% found in this survey (Smith & Stroop, 2019). This suggests, as do many other studies, that incarcerated LGBTQ+ youth are particularly vulnerable to sexual assault compared to cisgender, heterosexual youth. Studies released under the Bureau of Justice Statistics found that incarcerated LGB people were much more likely to experience sexual abuse in prisons (12.2%) and jails (8.5%) compared to other incarcerated people (Beck et al., 2013).



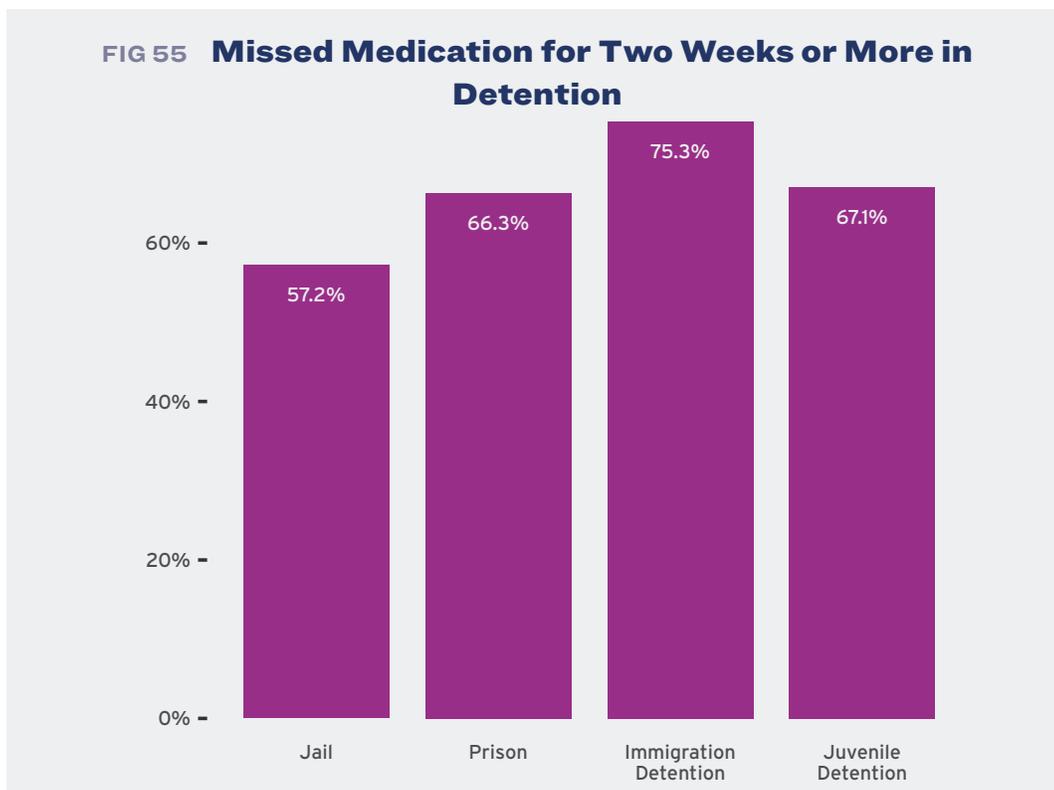
Over half of TGNCNB survey participants who had been in juvenile detention, prison, jail, and/or immigration detention had been placed in a single-sex facility with a gender different from the one they identified with and where this was not



their preference in at least one detention setting (54.8%). This was particularly common in prison (56.4%). Because participants might have been in more than one facility, the percentage of participants who had experienced this overall is higher than the percentage who report this for any one specific type of facility.

While transfeminine participants were particularly likely to say they were housed with men and that this was not preferred (73.3%), small samples sizes did not allow for analysis of transmasculine participants.

Participants were asked whether they took medication and whether they had missed it while detained. **Nearly two-thirds (62.7%) of those who took medication and were detained missed it for two weeks or more while detained.** This was a particular problem in immigration detention, where 75.3% of those who took medication missed it for two weeks or more. Although the survey did not ask what type of medication they were taking, it is important to note that this issue affects TGNCNB people, those with HIV, and those with disabilities more profoundly than other populations, as they are more likely to take medication and to experience stigma around their need for medication.



“My gender dysphoria diagnosis was denied and my previous prescription for hormones was denied and now is being slow walked because our doctor is only in three days a month.”

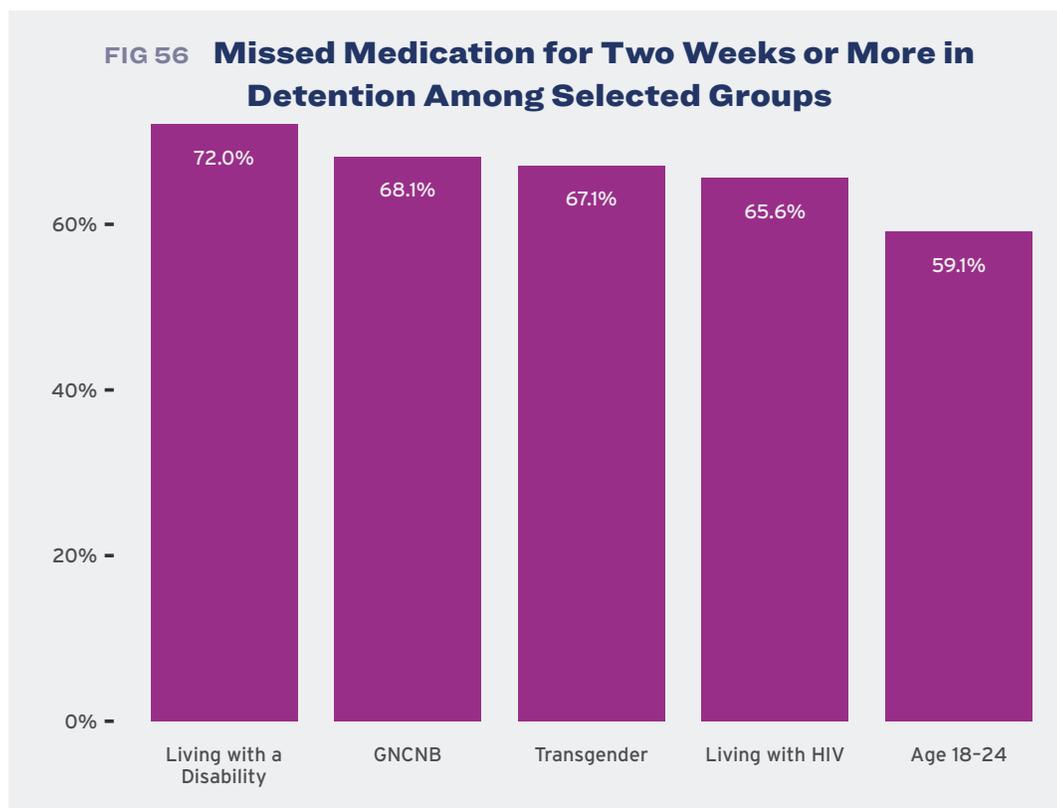
— a Black transfeminine participant

The open-response questions provided more context around experiences of being denied needed medications. Survey participants wrote about missing hormone replacement therapy, antiretrovirals, heart medications, and psychotropic medications. The reasons participants could not access their medications while in detention varied; some were very obviously related to homophobia and transphobia, while others were related to logistical and administrative barriers. One Black transfeminine participant said, “My gender

dysphoria diagnosis was denied and my previous prescription for hormones was denied and now is being slow walked because our doctor is only in three days a month.” A white transwoman said, “They refuse to diagnose me with gender dysphoria, even though I know I have it.” Finally, one Black transgender person living with HIV said, “My medications for HIV were self-carry. More than two times when it came to getting my meds refilled, I ran out, and went without for more than a week.” Delays and interruptions in receiving medication could cause or put someone at risk of irreparable harm. Under the U.S. Constitution, denying or intentionally delaying access to medical care, or intentionally interfering with treatment once prescribed, could violate the Eighth Amendment’s prohibition on cruel and unusual punishment.

“My medications for HIV were self-carry. More than two times when it came to getting my meds refilled, I ran out, and went without for more than a week.”

— a Black transgender participant



Do federal disability protections cover gender dysphoria and HIV?

The federal Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973 (Rehab Act) protect people with disabilities from discrimination in state and local government services, employment, transportation, telecommunications, and public accommodations. A person living with HIV, whether symptomatic or asymptomatic, has a physical impairment that substantially limits one or more major life activities and thus is protected by federal laws. Similarly, as of the federal appellate decision in *Williams v. Kincaid* (2022), federal laws do not exclude coverage for gender dysphoria. This means that a transgender or nonbinary person who has been diagnosed with gender dysphoria that substantially limits one or more major life activities has a disability as defined under these laws. Therefore, as defined under the ADA and Rehab Act, a person living with HIV and/or with gender dysphoria is a person with a disability.

Conclusion

All people, including LGBTQ+ people and people living with HIV, have a right to be free from discrimination and violence when interacting with the criminal legal system. **Findings from the *Protected and Served? 2022* survey sadly confirm what we have known for a long time: discrimination and abuse against LGBTQ+ people and people living with HIV in the criminal legal system is pervasive, systemic, and deeply entrenched.** We do, however, strongly believe that this report equips us with the data necessary to advocate for and demand change.

As this report details, despite constitutional protections, laws, and policies intended to protect LGBTQ+ people and people living with HIV from abuse and discrimination, the system continues to fail to do so. Government institutions within the criminal legal system must be held accountable for misconduct, either through oversight, the laws and courts, or community accountability measures—the time to do so is now. We can no longer wait for change to happen.

It is our hope that the *Protected and Served?* report will be utilized as a tool for further research, community-based advocacy efforts, litigation, and effective policymaking to strengthen protections for LGBTQ+ people and people living with HIV. It is our further hope that these efforts identify and uproot both discrimination and bias within the criminal legal system, holding government officials accountable.

Finally, we call upon every organization that serves or is led by people who are LGBTQ+ or living with HIV, if they are not doing so already, to challenge police violence, mass incarceration, and criminalization, as well as the systemic harm happening to young people. We call on you to truly prioritize and center community members who are most impacted by the criminal legal system—including formerly and currently detained people, BIPOC, TGNCNB people, and young people—within your organizations and through your support and resources.



Recommendations

The following recommendations include actions that can drive change in the criminal legal system at the individual, community, and societal levels. Anti-LGBTQ+ bias, HIV stigma, classism, racism, and many other biases are entrenched in our cultural norms and the way in which we operate as a society. It is for this reason that a multifaceted approach, which should include both short-term and long-term goals, is necessary to address the issues of government misconduct, discrimination, and violence within the criminal legal system. It is essential that these vital and evolving recommendations speak to the issues brought forth by the community, as well as center the needs and voices of those directly impacted.

Our recommendations are presented in sections organized by stakeholder; however, we stress that it is important for stakeholders to work together in achieving goals. For this reason, this report openly acknowledges the necessity of both reformist and abolitionist approaches to addressing the impacts of the criminal legal system.

FOR COMMUNITY MEMBERS

KNOW YOUR RIGHTS Every person deserves to know and have the ability to exercise their rights. This is one of the greatest tools community members have to fight back against injustice and mistreatment. Various advocacy, legal, and civil rights organizations have “Know Your Rights” tool kits. For resources from Black and Pink National, please visit www.blackandpink.org, and for resources from Lambda Legal, please visit www.lambdalegal.org.

ATTEND BYSTANDER INTERVENTION TRAINING PROGRAMS Many organizations offer bystander intervention training and other community safety programs that teach people how to disrupt violence effectively. These models not only make communities safer by empowering people to address violence as it’s happening, but also help shift attitudes and reduce tolerance for harassment and violence within their communities.

EXPLORE TRANSFORMATIVE JUSTICE PRACTICES Mia Mingus, with the support of other community leaders including Ejeris Dixon, Mariame Kaba, Andi Gentile and Javiera Torres, defines transformative justice (TJ) as “a political framework and approach for responding to violence, harm and abuse. At its most basic, it seeks to respond to violence without creating more violence and/or engaging in harm reduction to lessen the violence. TJ can be thought of as a way of ‘making things right,’ getting in ‘right relation,’ or creating justice together. Transformative justice responses and interventions 1) do not rely on the state (e.g. police, prisons, the criminal legal system, I.C.E., foster care system (though some TJ responses do rely on or incorporate social services like counseling); 2) do not reinforce or perpetuate violence such as oppressive norms or vigilantism; and most importantly, 3) actively cultivate the things we know prevent violence such as healing, accountability, resilience, and safety for all involved” (Mingus, 2019). For more information, visit www.transformharm.org.

GET INVOLVED IN CIVIC ENGAGEMENT Getting directly involved with issues that mean the most to you or your community is the most effective way to create societal change. Examples of civic engagement include voting; speaking at a city council meeting, school board meeting, or legislative hearing; canvassing; protesting; and much more. Many of the concerns mentioned in this report could

FOR COMMUNITY MEMBERS, CONTINUED

be addressed through calls for stronger and enforceable accountability measures, legislation, and a focus on community-led efforts. Organizing strategies, such as those used during the Black Lives Matter Movement, can help bring attention and awareness to community concerns as well as spark movements toward change.

FOR ADVOCATES AND POLICYMAKERS

SUPPORT THE DECRIMINALIZATION OF SEX WORK AS AN LGBTQ+ ISSUE Due to the disproportionate impact of sex work criminalization on LGBTQ+ communities and communities of color, sex workers along with several LGBTQ+ rights/justice organizations, including Lambda Legal and Black and Pink National, support and advocate for the decriminalization of sex work. Lambda Legal supports the decriminalization of sex work by acknowledging that there is no constitutionally adequate basis to criminalize sex solely because one consenting adult pays another. Furthermore, abolitionist organizations like Black and Pink National encourage efforts to support and advocate for the LGBTQ+ sex work community without the involvement of police or the criminal legal system, primarily due to the disproportionate impact discussed in this report.

SUPPORT THE DECRIMINALIZATION OF HIV Most laws that criminalize HIV are based on outdated science and directly interfere with public health goals. Most HIV criminalization laws were written in the early days of the epidemic and criminalize behavior regardless of whether transmission of HIV is possible. These laws disincentivize testing for HIV, as knowledge of one's status could lead to prosecution. They also weaken public health efforts by promoting stigma and shame that can delay or deter treatment. Since HIV disproportionately affects communities of color, HIV criminalization laws lead to further prosecution of these communities and create additional barriers to treatment. Lambda Legal and Black and Pink National support the repeal of HIV criminalization laws.

SUPPORT TRANS, GENDER NONCONFORMING, AND NONBINARY-LED MOVEMENTS Despite the vastly negative experiences of TGNCNB people within the criminal legal system apparent in the survey results, TGNCNB-led movements often report lower levels of support and collaboration. TGNCNB people, especially Black people, have led and/or played a major role in prominent civil rights movements including movements around HIV/AIDS, Black Lives Matter, COVID-19 community response, the Stonewall Riots, and other LGBTQ+ movements. For this reason, we recommend stronger, and more intentional, forms of support and collaboration with values-aligned TGNCNB movements and organizations.

WORK TOWARD COLLABORATION AND UNDERSTANDING AMONG ADVOCATES WITH DIFFERENT APPROACHES For centuries, advocates have taken a variety of approaches to successfully create a culture of change. Each generation creates, refines, and combines advocacy approaches and strategies that attend to the unique perspectives and needs of their time. Due to the vast range of experiences highlighted in this report, many strategies will be necessary to stop the government misconduct, harm, and violence experienced by system-impacted LGBTQ+ people and people living with HIV. It is for this reason that this report openly acknowledges the necessity of both reformist and abolitionist approaches to addressing the impacts of the criminal legal system.

SUPPORT COURT REFORM EFFORTS As this report makes clear, trust in the court system among survey participants is low. But the general public also lacks confidence in the courts, in part due to the U.S. Supreme Court's erosion of our fundamental rights. Some current reform efforts that Lambda Legal supports in the federal judiciary include adding seats to the U.S. Supreme Court to match the number of federal Circuit Courts of Appeal and adopting an enforceable ethics code for Supreme Court Justices, as well as expanding the lower federal courts to accommodate the increasing demands on those courts.

PROHIBIT DISCRIMINATION IN JURY SERVICE Most state court systems and the federal judiciary do not explicitly prohibit discrimination in jury service based on sexual orientation or gender identity. This means that in many places, LGBTQ+ people can be dismissed from jury service simply because of their sexual orientation, gender identity, and/or gender expression. Advocates and policymakers at the state and federal levels must ensure that laws and court rules, such as the federal Equality Act and the Jury ACCESS Act, are enacted to prohibit this discriminatory treatment.

CONGRESS SHOULD ELIMINATE BARRIERS TO ENFORCING CONSTITUTIONAL RIGHTS AND FEDERAL RIGHTS The Prison Litigation Reform Act (PLRA) makes it harder for people to seek legal recourse for harms experienced while in prison. The Act requires people to first exhaust often-complex grievance processes in administrative systems that are often fraught with delays before they can go to court. This often means that they will have to continue to endure harm as they wait for this process to unfold. Congress should make changes to the PLRA that will permit people in prison to bring their claims to court sooner.

In addition, the Prison Rape Elimination Act (PREA), despite its robust protections, does not provide a private right of action to survivors of assault. This means that systems that fail to protect or fail to act when someone has been sexually assaulted or raped often are not held accountable under the law that was enacted to end such abuse. Congress should amend the PREA to give survivors of abuse a private cause of action against prisons and jails, as well as officials.

WORK TO KEEP LGBTQ+ YOUTH SAFE IN SCHOOLS LGBTQ+ youth report high levels of bullying and harassment at school. Oftentimes, their responses to these experiences, such as using self-defense, skipping school, or running away, result in the youth's involvement in the legal system. Advocates and policymakers should work with school boards, administrators, and staff to create, adopt, and enforce anti-harassment policies for LGBTQ+ students, but also to greatly limit—or entirely prohibit—the use of disciplinary actions such as referrals to law enforcement, school-based arrests, and expulsions. All policies should be cognizant of actual and/or perceived sexual orientation, gender identity, and gender expression.

For all students, and specifically LGBTQ+ students, schools should adopt policies that prohibit punishment as a means of policing gender expression. This includes prohibiting policies that dictate gender-based dress codes, bar students from using restrooms that align with their gender identity, or prevent students from utilizing a name that affirms their gender identity.

FOR PEOPLE WORKING IN THE CRIMINAL LEGAL SYSTEM

INCREASE ACCOUNTABILITY THROUGHOUT THE CRIMINAL LEGAL SYSTEM Stronger and enforceable oversight and accountability are needed within the criminal legal system. Specifically, this report recommends increased oversight of police departments and law enforcement agencies by independent agencies and community review boards with the resources and authority necessary to hold departments and officers accountable.

ELIMINATE DISCRIMINATORY BEHAVIOR AND LANGUAGE IN THE CRIMINAL LEGAL SYSTEM It is necessary to adopt and enforce laws and policies that explicitly prohibit discrimination based on actual or perceived sexual orientation, gender identity, gender expression, and HIV status in prisons, jails, immigration detention centers, juvenile facilities, and courtrooms. The establishment of rules of professional responsibility and conduct for all professions and facilities within the criminal legal system is also crucial.

More than 20 states do not have fully inclusive non-discrimination laws that protect all LGBTQ+ people. Of those that do, a number of states do not explicitly include the court system, prisons, and jails as places of public accommodation or government office to which the non-discrimination law applies. Policymakers should amend laws to include these institutions.

Additionally, over half of survey participants who had been in court in the past five years were misgendered. Misgendering someone in any setting is disrespectful, a violation of that person's privacy, and potentially dangerous for them. Every state should have ethics rules that include non-discrimination requirements and explicitly protect LGBTQ+ people and people with disabilities, including HIV and gender dysphoria. Judges and court personnel should receive training on LGBTQ+ issues and learn to treat LGBTQ+ people with respect. Attorneys, including public defenders and other court-appointed attorneys, should also receive training on working with LGBTQ+ clients, including appropriate client advocacy (e.g., using the correct name and pronouns).

BAN PROFILING AND OTHER DISCRIMINATORY LAW ENFORCEMENT PRACTICES

While a number of police departments and other law enforcement agencies have enacted policies that purport to address LGBTQ+ bias, there remains a great need for explicit and enforceable bans on profiling and discriminatory policing based on sexual orientation and gender identity. This includes practices that lead to increased interaction with police and incarceration, such as so-called "Quality of Life" or "Broken Windows" policies, as well as paraphernalia laws that use the possession of condoms or safe-use kits as evidence against sex workers. LGBTQ+ people disproportionately experience homelessness, engage in sex work, and live with disabilities, all of which are criminalized under these policies.

PROTECT THE RIGHTS AND SAFETY OF DETAINED LGBTQ+ PEOPLE AND PEOPLE LIVING WITH HIV

Prisons, jails, immigration detention facilities, and juvenile facilities should at a minimum follow PREA standards regarding searches and housing, taking into account a person's gender identity and safety. Systems must not permit the use of searches as punishment or for discriminatory purposes. Systems should also prohibit the use of solitary confinement or "protective custody," conditions that are the same as solitary confinement, as routine or standard protective placement for LGBTQ+ people or people living with HIV. Procedures that provide for differential treatment or enhanced disciplinary measures because of a person's HIV status should be repealed.

FOR PEOPLE WORKING IN THE CRIMINAL LEGAL SYSTEM, CONTINUED

As the survey responses show, many participants missed medication in detention. Systems should ensure that everyone in their custody has access to medical and mental health care and treatment without delays or interruptions. For many TGNCNB people, treatment may include hormone therapy and/or surgical interventions. Furthermore, TGNCNB people should not be prohibited from obtaining commissary items because of their gender identity.

Finally, when systems fail to uphold standards and comply with the law, detained people should be able to enforce their rights through reporting, investigations, and accessing the courts. People in detention must be able to safely report violence and abuse without fear of retaliation and/or harassment.

PROTECT THE RIGHTS OF LGBTQ+ YOUTH Departments and agencies within the child-welfare system, the juvenile system, and the runaway and homeless youth system should develop policies and culturally competent training to protect the rights of LGBTQ+ youth. These policies and training should be based on best practices and emphasize respect for LGBTQ+ young people's self-determination. Additionally, when systems fail to uphold standards and comply with the law, system-involved youth should be able to report their experiences without fear of retaliation or harassment.

INVEST IN COMMUNITY-INFORMED ALTERNATIVES TO TRADITIONAL CRIMINAL LEGAL SYSTEM OPTIONS While some alternatives to the criminal legal system, such as transformative justice initiatives, take the needs of impacted communities into account, many other programs that position themselves as alternatives do not include the priorities of those most affected by that system. Including affected community members in the design, implementation, evaluation, and scaling of alternatives is crucial to creating a better set of solutions.

Glossary

ABOLITION according to Critical Resistance, “abolition” is a political vision with the goal of eliminating imprisonment, policing, and surveillance and creating lasting alternatives to punishment and imprisonment. Abolition is not just about getting rid of buildings full of cages. It is also about undoing the society we live in, because the prison industrial complex (PIC) both feeds on and maintains oppression and inequalities through punishment and violence, controlling millions of people. Because the PIC is not an isolated system, abolition is a broad strategy.

ADULT CARCERAL SYSTEM the various institutions and processes that make up the criminal legal system for adults, including prisons, jails, and other forms of incarceration. The term “carceral” is used to describe the system of punishment and control that is exercised over people who are incarcerated.

AIDS an abbreviation for “acquired immune deficiency syndrome,” generally used to refer to the most advanced stage of HIV, in which the immune system becomes compromised, leaving the human body susceptible to opportunistic infections.

ASEXUAL an orientation describing people who experience little or no sexual attraction. Many asexual people experience romantic and affectionate feelings toward others but do not desire to express those feelings in a sexual way. Other asexual people are uninterested in romantic relationships and focus instead on forming platonic bonds. Like any community, asexual people are diverse.

BIPHOBIA a fear of or hostility toward bisexual people, often expressed as discrimination, harassment, and/or violence.

BIPOC an acronym for “Black, Indigenous, and people of color.”

BISEXUAL a sexual orientation describing people who are attracted to and/or sexually active with more than one gender.

CHILD-WELFARE SYSTEM the system of services and agencies charged with the care of youth not in the care of their families that includes child protective services, foster care, group homes, residential facilities, and adoption services.

CISGENDER a term referring to people whose gender identity is the same as their assigned or presumed sex at birth.

CIVILIAN COMMUNITY REVIEW BOARD (CCRB) an oversight body that reviews complaints of police misconduct and makes recommendations for disciplinary action or policy changes within a police department. The aim of a CCRB is to improve accountability and build trust between the police and the community.

CRIMINAL LEGAL SYSTEM the systems of government-sanctioned punishment—policing, prosecution, courts, corrections, immigration detention, juvenile facilities, and school security—in the United States. The term “criminal legal system” is used as an alternative to “criminal justice system” because this system does not necessarily deliver justice.

CRIMINALIZATION the process by which people and behaviors are labeled as criminals and crimes, respectively.

DETAINED PEOPLE people who are under restraint or in custody by law enforcement, which can include, but is not limited to, stops, arrests, imprisonment, incarceration, and detainment. For this report, we include people in immigration detention facilities and juvenile facilities as detained people although this generally falls under civil law, and not criminal law.

DETENTION prison, jails, immigration detention, and juvenile facilities.

DISABILITY a term referring to physical and/or mental impairment. This report and survey use the word “disability” in a broad and general sense based on survey participants’ self-identification.

FEMME a self-descriptor for a person, regardless of gender, who identifies as a member of the LGBTQ+ community and who presents and acts in a feminine manner. Not interchangeable with “feminine.”

GAY a sexual orientation describing people who are primarily emotionally and physically attracted to people of the same sex and/or gender as themselves.

GENDER EXPANSIVE a broad term referring to aspects of gender expression, identity, and interests that go beyond cultural binary prescriptions of behaviors and interests associated primarily with boys or girls.

GENDER EXPRESSION the way a person outwardly expresses their gender publicly, as in through their name, pronouns, clothing, hairstyle, mannerisms, and other characteristics. Gender expression varies depending on culture, context, and historical period.

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.

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.

GENDERQUEER a term used by some people who identify their gender as being somewhere on the continuum between, or outside of, the binary gender system. Genderqueer people may or may not also identify as transgender.

GNCNB an acronym for “gender nonconforming and nonbinary.”

GOVERNMENT MISCONDUCT actions or practices by government officials or employees that violate the law, ethical standards, or a person’s civil rights.

HATE INCIDENT a negative experience a person knows or suspects was a result of bias or prejudice based on their identity or identities. For purposes of the survey, this definition is intentionally broad and includes experiences that might not meet the legal definition of a hate crime under federal and/or state laws.

HIV an acronym for “human immunodeficiency virus,” a retrovirus that targets the human immune system. Progression of HIV can lead to a serious compromise of immune system function, leaving the body susceptible to opportunistic infections.

HOMOPHOBIA a fear of or hostility toward lesbian, gay, and/or queer people, often expressed as discrimination, harassment, and/or violence.

IMMIGRATION SYSTEM the institutions—courts, administrative agencies, legal enforcement agencies, and detention facilities—that govern and enforce the entry, exit, presence, and detention of immigrants, including those who are undocumented and those with lawful status, in the United States.

INCARCERATED PEOPLE people who have been convicted of or plead guilty to committing a crime and are confined to a jail or prison.

INTERSECTIONALITY a concept coined by Professor Kimberlé Crenshaw to describe the multidimensional ways in which various systems of oppression can independently and concurrently harm people holding multiple marginalized identities.

INTERSEX according to interACT, Advocates for Intersex Youth, “intersex” is an umbrella term for differences in sex traits or reproductive anatomy. Intersex people are born with these differences or develop them in childhood. There are many possible differences in genitalia, hormones, internal anatomy, or chromosomes, in addition to the usual two ways that human bodies develop. Some people who are intersex identify as binary; others do not. Intersex people should not be assumed to be transgender.

INTIMATE PARTNER VIOLENCE (IPV) a pattern of behavior characterized by the use of physical, sexual, or psychological abuse by one partner against another in an intimate relationship. This can include relationships between spouses, cohabiting partners, dating partners, and other types of intimate relationships.

JUVENILE SYSTEM (OR JUVENILE LEGAL SYSTEM) the institutions and agencies that deal with youth who are accused of committing crimes. The juvenile system includes juvenile courts, correctional facilities, detention centers, community-based programs, and specialized educational and treatment facilities.

LESBIAN a woman who is romantically and/or sexually attracted to and/or sexually active with other women. “Lesbian” refers exclusively to women while “gay” can refer to women, men, or TGNCNB people.

LGBTQ+ (LGBQ, LGB) an acronym used to describe people who identify as lesbian, gay, bisexual, transgender, or queer/questioning. The “+” symbol is used to include and acknowledge people with identities beyond lesbian, gay, bisexual, transgender, and queer/questioning, but who are still a part of the community of people who do not identify as straight or cisgender. The acronym **LGBTQIA2S+** also includes intersex, asexual, and two-spirit.

MISGENDER the act of using the wrong gender signifiers, such as pronouns, honorifics, or other gendered language, when talking to or about someone.

MONITORING BOARD a group of people appointed to oversee and monitor the implementation and compliance of specific government or policing policies to ensure that the intended goals and objectives are being met and that there is accountability and transparency. Monitoring boards are intended to promote trust and confidence in the agencies they are overseeing.

NONBINARY (NB) a term used to describe gender identities that do not fit within the binary of male or female. Refers to a spectrum of gender.

OUT-OF-HOME CARE the living arrangements of minors who have been removed from their families, such as youth in the care of child protective services, the juvenile legal system, the immigration system, and homeless systems of care.

OVERSIGHT AGENCY a government or non-government organization that is responsible for monitoring and regulating the activities of other institutions to ensure adherence to laws, regulations, standards, and ethical principles. This agency may also have the authority to enforce penalties or sanctions for non-compliance. An oversight agency is intended to promote trust and confidence in the agencies it oversees.

PANSEXUAL a term used to describe a person’s sexual and/or romantic attraction to people of all genders, regardless of their biological sex, gender identity, or gender expression.

PEOPLE LIVING WITH HIV all people who live with the human immunodeficiency virus (HIV), including people with an AIDS diagnosis.

PEOPLE OF COLOR people whose ethnic or racial origins are partly or wholly non-white. The survey asked participants to check all that apply to their racial and/or ethnic identity: Native American, American Indian, or Indigenous; African American, Afro-Caribbean, or Black; Latina/o or Hispanic; Middle Eastern or Arab-American; Asian, Asian-American, or Pacific Islander. For the purposes of the report, “people of color” refers to those who selected one or more of these categories, in contrast to those who selected only “white” and no other race or ethnicity.

PIPELINE (AS IN “SCHOOL-TO-PRISON PIPELINE,” “FOSTER CARE-TO-PRISON PIPELINE,” “DISCRIMINATION-TO- INCARCERATION PIPELINE,” ETC.) the phenomenon of practices within institutions resulting in disproportionate numbers of people, including people of color and LGBTQ+ people, leaving these systems and becoming further at risk for poverty, homelessness, and/or incarceration.

PRISON INDUSTRIAL COMPLEX (PIC) according to Critical Resistance, the “prison industrial complex” is a term used to describe the overlapping interests of government and industry that use surveillance, policing, and imprisonment as solutions to economic, social, and political problems.

PRISON RAPE ELIMINATION ACT (PREA) a federal law in the United States 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.

QUEER an identity used by people who reject conventional categories such as “LGBT” or who embrace “queer” as a political identity in addition to being LGB and/or T. It also may include heterosexual people who embrace a non-normative or counter-normative sexual identity.

QUESTIONING a process of exploration for people who may be unsure of their sexual orientation or gender identity.

RESTORATIVE JUSTICE a system of justice that emphasizes repairing the harm caused by offenses or crimes, typically by bringing together impacted communities, those who caused harm, and community members to decide how to respond, taking into account the impact of the harm on people, relationships, and the community.

RUNAWAY AND HOMELESS YOUTH SYSTEMS institutions and services, such as shelters, drop-in centers, and other programs, for young people who have left home or are at risk of leaving home due to rejection, abuse, neglect, family conflict, or other challenges.

SAME-GENDER-LOVING a term most often used in communities of color to describe people with same-sex attractions, since gay, homosexual, bisexual, or lesbian can carry negative connotations to some people.

SCHOOL SAFETY OFFICER a person employed by a local board of education who has been appointed a special law enforcement officer in a school.

SCHOOL SECURITY the system of procedures and measures taken to ensure the safety of school buildings, classrooms, and other facilities and the people in them.

SEX WORK for purposes of this report, we define “sex work” as sex or sexual performance for money or other things of value.

SEXUAL ORIENTATION people’s sexual attraction to same- or different-sex people. Sexual orientations include gay, lesbian, bisexual, heterosexual or straight, and others.

STRAIGHT a sexual orientation where a person is primarily romantically and/or sexually attracted to people of the opposite sex or gender as themselves. Can also be described as heterosexual.

SURVIVOR someone who has experienced physical, sexual, or emotional harm at the hands of another person. This can include, but is not limited to, domestic violence, sexual assault, child abuse, and other forms of violence and abuse.

TGNC an acronym for transgender and gender nonconforming.

TGNCNB an acronym for transgender, gender nonconforming, and nonbinary.

TRANSFEMININE a broad term that describes a transgender person who identifies with feminine gender identities more than masculine gender identities.

TRANSFORMATIVE JUSTICE a political framework and approach to addressing harm and conflict that aims to transform the underlying conditions that contribute to violence and oppression, without the involvement of the criminal legal system. Transformative justice seeks to address the root causes of harm and to create a more just and equitable society through a process of healing, accountability, safety, and transformation.

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.

TRANSMASCULINE a broad term used to describe a transgender person who identifies with masculine gender identities more than feminine gender identities.

TRANSPHOBIA hatred of, fear of, or discrimination against transgender or gender nonconforming people based on their gender identity or expression.

TWO-SPIRIT according to the Native Justice Coalition, “Two-Spirit’s traditionally brought balance and healing into our communities. Two-Spirit is an umbrella pan-Native American term it describes gender identity, gender expression, and/or sexual orientation. Some Two-Spirit’s may align with colonial LGBTQ+ identities while others may not. However, keep in mind that Two-Spirit is not for non-Native people.” “Gender binaries, homophobia, colonial social constructions around gender identity, gender expression as well as sexual orientation didn’t exist in our communities prior to colonization.” Two-spirit is often represented by “2S” in the **LGBTQIA2S+** acronym.

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