

# PROTECTED & SERVED ?

A community survey of LGBTQ+ people and people living with HIV

## 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.

In 2012, Lambda Legal 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.

Since that original survey, awareness of the ways that the criminal legal system harms Black, Indigenous, and people of color (BIPOC), LGBTQ+ people, 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 man, by a white Minneapolis Police Department officer. LGBTQ+ people and organizations have been at the forefront of protests against police violence and the push to address the systemic violence against marginalized communities by the criminal legal system in this country.

**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 this *Protected and Served?* report 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 and reform, two important movements seeking an end to systemic oppression and violence against marginalized communities in the name of the "law."

*Protected and Served?*  
2022 series:

**Executive Summary**

**Full Report**

**Glossary**

**Spotlight Report:**

**Detained  
Participants**

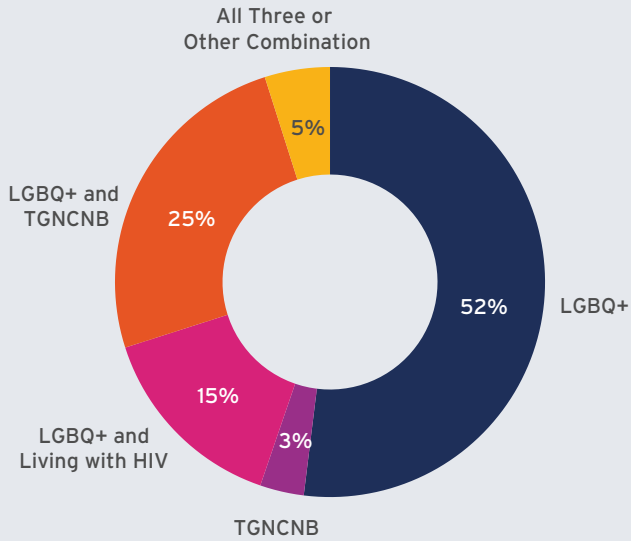
**Fact Sheets**

Available at  
[protectedandserved.org](https://protectedandserved.org)

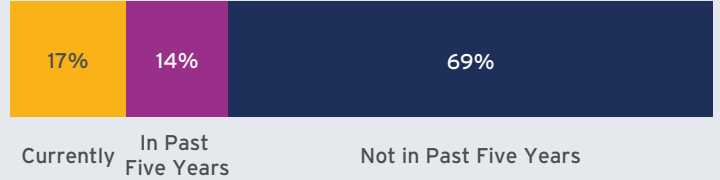
# Who Are We?

2,546 LGBTQ+ People and People Living with HIV Took This Survey.

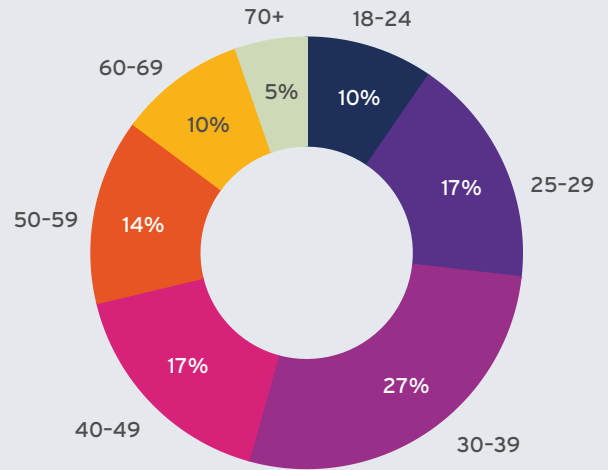
## Identities of Participants



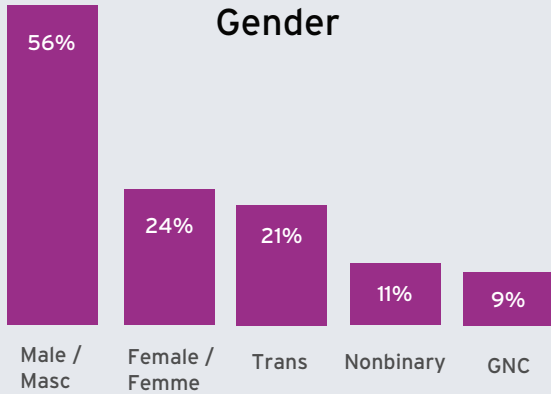
## In Jail, Prison, Immigration Detention, or Juvenile Detention



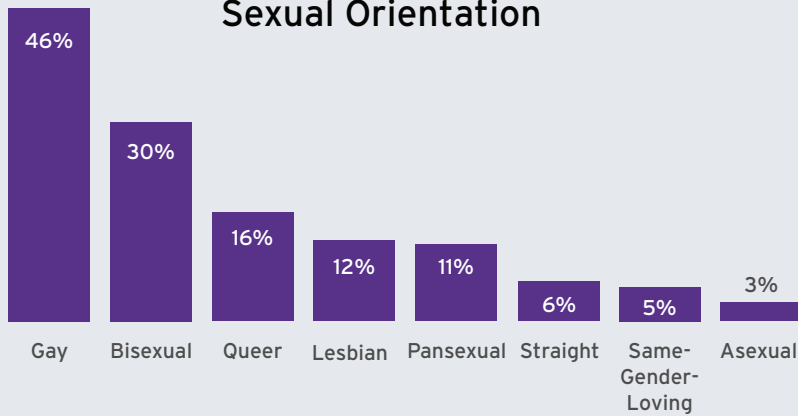
## Age



## Gender



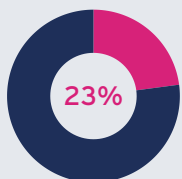
## Sexual Orientation



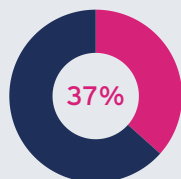
## Sex Work



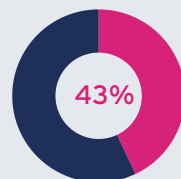
## Living with HIV



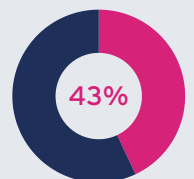
## Living with Disability



## Income Under \$35K



## People of Color



# Findings

This report describes the findings of the 2022 *Protected and Served?* community survey. In addition to asking structured questions that allowed for a quantitative (numerical) account of participants' experiences, the survey also asked open-ended questions and provided space for written responses; these were analyzed systematically, and the qualitative findings are included in the report.

The following further describes survey participants:

- 5% of participants were homeless at the time of the survey, and nearly one in four (23%) participants had been previously homeless at some point in the past five years.
- Transgender, gender nonconforming, and nonbinary (TGNCNB<sup>1</sup>) people who took the survey were more likely to be people of color (49%) than were those who were not TGNCNB (40%).
- People of color were more likely to be living with HIV (31%) than those who were white (18%).
- About one in eight (13%) youth ages 18-24 were in foster care at some time before age 18, and over one in ten (11%) had been arrested before the age of 18.
- Nearly one in five (18%) participants in the survey indicated that they had "exchanged sex or sexual performance for money or other things of value" in the past five years.

## Experiences and Expectations of Police Behavior

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. LGBTQ+ people and people living with HIV face high levels of policing in all aspects of our lives, and many have experienced bias and discrimination in interactions with law enforcement, including when seeking help. For the new *Protected and Served?* report, we wanted to dig deeper and better understand the experiences of LGBTQ+ communities and people living with HIV with police and other law enforcement.

The survey found that participants' experiences with and levels of trust in police and other law enforcement varied. Overall, about three in ten (31%) participants

<sup>1</sup> TGNCNB participants include all those who selected "yes" for one or more of the following gender identity options: transgender, gender nonconforming, and/or nonbinary, as well as those who selected both male and female and those who selected "other" and also wrote in a response such as "gender fluid" that had a strong family resemblance to a trans, gender nonconforming, or nonbinary identity. Those who selected "other" and provided no further information about their transgender or GNCNB status were not considered TGNCNB. Please see the full report for further explanation of how this project measured and categorized gender identities.

said they do not trust local police and other law enforcement at all. Younger participants (34% of those under 40 vs. 21% of those 40 and up) and trans and GNCNB participants (47% and 46%, respectively, vs. 22% of cisgender participants) were more likely to report that they do not trust the police *at all*.

In the qualitative data, many participants expressed that a lack of trust in the police and fear of further harm deterred them from reporting crimes. This was particularly common among TGNCNB participants and participants of color. For example, one white transmasculine participant

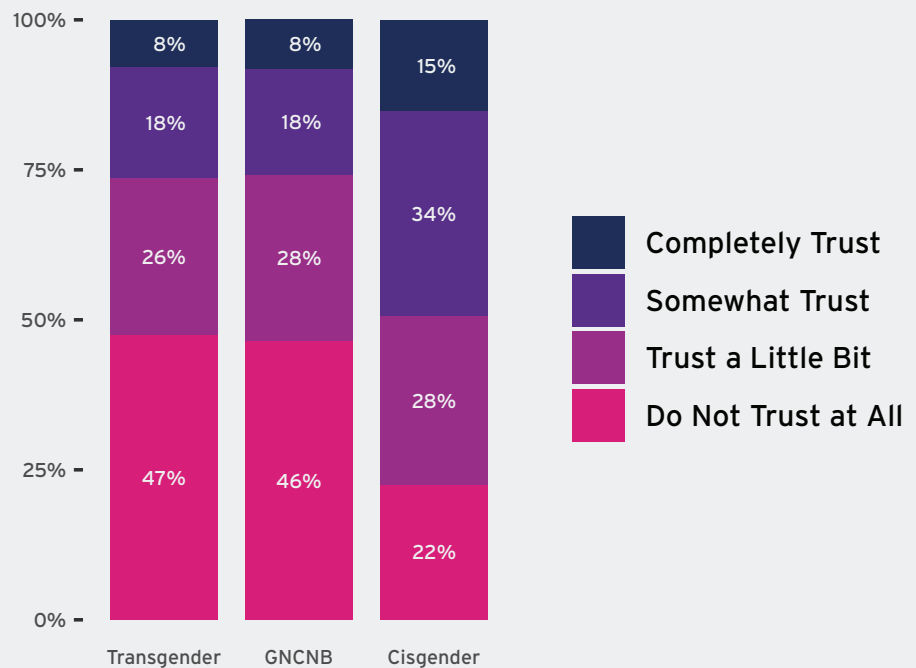
wrote, *“It always feels like [calling the police is] the very last resort because . . . distrust and threat of [sic] safety is always the reason for delaying or neglecting to call the police.”* One Black bisexual male participant responded, *“I report my experiences, and they don’t give a shit about me.”*

The qualitative data did include examples of positive interactions when reporting crimes to the police, especially among white gay cisgender men. One white gay cis man explained, *“They took notes at the time I reported a crime in multiple forms and educated me on what legal steps would follow. I appreciated that.”*

Over half (57%) of survey participants had at least one face-to-face encounter with police in the past five years. **Those who had face-to-face contact were less likely to trust the police than those who did not**—32% of those who had contact stated they do not trust the police at all, compared to 19% of those who had not had contact. This suggests that negative experiences and police misconduct undermine the trust of community members who have encountered the police. Since the 2012 survey, a number of police departments have changed their guidelines and training requirements to address anti-LGBTQ+ biases and prejudices, but more oversight and accountability is needed to actually stop these negative behaviors and misconduct.

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; 16% said yes, while a further 9% were not sure. Additionally, 24% of participants who had face-to-face contact with police indicated that the police asked for proof of their immigration status. People of color were more likely to be asked for

### Transgender and GNCNB Participants Have Lower Levels of Trust in Local Police



**“Distrust and threat of safety is always the reason for delaying or neglecting to call the police.”**

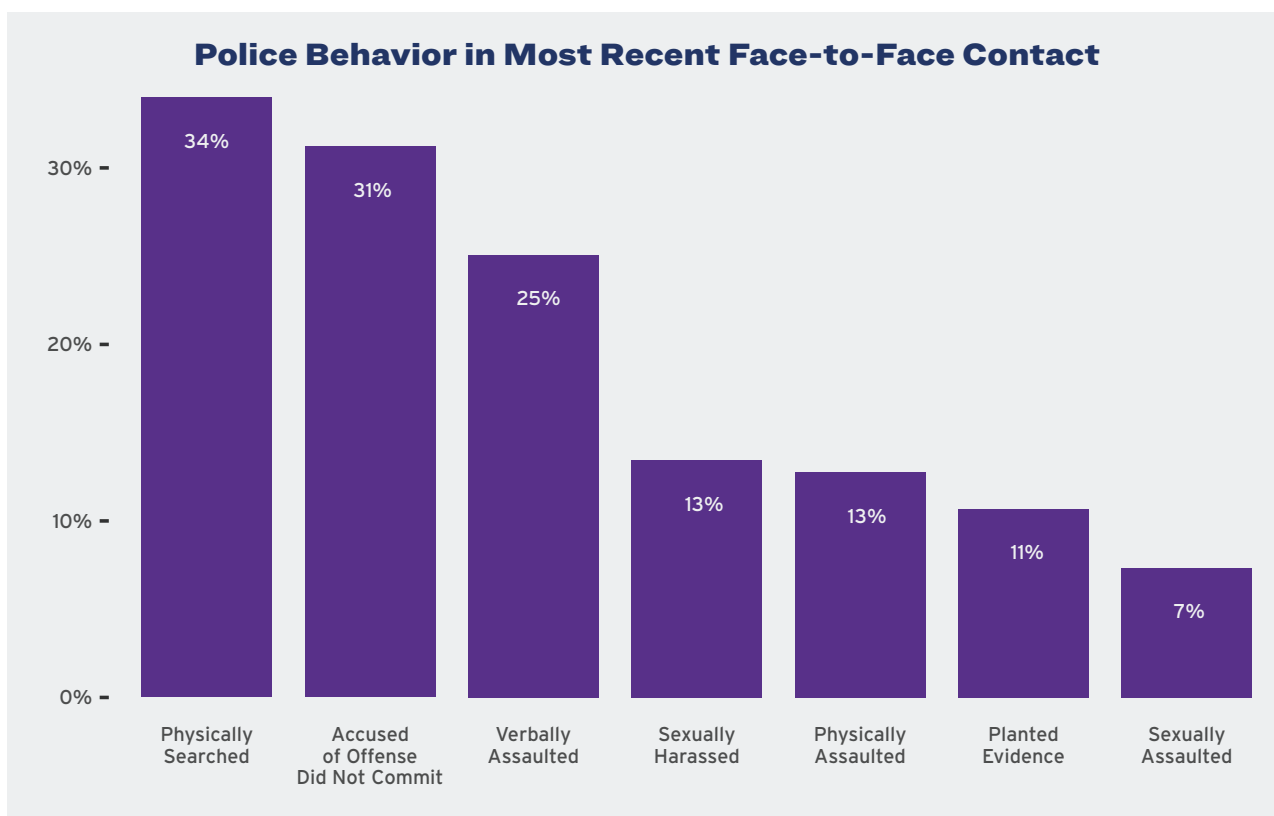
— a white transmasculine participant

proof of their immigration status (41% vs. 11% of those who were white); this was especially true of those who were Black (57% vs. 17% of those who were not Black). U.S. citizens were much less likely to be asked for proof of their immigration status than those who were not U.S. citizens (16% vs. 78%).

**Nearly half (45%) of survey participants who had face-to-face encounters indicated that police engaged in misconduct**, such as accusing them of an offense they did not commit (31%), verbally assaulting them (25%), or sexually harassing them (13%). People of color (58% vs. 37% of white participants), particularly those who were Black (71% vs. 40% of all non-Black participants), were more likely to indicate that they experienced police misconduct, as were those who were living with HIV (61% vs. 38%), those who were not citizens (76% vs. 40%), and those who were TGNCNB (56% vs. 40%).

**“I report my experiences, and they don’t give a shit about me”**

— a Black bisexual male participant



Of those who experienced misconduct, one-third (33%) reported the misconduct to another police or law enforcement officer, official, or monitoring board. Of those, fewer than half (47%) had their complaint fully addressed. Both those who did not report the complaint (47%) and those who reported the complaint but did not have it fully addressed (44%) were more likely to say they “do not trust the police at all” than were those who made a complaint and had it fully addressed (10%). Police departments, community review boards, and other oversight agencies must do more to address complaints and hold departments and officers accountable for misconduct in order to increase community trust in police and other law enforcement. This will require providing community review boards and oversight agencies with the resources and authority necessary to fulfill their duties.

Half (50%) of sex workers surveyed experienced some form of police misconduct while working in this capacity. Participants indicated that most commonly, police took their money (26%) or demanded sex in exchange for not arresting them (18%). Qualitative responses also reflected misconduct on the part of police; for example, one Black female detained participant who had been a sex worker wrote, “[The police] demanded sexual favors or they would take my money.”

Participants in the survey experienced high rates of crime, and many were concerned about the response of police were they to report crime. Over the past five years, over half (55%) had experienced one of the crimes measured in the survey (property crime, physical assault, sexual assault, and/or intimate partner violence) and 53% had experienced a hate incident.

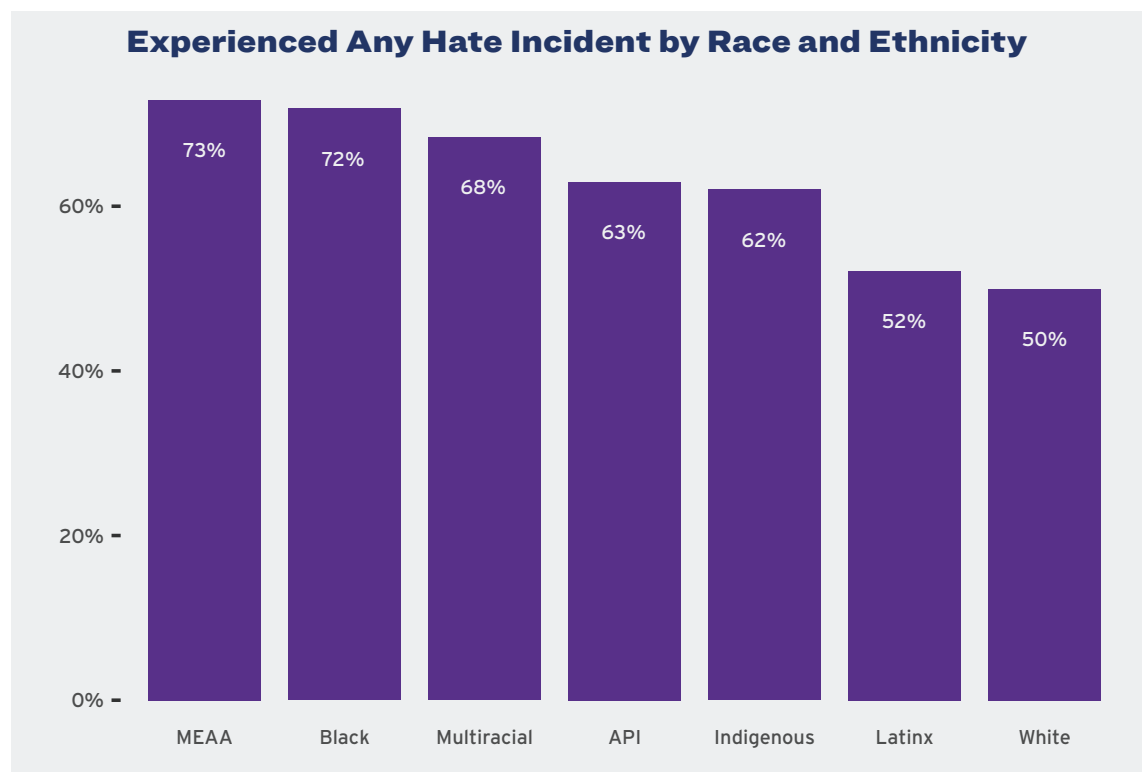
Hate incidents were particularly common among people of color (61% vs. 48% of white participants); for example, **nearly two-thirds (73%) of Middle Eastern and Arab American (MEAA) participants and a similar percentage (72%) of Black participants had experienced a hate incident in the past five years.**

Many of those who experienced a hate incident indicated that they believed the incident was related to more than one facet of their identity (e.g., both sexual orientation and race, both HIV status and disability).

Survey participants commonly, though not universally, reported crime to law enforcement.

For example, almost two-thirds of property crimes (64%) and over half of assaults (59%) were reported to law enforcement. **Of those who did not report physical assault to the police, 14% did not report because police themselves had perpetrated the physical assault.**

Survey participants identified various reasons they did not report a crime. The most common reasons given by those who did not report crime were related to concerns about police bias and/or ineffectiveness. For example, 50% of those



who did not report property crime selected a reason not to report that was related to police bias or ineffectiveness, along with 56% of those who were physically assaulted and 51% of those who were sexually assaulted.

In addition to or instead of reporting to the police, survey participants also reported to friends and family and community-based organizations (CBOs); for example, 20% of those who experienced intimate partner violence (IPV) reported it to CBOs and 32% to their family or friends, while 36% reported it to the police. The number of participants who reported to other resources suggests a need to develop and invest in community safety models that do not rely on the participation of law enforcement.

## Detention

Lesbian, gay, and bisexual people are incarcerated at a rate approximately three times higher than the already high overall U.S. incarceration rate (Meyer et al., 2017). A shocking 47% of Black transgender people, and more than one in five (21%) transgender women overall, are incarcerated during their lifetimes (Grant et al., 2011). 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 physical and sexual violence, denial of medically necessary care, and discrimination based on sexual orientation, sex, or disabilities. These institutions all too often fail to meet these basic standards of safety and treatment.

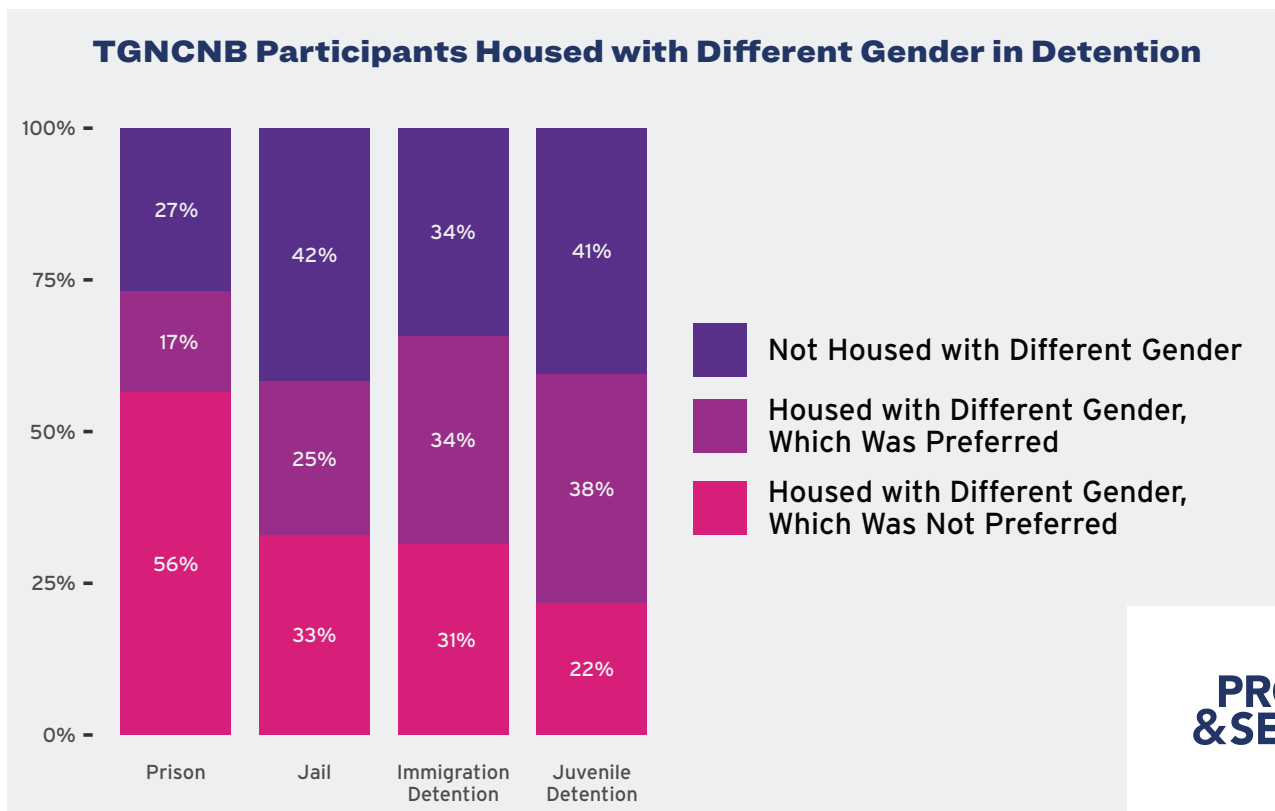
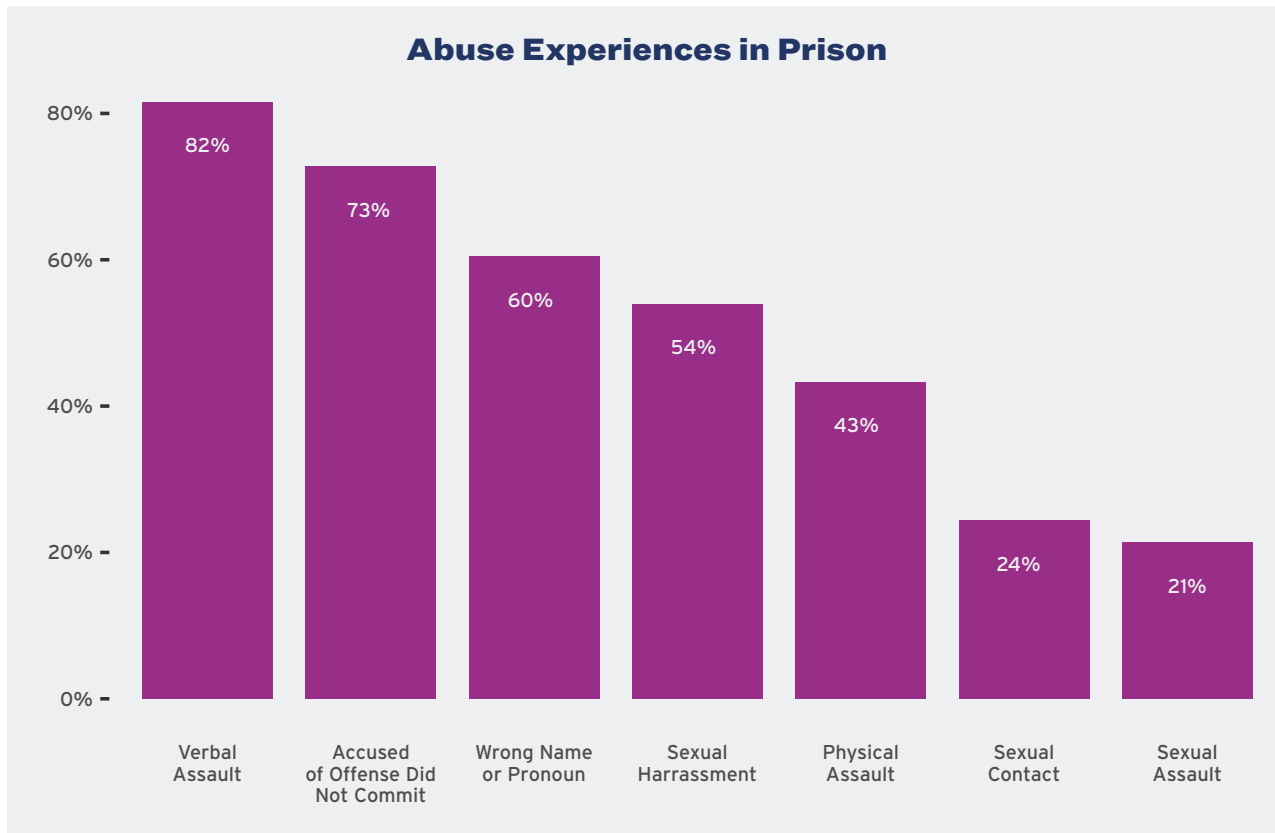
Over half (58%) of all participants said they do not trust the prison system at all. Over three in ten (31%) had been detained in prison, jail, immigration detention, or juvenile detention in the past five years, including those who were currently detained in prison or jail (17% of all participants). Those who had been detained were particularly likely to say they do not trust the prison system at all (69% vs. 55% of those who had not been detained in the past five years).

**Many participants indicated that abuses by staff were common in detention facilities.** For example, in prisons, 82% had been verbally assaulted by staff and 43% had been physically assaulted by staff. Written accounts from those who were detained echoed similar themes. For example, an incarcerated white nonbinary participant wrote, *“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.’”*

**“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  
detained  
participant

It was common for TGNCNB participants who had been detained in the past five years to be housed in a single-sex facility with others who had a different gender identity (for example, housing transgender women in men’s facilities). This occurred for 73% of those in prison, 66% of those in immigration detention,





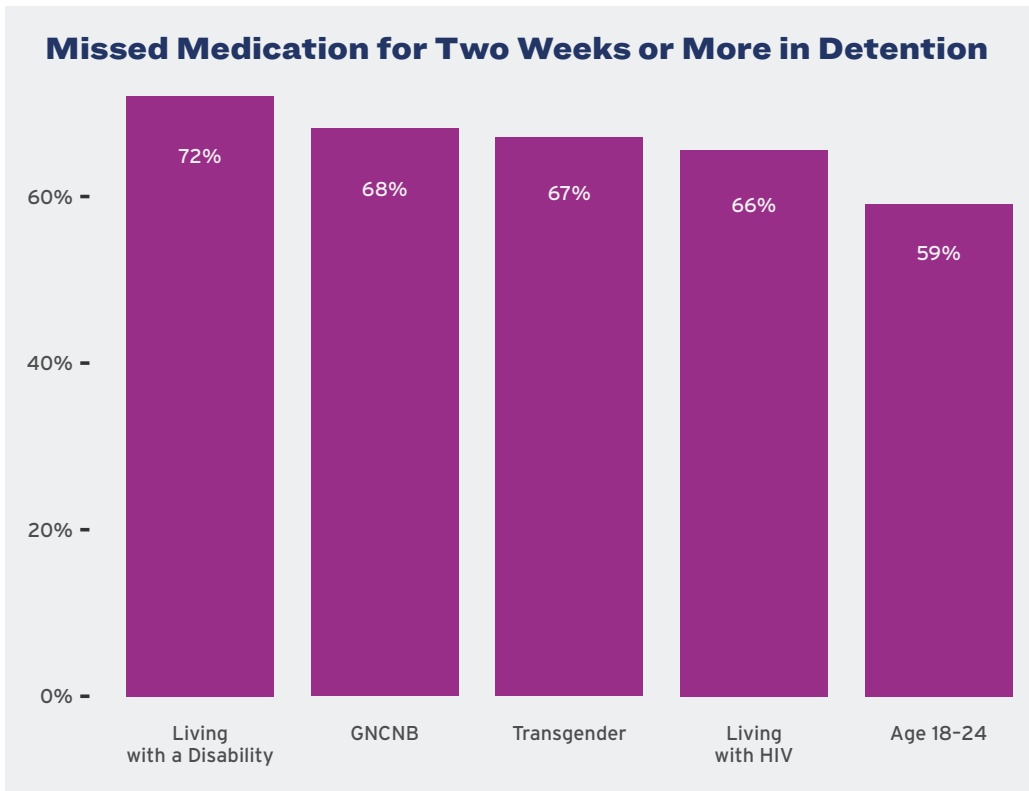
59% of those in juvenile detention, and 58% of those in jail. Of those, some participants preferred this arrangement, while others did not.

**It was also common among those who took medication to miss that medication for two or more weeks while detained; on average, 63% of those who needed medication indicated that they missed it** (in one or more types of detention).

Missing medication impacted a wide variety of groups within the survey:

over half of participants who were living with a disability; were GNCNB, trans, or living with HIV; or were between age 18 and 24 had this experience.

The qualitative responses provided more context around missing medications. Participants specifically discussed missing hormone replacement therapy, antiretrovirals, heart medications, and psychotropic medications. The reasons participants were unable to access their medications while in detention ranged from homophobia and transphobia (at both the state and institutional level) to logistical and administrative barriers. For example, one Black transfeminine detained 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 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.”*



**“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 detained participant

## Court Experiences

LGBTQ+ people and people living with HIV play a vital role in the administration of justice—whether as parties to a case, witnesses, jurors, attorneys, or judges. 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 face mistreatment, discrimination, and violations of their privacy. Studies have shown that bias and prejudice can influence jurors’ decisions in

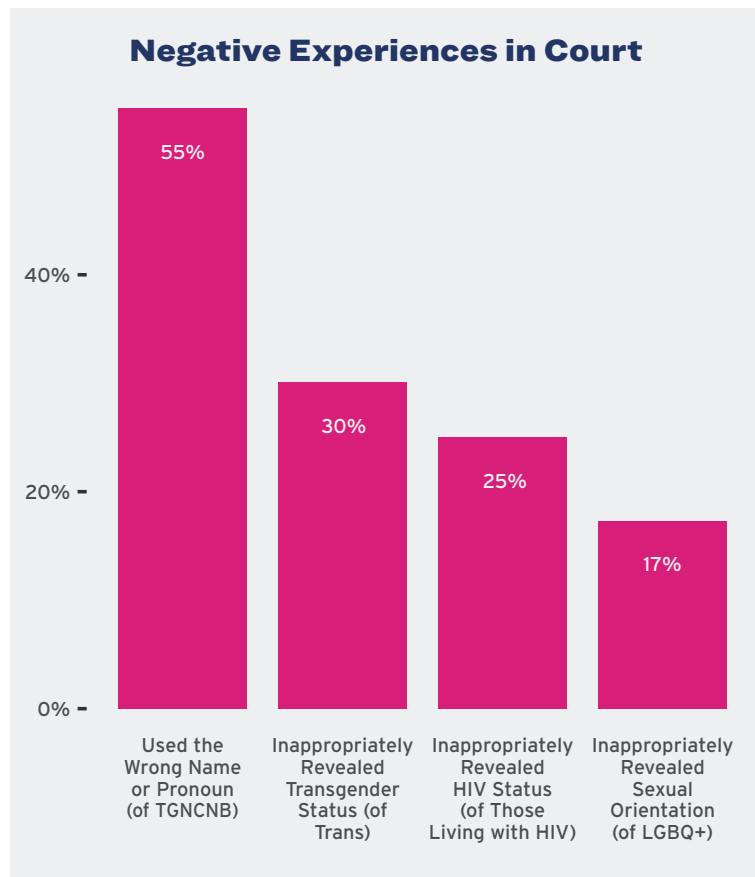
all types of cases involving LGBTQ+ people (Hill, 2000, p. 102; White & Robinson Kurpius, 2002, p. 198; Kraus & Ragatz, 2011, p. 240). Experiences of harassment, mistreatment, and discrimination when accessing the courts cause serious emotional and physical harm to LGBTQ+ people and people living with HIV. When people are mistreated in the courts, they stop trusting in the court system. Our courts depend on public trust to function and maintain their intended role as guardians of our democracy.

Over one-third (35%) of survey participants had been in court in some capacity in the past five years.<sup>2</sup> Negative experiences were common, with 22% of those who had appeared in court (and who were LGBTQ+, TGNCNB, women, or living with HIV) indicating that a court employee “made negative comments” to or about them relating to sexual orientation, gender identity or expression, or HIV. Similarly, 23% of those who appeared in court and were of a person of color, were living with a disability, or were not currently a citizen had this experience in relation to their “race, disability, or immigration status.”

**Transgender participants of color were more likely to have their transgender status revealed in court than white trans participants (38% vs. 22%).**

Over half (55%) of all TGNCNB participants who had been in court stated that someone “use[d] the wrong name or pronoun to refer” to them in court. Indigenous TGNCNB participants were the most likely to experience this (77% vs. 53% of non-Indigenous TGNCNB participants). Transfeminine participants were much more likely to be addressed using an incorrect name or pronoun than were transmasculine participants (77% vs. 52%).

Qualitative accounts provided additional context. One white transfeminine detained participant explained of her recent experience in court, *“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.”*



**“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 and told me that he didn’t want to help me at all.”**

— a Black gay male participant

<sup>2</sup> In the court section of the survey, approximately 200 participants stated 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 responses in 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.

Participants also described experiencing blatant racism, homophobia, and transphobia from the court staff, including judges, guards, and public defenders. While a few shared positive, affirming experiences in court, the misuse of power was common, even by those who were meant to be advocating for a defendant. One Black gay male participant explained, “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 and told me that he didn’t want to help me at all.”

## Recommendations

The following recommendations include actions at the individual, community, and societal level that can help drive change in the criminal legal system and beyond. While they are presented in sections organized by audience, it is key to recognize that *stakeholders must work together* to achieve these goals. For example, community members can become advocates, collaborating with champions for change working within the criminal legal system. While some advocates might push for reform of the criminal legal system, others work for abolition of the system. It is crucial that advocates who are less affected by these issues work as allies with those *most* affected by the criminal legal system to ensure that their tactics, strategies, and goals foreground the priorities and voices of those who have suffered from—and resisted—the abuses recounted in *Protected and Served?*.

Please consult the [full report](#) for further recommendations.

### 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](http://www.blackandpink.org), and for resources from Lambda Legal, please visit [www.lambdalegal.org](http://www.lambdalegal.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 be addressed through calls for stronger and enforceable accountability measures, legislation, and a focus on community-led efforts. Organizing strategies, such as those used by 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

## FOR ADVOCATES AND POLICYMAKERS, CONTINUED

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 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. 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.

## 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.

### **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.

## Reference List

- Grant, J. M., Mottet, L. A., Tanis, J., Harrison, J., Herman, J. L., & Keisling, M. (2011). *Injustice at every turn: A report of the National Transgender Discrimination Survey*. National Center for Transgender Equality and National Gay and Lesbian Task Force.
- Hill, J. M. (2000). The effects of sexual orientation in the courtroom: A double standard. *Journal of Homosexuality*, 39(2), 93-111.
- Kraus, S. W., & Ragatz, L. L. (2011). Gender, jury instructions, and homophobia: What influence do these factors have on legal decision making in a homicide case where the defendant utilized the homosexual panic defense?. *Criminal Law Bulletin*, 47(2), 237-256.
- Meyer, I. H., Flores, A. R., Stemple, L., Romero, A. P., Wilson, B. D., & Herman, J. L. (2017). Incarceration rates and traits of sexual minorities in the United States: National Inmate Survey, 2011-2012. *American Journal of Public Health*, 107(2), 267-273. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5227944/pdf/AJPH.2016.303576.pdf>
- White, B. H., & Robinson Kurpius, S. E. (2002). Effects of victim sex and sexual orientation on perceptions of rape. *Sex Roles: A Journal of Research*, 46(5-6), 191-200.

## Suggested Citations

- Frazer, S., Saenz, R., Aleman, A., & Laderman, L. (2023). *Protected and Served?*. Lambda Legal and Black and Pink National. <http://protectedandserved.org/2022-report-executive-summary>
- SOMJEN FRAZER, RICHARD SAENZ, ANDREW ALEMAN & LAURA LADERMAN, PROTECTED AND SERVED? (2023), <http://protectedandserved.org/2022-report-executive-summary>



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