

PROTECTED & SERVED ?

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

This fact sheet describes the findings of the 2022 *Protected and Served?* survey for participants living with HIV. Since the beginning of the HIV/AIDS epidemic, states, law enforcement, and prosecutors have targeted people living with HIV through laws that criminalize and stigmatize people because of their HIV status. Most laws that criminalize HIV are based on outdated science and directly interfere with public health goals by disincentivizing testing and access to care. Most HIV criminalization laws were written in the early days of the epidemic and criminalize behavior regardless of whether transmission of HIV is possible. Since HIV disproportionately affects communities of color, these laws lead to further prosecution of these communities and create additional barriers to treatment.

Who Are the Participants Living with HIV?

Of the 2,546 people who took the 2022 *Protected and Served?* survey, 503 were living with HIV. About one-quarter (25.6%) of those participants were ages 30-39, 7.6% were ages 18-24, and nearly one-third (32.8%) were ages 50 and over. About three in five (61.6%) identified as male, and nearly one in five (18.9%) identified as female. Among those who were transgender (16.7% of all who were living with HIV), the largest proportion (79.5%) identified as either both male and female or neither male nor female. Nearly all (98.6%) participants living with HIV were lesbian, gay, bisexual, pansexual, asexual, queer, or another LGBTQ+ identity. The authors recognize that a limitation of our findings is that the survey had few participants who were straight/heterosexual. Future surveys must consider how to better reach these community members.

Over half (55.2%) of participants living with HIV were people of color, compared to just 37.3% of participants not living with HIV. Over half (59.1%) had incomes below \$35,000 in 2021. One in ten (10.2%) were currently experiencing homelessness, and another one-third (35.1%) had experienced homelessness in the past five years. One in twenty (5.0%) were currently detained in prison, jail, immigration detention, or juvenile detention. Nearly one in five (19.9%) were not U.S. citizens and nearly two in five (39.7%) identified as living with a disability.

Protected and Served?
2022 series:

Executive Summary

Full Report

Glossary

Spotlight Report:

**Detained
Participants**

**Fact Sheet:
TGNCNB
Participants**

**Fact Sheet:
Sex Work**

Fact Sheet: HIV

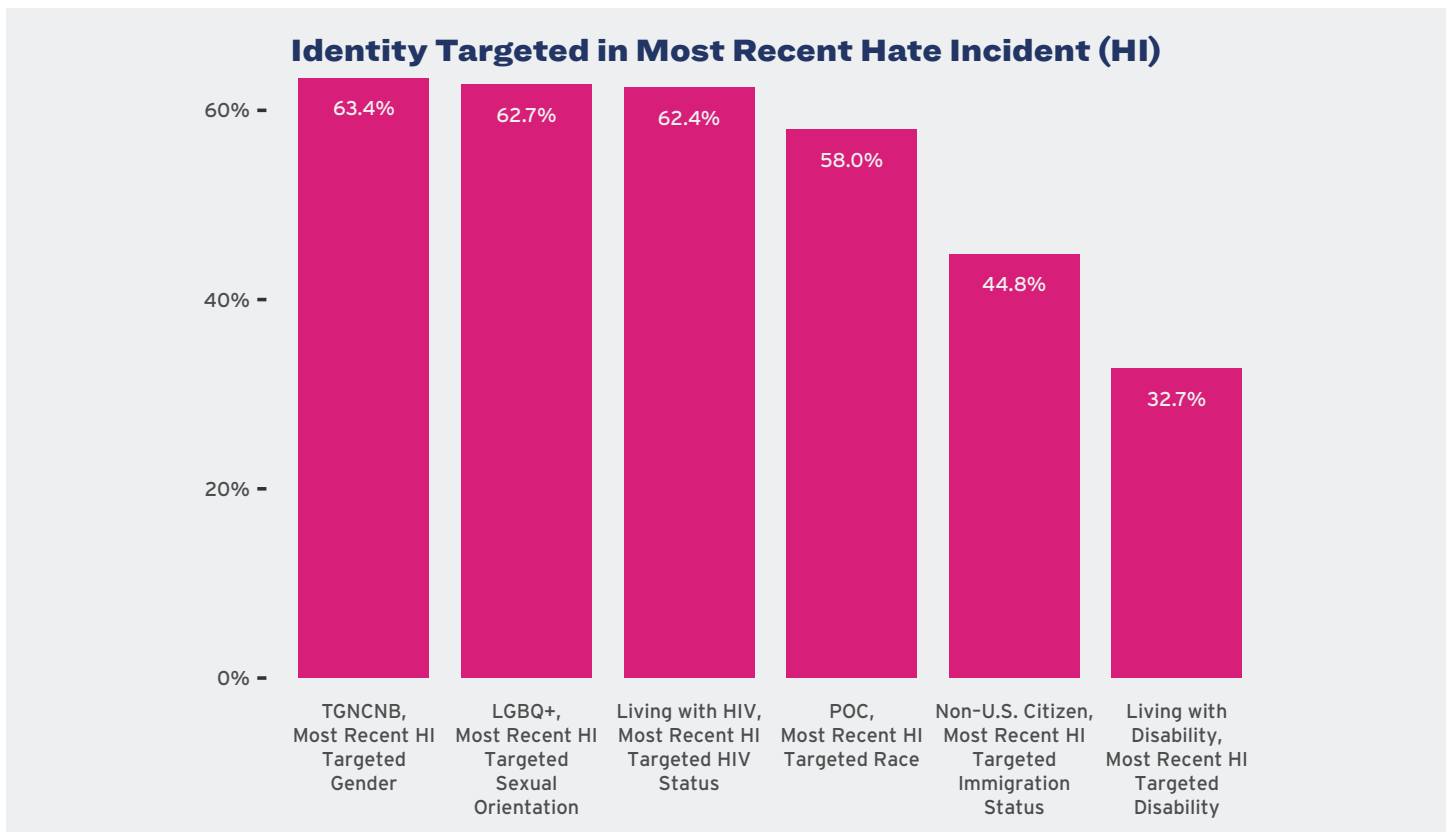
Available at
protectedandserved.org

Experiences of Crime, Hate Incidents, and Police Behavior

The survey asked participants whether they had experienced certain crimes or hate incidents and whether they reported their most recent experience of each type to police. About three in five (59.6%) participants living with HIV had experienced a hate incident in the past five years. Participants who had experienced a hate incident were asked if the most recent hate incident was related to their sexual orientation, gender identity, HIV status, race or ethnicity, disability, or immigration status. Nearly two-thirds (63.4%) of those who were TGNCNB said that the most recent hate incident they experienced was related to gender identity, while 62.7% of LGBTQ+ participants said it was related to sexual orientation. Hate incidents related to HIV status were similarly prevalent (62.4%).

“[The police officer] decided I was gay and had HIV based on looks before asking about name, address, or the incident.”

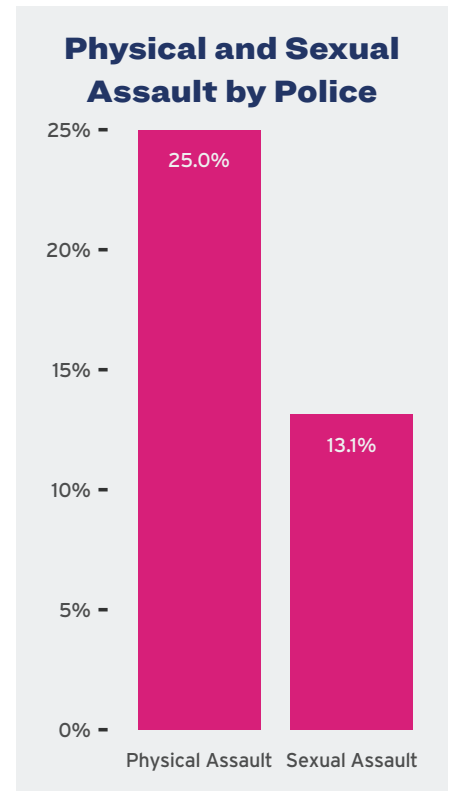
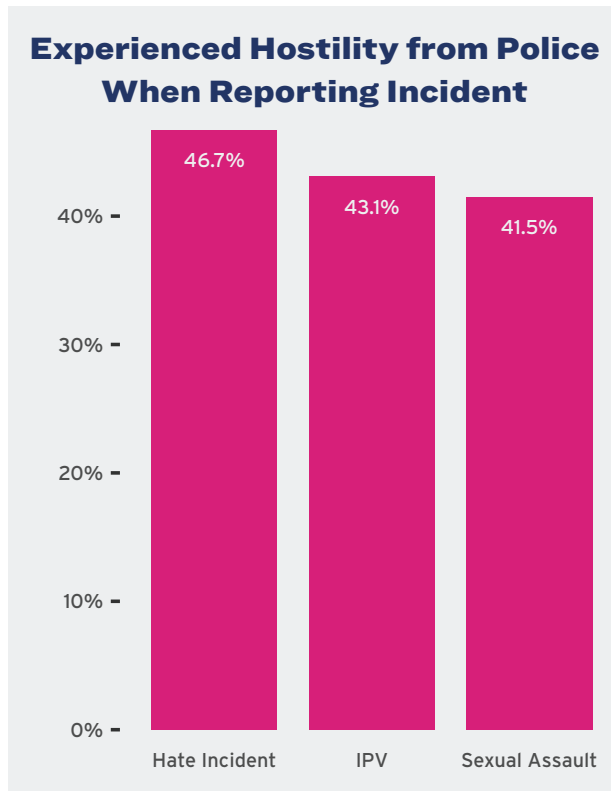
— an Indigenous female participant



Over one-third (34.5%) of participants living with HIV had experienced intimate partner violence (IPV) in the past five years, more than double the rate (16.8%) among participants not living with HIV. Studies have shown that the perpetrators of such harm often use HIV status as a mode of control, by restricting access to medication/treatment or threatening to go to the police to report the victim as giving the perpetrator HIV (Sullivan, 2019).

Many participants living with HIV who reported IPV, sexual assault, and/or hate incidents faced hostility from police when they reported these experiences. The prevalence of hostility was highest among those who reported hate incidents (46.7%), followed by those who reported IPV (43.1%) or sexual assault (41.5%).

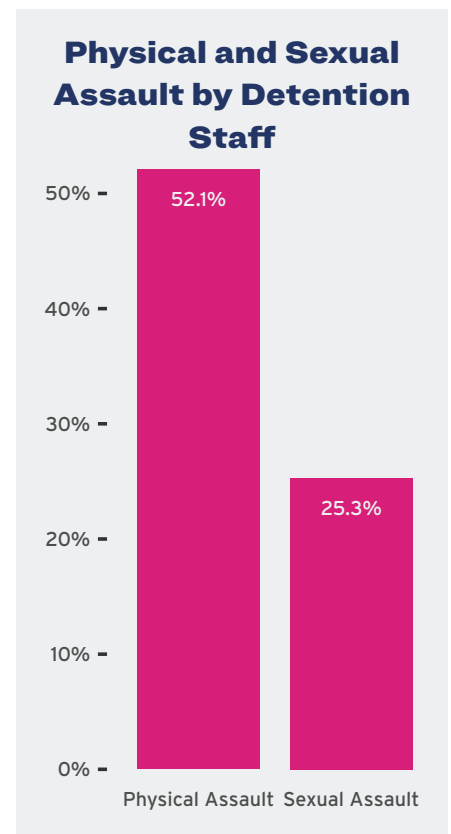
Six in ten (60.9%) participants living with HIV who had face-to-face contact with police in the past five years for any reason (whether when reporting a crime, being stopped by police, or otherwise) experienced misconduct in their most recent police interaction. One-quarter (25.0%) were physically assaulted by police officers and 13.1% were sexually assaulted.



Experiences of Participants Who Were Detained

About one-third (35.4%) of participants living with HIV were detained in jail, prison, immigration detention, or juvenile detention at the time of the survey or had been detained in the past five years. The survey asked about various types of misconduct staff members may have committed while participants were detained, including physical and sexual assault. Over half (52.1%) of participants living with HIV had been physically assaulted by detention staff in the past five years, and over one-quarter (25.3%) had been sexually assaulted.

Of participants who took any kind of medication, 65.6% had missed medication for two or more weeks in detention. People living with HIV must have ready access to medication and treatment within the criminal legal system. Adherence to medication is crucial to maintaining an undetectable viral load and lowering the chances for resistance. Monitoring of HIV treatment by professionals is also crucial to health care. Prisons must develop policies to ensure individuals living with HIV receive care without interruptions or delays.



“Being HIV positive I require regular lab work. I have been [detained at the current facility] for three years. It has been over two years since I have had any blood work done. I keep bringing it up but Medical often provides nonsufficient answers.”

— a white transfeminine detained participant

RECOMMENDATIONS

SUPPORT THE DECRIMINALIZATION OF HIV HIV criminalization 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. Lambda Legal and Black and Pink National support the repeal of HIV criminalization laws.

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.

PROTECT THE RIGHTS AND SAFETY OF DETAINED LGBTQ+ PEOPLE AND PEOPLE LIVING WITH HIV Prisons, jails, immigration detention facilities, and juvenile facilities should 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. Systems should ensure that everyone in their custody has access to medical and mental health care and treatment without delays or interruptions. 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.

Reference List

Sullivan, T. (2019). The intersection of intimate partner violence and HIV: Detection, disclosure, discussion, and implications for treatment adherence. *Topics in Antiviral Medicine*, 27(2), 84-87. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6550354/>



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