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## Victimization and Health Experiences for TGNC Individuals in Women's Prisons

Kristina Davis  
*University of Central Florida*

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VICTIMIZATION AND HEALTH EXPERIENCES  
FOR TGNC INDIVIDUALS IN WOMEN'S PRISONS

by

KRIS DAVIS  
B.A. University of Central Florida, 2017

A thesis submitted in partial fulfillment of the requirements  
for the degree of Master of Arts  
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## **ABSTRACT**

This text examines the health-related experiences of transgender and gender nonconforming persons assigned female at birth within the criminal justice system. It moves through a transgender-centric approach to explore the ways gender nonconformity relates to experiences of violence and healthcare disparities for those interacting with law enforcement and incarcerated in women's prisons. The study utilized statistical analyses of nationally representative data in the 2015 U.S. Transgender Survey carried out by the National Center for Transgender Equality. Multivariate analyses suggested significant connections between race and education and experiences of harassment and assault within the criminal justice context. There were largely mixed results regarding the direct connections between gender conformity and transition status and experiences of violence. These findings provide initial exploratory quantitative data for the realities of transmasculine and nonbinary persons assigned female at birth within the criminal justice system and provide starting points for future research.

Dedicated to my incarcerated lesbian, gay, bisexual, and transgender siblings.

## **ACKNOWLEDGMENTS**

First and foremost, I would like to thank my thesis chair, Dr. Michael Armato, for his continued patience and support throughout this process. I would also like to thank Dr. Jason Ford and Dr. Ramon Hinojosa, for their contributions to my committee.

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## **LIST OF ABBREVIATIONS**

**AFAB** – assigned female at birth

**AMAB** – assigned male at birth

**FTM** – female-to-male

**HRT** – hormone replacement therapy

**MTF** – male-to-female

**PREA** – Prison Rape Elimination Act

**TGNC** – transgender and gender nonconforming

**USTS** – U.S. Trans Survey

## LIST OF RELEVANT TERMINOLOGY

**Assigned sex** – refers to the category assigned by medical professionals at birth; it is not always synonymous with “legal sex”

**Butch** – identity originating in lesbian subculture, see also “femme”

**Cisgender** – describes individuals whose gender agrees with their assigned sex

**Cisnormativity** – normative system wherein all bodies are expected to align in terms of both sex and gender (definition from Sumerau, Cragun, & Mathers, 2016)

**Femme** – identity originating in lesbian subculture, see also “butch”

**Heteronormativity** – the presumption of heterosexuality as normal; also includes the expectations for how heterosexuality is expressed

**Legal sex** – refers to an individual’s current legal sex marker; it may or may not differ from assigned sex, as individuals are able to change their legal sex dependent on state and national law

**Misgendering** – refers to the numerous ways trans persons are denied their gender, either intentionally or unintentionally, including: being referred to by the wrong pronouns or name, and at times being directly dehumanized (being called “it,” and so forth) (the latter process may also be referred to as “degendering”)

**Nonbinary** – refers to the vast array of genders that are not “man” or “woman,” including, but not limited to agender, genderfluid, genderqueer, bigender, as well as culturally specific terms such as two spirit; nonbinary may also stand alone as its own identity, dependent on individual

preference; not all persons who consider themselves nonbinary also identify as transgender (see “transgender”)

**Transgender** – describes individuals whose gender does not agree with their assigned sex; while there is no singular agreed upon definition within the literature, for the purposes of this text, transgender status is based on the individual’s identification as transgender

**Transfeminine** – refers to a broad category of persons who are assigned male at birth and whose gender includes femininity (such as trans woman, nonbinary women)

**Transitioning** – refers to the vast array of social and medical practices associated with living as a gender that does not align with a person’s assigned sex; includes changing one’s name, using different pronouns, altering manner of dress, seeking gender therapy, hormone replacement therapy, gender confirming surgical procedures, and so forth

**Trans man** – a man assigned female at birth; this definition includes non-transitioned men

**Transmasculine** – refers to a broad category of persons who are assigned female at birth and whose gender includes masculinity (such as trans man, nonbinary man)

**Transsexual** – refers to individuals who alter their bodies in transitioning to a gender that does not align with their assigned sex (Note: this term is considered largely outdated, and often offensive in postmodern contexts.)

**Trans woman** – a woman assigned male at birth; this definition includes non-transitioned women

## CHAPTER 1: INTRODUCTION

This text explores the complexities of transgender identity and gender nonconformity in order to provide an analysis of the experiences of transgender and gender nonconforming persons in the context of the criminal justice system, with an explicit focus on those individuals assigned female at birth, who are often left out of our analyses. It provides an introduction to transgender and gender theorizing in order to work towards an analytical approach that centers transgender and gender nonconforming subjects and provides critical reflections on normative systems that perpetuate inequalities across gender, sex, and sexuality, and their complex interactions with race and class.

The carceral context provides a specific lens through which to analyze the experiences of our most vulnerable populations, who sit at the intersections of race, class, gender, and sexuality: persons of color, lower class persons, and gender and sexual minorities are those most likely to interact with law enforcement and to become incarcerated, and face the greatest adverse outcomes in those interactions. The broad umbrella of health experiences covers the victimization and health care disparities transgender and gender nonconforming persons face in the criminal justice system, and presents important considerations for the wellbeing of vulnerable persons, particularly amongst those most readily erased by normative structures.

## CHAPTER 2: THEORIZING TRANS/GENDER

This chapter serves as an introduction to prominent concepts in discussing transgender and gender nonconforming (TGNC) experiences. It covers the broad normative structures that serve to perpetuate the gender binary, which erases and therefore disproportionately impacts TGNC persons, and the interplay of gender normative and heteronormative structures. It also touches on the depictions and realities of trans experiences, and the ways trans identity and gender nonconformity interact in order to arrive at an operational understanding of “TGNC” populations.

### Regulating Bodies

#### *Normative Structures and Gender Authenticity*

Gender is regulated by intersecting systems of power and assumptions that produce normative ideas regarding bodies, identities, and experiences. The first of these systems is described by Stanley (2011) as “gender normativity,” referring to “a series of cultural, political, legal, and religious assumptions that attempt to divide our bodies into two categories (men/women)” (p. 6). The gender system is predicated on the acknowledgement and perpetuation of a gender *binary*, which presumes the existence of two, and only two, possible gender categories. This *gender binary* follows suit from a *sex binary*, which, similarly, presumes the existence of only two sex categories. The understandings, in a gender normative perspective, are then: 1) all persons can be divided into man and woman (by their gender), and 2) the genders of “man” and “woman” are assumed to be accompanied by the sex of “male” and “female.”

Here, we arrive at the notion of “cisnormativity,” wherein all bodies are expected to align in terms of both *sex* and *gender* (Sumerau, Cragun, & Mathers, 2016). *Cisgender* describes individuals whose gender<sup>1</sup> aligns with their assigned sex. This is in contrast to *transgender*, which describes individuals whose gender does not precisely align with their assigned sex. In both contexts, “assigned sex” refers to legal sex label assigned at birth, in slight difference from the broader idea of a “legal sex,” which is able to be reassigned and thus reflects the current legal status of an individual. Gender normativity and cisnormativity, as intersecting systems, then preclude individuals whose existence cannot be so easily explained. This precludes, as Sumerau et al. (2016) argue, trans<sup>2</sup> persons, whose sex and gender do not align and also may fall outside of a strict gender binary. I will also argue, in later sections, that this system also excludes and erases cis *gender nonconforming* persons, who, while having a binary (and cis) gender, do not follow normative expectations for gender, and thus problematize the forces and ideas Stanley (2011) describes in the perpetuation of gender normativity, and also fail to “correctly” follow cisnormative constructions.

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<sup>1</sup> Frequently, definitions of *cisgender* and *transgender* use the phrasing “gender identity.” The problems with a “gender identity” versus “gender” framework will be explored in further detail in the following sections; thus, “gender” is the preference for this text.

<sup>2</sup> For the duration of this text, *cisgender* and *transgender* will be shortened to *cis* and *trans*, respectively. This is reflective of the colloquial usage within trans discourses specific to the geographic and temporal location of the author.



### *Transmasculine Discourses and Transnormativity*

Working from criticisms of gender normative and cisnormative systems, trans theorists have put forth a concept of “transnormativity,” to refer to the ways in which normative experiences and narratives of trans bodies and experiences are constructed (Heinz, 2016). This framework often perpetuates gender normativity by favoring binary iterations of trans existence: trans man and trans woman, and regulates how trans persons come to enter the identity spaces relating to these categories. It reflects the dominant discourse that conceptualizes being trans as being a medical subject, and of suffering from the incongruence between sex and gender. In Heinz’s (2016) work on transmasculinity, he observes that transnormativity is perpetuated amongst trans men through what he terms the “traditional transmale discourse” (p. 46). This discourse emphasizes gender conformity, heterosexuality, and physical modification through medical transitioning.

Medical transitioning refers to the various therapies and procedures that require a formal diagnosis from a medical professional, including (in the case of trans men): gender therapy (psychological evaluation required for diagnosis), hormone replacement therapy (HRT), “top surgery” (chest reconstruction), hysterectomy, and “bottom surgery” (phalloplasty and other procedures intended to alter existing external genitalia) (see Heinz, 2016, p. 47).<sup>3</sup> These procedures serve to replicate the expected anatomy and physiology associated with both the gender “man” and the sex “male.” In this fashion, medical professionals then serve as

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<sup>3</sup> As this text focuses on the experiences of transmasculine individuals, the example given reflects their transitional expectations. There are also similar procedures specific to transfeminine individuals that are not described here.

gatekeepers both to the pathological notion of “gender dysphoria” as well as the social notion of “transgender.” Trans men, under transnormativity, as constructed through the traditional male discourse, are expected to adhere to these transitional steps. They are also expected to adhere to models of trans presentation *prior to* medically transitioning. Social transitioning occurs before and alongside medical transitioning, where trans men are expected to present themselves as gender conforming men. In order to be authenticated by medical gatekeepers and access transitional care, trans men must “prove” themselves to be trans men, who are suffering from a medical condition that requires medical intervention (Heinz, 2016).

This transitional process aligns with the pursuit of what Jenness and Fenstermaker (2014) term “gender authenticity,” where trans persons pursue an existence as a “real” man or woman, while also acknowledging their [assigned] sex (p. 13). Trans persons are considered to be “authentically” trans and “authentic” men and women by framing their experience as being of the female and male sex (respectively), but pursuing the acknowledgment by others, particularly by gatekeepers, as men and women. This framework does not call into question the construction of a medicalized sex system; rather, it relies on it. There are attempts to *correct* one’s sex via reassignment and modification.

Claims to authenticity, as outlined by Jenness and Fenstermaker (2014) compliment Westbrook and Schilt’s (2014) concept of “identity-based determination of gender (p. 33). This conceptualizes “gender identity” as the belonging to a gender category reliant on others’ acceptance of the identity claim (Westbrook & Schilt, 2014, p. 33). They describe the process by which others process such claims as “determining gender” (p. 34). Trans persons engaging in practices that attempt to shape the process of determining gender in social interactions is referred to as “passing” (Schilt & Lagos, 2017). “Passing” then also becomes the justification for the

pursuit of medical procedures; it is the end goal to “pass” as a man or woman, and to that end, trans persons require physical modification in order to meet others’ expectations of gender. Transnormativity assumes that all trans persons seek gender authentication in the form of others’ acceptance of their claims, and that trans persons do not wish to challenge gender normative constructions of masculine and feminine bodies.

### *Gender and Sexuality*

Before we can move on to examine the interplay between *transgender* and *gender nonconforming*, we must first look at the complex relationship between gender and sexuality. Often, gender and sexuality are conflated. This relationship is inherently connected to yet another normative structure: *heteronormativity*, the presumption of heterosexuality. Within this structure, “man” is synonymous with attraction to “women.” To be considered non-heterosexual is to also be considered *unmasculine*.

Under transnormativity, trans men, then, are presumed to also be heterosexual (Heinz, 2016). Transnormative models actively marginalize, and often erase, the experiences of trans men who are not heterosexual. Simultaneously, studies such as Schilt and Westbrook’s analysis of trans interactions in the workplace (2009), illustrate how heterosexual women can challenge trans men’s masculinity by challenging their gender and (hetero)sexuality, by framing them as lesbians/bisexual women.<sup>4</sup> Taking both experiences into consideration, we can see the complex ways trans peoples’ interactions with sexuality are influenced by their gender.

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<sup>4</sup> Schilt and Westbrook, like other scholars, utilize the term “homosexual women.” Due to the pathologizing sociohistorical connotations of “homosexual,” this text avoids use of this term outside of direct quotes, in favor of alternate terminologies.

Heteronormativity also affects the ways gender and sexuality interact for *cis* persons. Non-heterosexual persons often have their masculinity/femininity called into question. They also can actively work against normative constructions of gender, and at times blur the lines between gender and sexuality. Take, for instance, butch/femme lesbian subculture. Eves (2004) discusses the ways butches and femmes challenge gender normativity through intentionally subverting traditional, heteronormative ideas of womanhood. Butch and femme are described as “lesbian genders,” gender identities that are *sexuality-specific*, as they center other women in their lives, and simultaneously challenge and subvert the normative conceptualization of “woman.” Both cis and trans lesbians can utilize butch and femme identities to actively challenge heteronormativity and gender normativity.

### “Transgender” and “Gender Nonconforming”

#### *Distinctions and the Common Ground*

As we have defined *transgender*, we must also now turn to tackling a definition of *gender nonconforming*. In a literal sense, it can be seen as “not conforming to the expectations outlined by gender normativity.” Often, by their very existence, trans persons are assumed to be *gender nonconforming*, despite how they present and interact with gender (Jenness and Fenstermaker, 2014, Mathers, 2017). To this conceptualization, however, there are three important considerations to be made, all of which have already been touched on: 1) Trans persons are not immune to gender normativity, 2) Trans persons can also actively subvert gender normativity, and 3) cis, non-heterosexual persons can and often do subvert gender normativity. As discussed previously on the topic of transnormativity, many trans persons actively work to conform to gendered expectations, as both a form of gender affirmation and protection from violent transphobia and homophobia. On the other hand, both trans and cis non-heterosexuals can be

actively gender nonconforming, and face social consequences as a result. This common ground can perhaps best be described in this excerpt from Catherine Connell (2010):

“Transgender people are not necessarily the only social actors engaged in the undoing/redoing of gender; in fact, the more moments of challenging the gender binary are identified, the more common ground is uncovered for transgender people and others to oppose gender inequality.” (p. 51)

Often, our descriptions of trans people imply they are the *only* subjects that subvert gender/are gender nonconforming, which both erases the experiences of gender nonconforming cis (but non-straight) persons and their similarities with trans persons as well as the more particular ways that trans peoples’ gender expressions and realities may differ from cis gender nonconforming persons. It is from this point of view that we arrive at an, albeit obvious, prompting to research: examining both trans and cis gender nonconforming persons together in order to examine their differences and similarities. This aligns with the (at times tenuous but nonetheless consequential) history of collective effort amongst non-straight cis persons and their trans counterparts (as a complex but whole “LGBT” community).

### *Trans Multiplicities*

To fully understand the variation across trans experiences, we must consider what Jenness and Fenstermaker (2014) refer to as “the multiplicities of transsexual<sup>5</sup> lives,” referring to the range of experiences and identities underneath the larger umbrella of “transgender.” Trans

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<sup>5</sup> Terminology such as *transsexual* and *transgender* varies across texts; while this text uses *transgender* and *trans*, in order to preserve the original intent and perspective of cited works, terms such as *transsexual* are left intact within quotations.

experiences vary broadly across race, class, and sexuality. Previous sections have already discussed the interplay between gender and sexuality, but now we will turn to race and class. Analyses such as the traditional transmale discourse in Heinz (2016) shed light on the ways transnormativity, for instance, favors middle to upper class narratives. Transnormative presentations involve medical interventions, which are not possible without constant income and access to health insurance, thereby frequently excluding lower class trans men who cannot afford these procedures.

Saffin (2011) discusses the intersections of trans identity, sexuality, and race, arguing that gay and trans persons of color go through identity struggles, where they often must choose *between* their racial identity and gender/sexual identities. This is due to the conflation of race, gender, and sexuality, wherein “binaries become reinscribed where the queer body equals a white body, and the brown body equals a heterosexual body” (Saffin, 2011, p. 147). Here, we must consider the wider applications of a binary framework, not just for gender, or sexuality, but for race as well (white/non-white). Just as cis becomes synonymous with heterosexual, transgender with non-heterosexual, trans and non-heterosexual become synonymous with whiteness. Later sections will explore the ways trans and gender nonconforming people of color are often excluded from the social sciences in research and theorizing, and elaborate on the combined consequences of being both non-white and gender nonconforming.

### Summary Thoughts

In sum, while the distinction between trans people and cis gay men/lesbians/bisexual persons is an important one in addressing the specific ways transphobia operates, we should also not ignore the ways in which similar social structural forces punish gender nonconformity amongst both trans persons and gender nonconforming (but still *cis*) persons. Homophobia and gender normativity interact, leading to the punishment of both trans and cis persons (Girschick,

2011). We also cannot disregard the complex experiences of trans persons who are, within a category already seen as challenging gender normativity by their existence, also gender nonconforming, challenging transnormative structures, often as part of the complex relationship between being both trans and non-straight. It is this acknowledgement of the shared ground between trans persons and our<sup>6</sup> cis gender nonconforming siblings<sup>7</sup> that this research is based on. We will now turn toward the experiences and realities of our most vulnerable trans and gender nonconforming siblings – those entangled in the criminal justice system.

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<sup>6</sup> “Our” is an expression of the trans perspective present in this text. It is an acknowledgment of my own particular subjectivity in this context.

<sup>7</sup> The colloquial “siblings” is used here, and throughout this text, to recognize the experiential connection between similarly marginalized groups, as well as an inherent acknowledgment of solidarity between myself and others who are bound by the same systems of oppression.

## CHAPTER 3: BEYOND THE BINARY: TOWARDS A TRANS-INCLUSIVE SOCIOLOGY

### Thoughts on Trans/Gender Research Practices

#### *Research Objects or Subjects*

Trans and gender nonconforming persons have stood at the center of major studies and analyses of gender for decades. A trans woman, Agnes, sits at the center of Garfinkel's *Studies in Ethnomethodology* (1967), which influenced studies like West and Zimmerman's *Doing Gender* (1987) that quickly became the cornerstone of the sociology of gender (amongst other related disciplines) for the past thirty years. Discussions of gender nonconformity also rest at the heart of Butler's *Gender Trouble: Feminism and the Subversion of Identity* (1990), a landmark publication in the realm of queer and feminist studies. Yet, critical analyses of these works reveal the ways in which trans and gender nonconforming people are often treated as research *objects*, in order to form understandings about gender and sexuality, rather than as research *subjects* in order to understand trans experiences. This objectification frequently dehumanizes trans persons (Connell, 2010) and does not adequately reflect the actuality of trans experiences and perspectives (Namaste, 2000).

#### *TGNC Bodies as Sites for Cis Understandings*

Trans-centric criticisms frequently cite the ways research utilizes trans and gender nonconforming persons as a way to conceptualize normalized, cis experiences with gender and sexuality (Namaste 2000, Schilt & Lagos, 2017, Stanley, 2011). Namaste (2009) describes the "transgender question:" a dependence on trans bodies and experiences to ask broad epistemological questions. Similarly, Schilt & Lagos (2017) argue that trans persons are only considered "sociologically interesting" for their potential to elucidate conclusions regarding the "common" (p. 429).



### Frameworks: Gender Performance and Gender Identity

Drawing from the works of Butler (1990) and West and Zimmerman (1987), a common discussion within the social sciences is that of gender as *performance* versus gender as *identity*. The gender performativity viewpoint argues that examining the ways in which persons perform gender provides greater insights towards understanding gender and sexuality than examining gender identity (Sumner & Sexton, 2014, p. 18). This perspective, however, often ignores the systematic context for such performances and assumes that such performances are constantly in line with one's gender.

Take for instance, the experiences of trans and gender nonconforming persons while "closeted." Fears of discrimination, rejection, and violence can shape the behaviors and gender expression of trans and gender nonconforming persons, as they attempt to hide their identity. Would there not be inherent issues in analyzing those experiences solely through the lens of performance, in such a situation where performance is restricted by complex systems of power? Here, performance and identity perspectives can paint very different pictures of trans and gender nonconforming experiences. It must be clarified here that the intent is not to utilize closeted trans and gender nonconforming lives as merely exemplifying of the issues in performativity perspectives; rather, it is intended to be illustrate the ways in which such perspectives, though drawn from examining trans lives, fail to accurately describe those lives.

Gender identity frameworks, too, present their own complications. Stanley (2011) highlights the importance of considering systems of power, as well as cultural context, in examining identity (p. 6). It is also worth noting that frequently when we discuss trans persons, we discuss their gender in terms of their "gender identity," whereas our discussions of cis men and women focus on their "gender." Amongst other facets, gender is a subset of personal identity for both cis and trans persons, but in trans persons it is rendered suspect, and framed as an

“identity claim” that is separate from cis “genders.” From here, then, we can focus on an approach that awards supremacy to neither performance nor identity as the predominant perspective through which we can examine all gendered experiences. The perspective forwarded in this text does not attempt to propose a new framework descriptive of gender as a broad experience; rather, it chooses to center trans and gender nonconforming experiences within related systems of power, in order to, as Schilt and Lagos (2017), argue realize the important of trans lives “in their own right,” in line with a gender difference perspective (p. 426). Any claims, analyses, and conclusions made are specific to trans experiences, and are only expanded to consider the common ground between trans persons and our cis gender nonconforming siblings.

#### On Poststructuralism and Reflexivity

Poststructuralist approaches allow us to examine gender and sexuality in the context of individuals’ experiences as they are situated in complex systems of power. Namaste (2000) outlines the potential uses of a poststructuralist framework in examining trans experiences: using micro level realizations to produce understandings of macro level power relations; the examination of agency (or lack thereof) within sociopolitical structures; and how we may use this framework to think through categories of resistance (p. 40). It is from these uses, Namaste argues, that we can work towards a reflexive sociology of trans experiences that interacts with trans persons as *subjects*, rather than *objects*.

A reflexive approach to trans “passing,” as an example, would ask *why* trans persons seek to “pass.” As previously discussed, passing allows for gender recognition, and for access to transitional procedures. It is also important to consider how passing can act as a protective practice to avoid discrimination. Schilt and Lagos (2017) describe passing as a way to “hide a stigmatized identity or characteristic” (p. 429). They also continue on to describe passing as a practice specific to trans persons (p. 429). In discussions of passing, researchers typically use the

term to refer to how trans people manage their gender as a facet of being socially transitioned. Namaste (2000) also discusses the ways in which, prior to transitioning, trans people work to manage their assigned sex, and argues that social sciences' preoccupation with passing simply "seeks to explain or justify the presence of transgendered people" (p. 32).

Within Schilt and Lagos' (2017) conceptualization of the concept, we can argue that "passing" can be expanded to also include this assigned sex management. This secondary definition is, as pointed out in Namaste (2000), often ignored by an objectifying sociology that ignores the lifelong experiences of trans people. A reflective approach, then, would examine the *lifelong* identity management trans people go through. It situates passing not simply as how trans persons conform to gender norms, but also as a potential framework for analysis on how trans persons are forced towards conforming as a way to avoid discrimination and violence, and of the systems of social, political, and economic forces that promote and require transnormativity. Schilt and Lagos (2017) touch on how the inclusion of trans *subjectivities* (as opposed to trans objectification) allows us to examine the ways gender authentication and conformity produce both similar and different consequences (being viewed as "not female" versus "unfeminine") (p. 430). Examining trans contexts also allows us to look at how, even within systems that punish and discourage trans existence and gender nonconformity, trans and gender nonconforming persons continue to exist and assert their identities and, at times, actively challenge binary systems.

## CHAPTER 4: TGNC IDENTITIES IN THE CARCERAL CONTEXT

### Institutional Factors

#### *Sex-segregated Spaces*

Prisons are *sex*-segregated (as opposed to *gender*-segregated) spaces. Through this design, they act as both formal and informal sites of sex and gender regulation. This is accomplished through heteronormative and cisnormative practices and rules, which serve to enforce the gender binary by controlling inmates' bodies (Girshick, 2011, Lamble, 2011, Lutze, 2003, Schilt & Lagos, 2017, Sexton & Jenness, 2016). TGNC inmates are affected by both general practices that perpetuate these systems broadly for all incarcerated persons, as well as practices that disproportionately target and control TGNC persons.

Schilt and Westbrook (2009) discuss the concept of “sexual and sexualized” spaces in their examination of trans persons' experiences in the workplace. They juxtapose sexualized spaces and experiences such as dating, which, as they argue, are places and occasions where sex becomes evident, against the gender-integrated space of the workplace. In the latter, trans persons can make use of gender integration practices and rituals. Often, it is in situations that remove them from that collective setting, into personal interactions such as dating coworkers where sex becomes a possibility, that trans men's gender and sexuality are brought into question by their coworkers (Schilt & Westbrook 2009). Schilt and Westbrook found that in those cases, heterosexual women challenged trans men's masculinity and their heterosexuality simultaneously by framing them as bisexual/lesbian women on the basis of their assigned sex.

In later work from the same authors (Westbrook & Schilt, 2014), they discuss further the policing of sex-segregated spaces, with two notable observations: 1) that legal and policy-based determinations rely strongly on assigned (or legal, depending on the circumstances) sex, and 2)

gatekeeping of sex-segregated spaces is greater in women's (or female) spaces (Westbrook & Schilt, 2014). The former observation is readily applicable to prisons: they are sex-segregated institutions as they are governed entirely by trends in policy; as we see shifts in policy towards a gender-based system, rather than assigned or even legal sex, we slowly see the further inclusion of gender and personal identity in prison policy, albeit more so in the theoretical sense rather than in enforced practice.<sup>8</sup>

In regards to the latter observation, it also brings forth interesting dynamics for both men and women's prisons. The same sentiments of the hypothetical tale of the predatory man in the women's bathroom as an argument against allowing trans persons into public restrooms of their choice echo through the concerns over placing trans women in women's prisons, a sentiment which portrays trans persons, especially transfeminine persons, as predatory or sexually deviant (Westbrook & Schilt, 2014). The authors attribute this to the portrayal of women "as inherently vulnerable and in need of protection" (Westbrook & Schilt, 2014, p. 35). We will also revisit this notion of protecting women (and their femininity) from men (and masculinity in a more generalized sense) in our discussion on sexualities in the later section on community.<sup>9</sup>

#### *Gender Regulation in Sex Evident Spaces*

For now, we will return to the discussion on the regulation of sex and gender. Drawing from Schilt & Westbrook's (2009) concept of sexual and sexualized spaces, other spaces, from bathrooms to prisons, where sex can (theoretically or practically) become readily observable, can

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<sup>8</sup> See Chapter 5.

<sup>9</sup> See "Gender, Sexuality, and 'Prison-specific Identities.'"

be conceived as similar to sexual spaces as *sex evident spaces*. Sex is *evident* in prisons not just in the case of strip searches or other examinations by the criminal justice system in making placement considerations, but also through an individual's simple presence in this space. When TGNC persons are in women's prisons, it is made immediately evident that they were assigned female, as it is common prison practice to place individuals based on assigned sex. Other incarcerated persons and staff are able to make this determination without additional information about any specific person.

Beyond sex being made evident, prisons also perpetuate gender normativity by operating as institutions of direct gender control. Girshick (2011) describes women's prisons as "designed to reinforce dependence and passive roles for women" (p. 191). Lutze (2003) offers a similar sentiment: "To control women in prison is not to strip them of their womanhood, but to restore them to it" (p. 187). This reflects gender normative standards for women, where to be a "criminal" is considered the antithesis of womanhood, of femininity; therefore, institutions focusing on feminine aspects, such as submission to authority or reconnections to family (see Lutze, 2003), is portrayed as a deterrent from crime.

#### *TGNC Persons in Sex Evident Spaces*

Sex-segregated prisons, then, become directly opposed to any individuals attempting to (or seen as attempting to) challenge the gender binary. Jenness and Fenstermaker (2014) discuss how trans women are perceived as threats to prison order. Similarly, the presence of (trans) men in women's spaces can also be viewed as a potential threat to an order in women's prisons intended to restore femininity. As of the time of writing this, however, the research on TGNC

persons in women's prisons is extremely limited. To date, there are only two studies<sup>10</sup> that directly examine TGNC persons incarcerated in women's facilities: Girshick's (2011) work "Out of Compliance: Masculine-Identified Persons in Women's Prisons" (published in *Captive Genders*), and Sumner and Sexton's (2014) work "Lost in Translation: Looking for Transgender Identity in Women's Prisons and Locating Aggressors in Prisoner Culture."

Girshick's study examines the experiences of heterosexual trans men and gender nonconforming (non-heterosexual) women while incarcerated, and includes the ramifications for gender non-conformity in women's prisons. The study largely focuses on the restrictions on incarcerated persons' gender expression (through lack of resources) and issues that arose between TGNC persons and prison staff. TGNC persons often utilize clothing and other appearance related items as forms of gender expression – we can consider this as a gender integration practice, as discussed in Schilt and Westbrook (2009). Regulation of these items, then, serves as a form of social control over gender expression. Girshick proposes that predominantly, problems for TGNC persons in women's prisons arise less from abuses from other prisoners, and more from violence on behalf of prison staff. This aligns with Lamble's (2011) claim positing sexual violence as a mechanism of control in prisons, where the hierarchies at work in such sex segregated spaces produce environments conducive to sexual violence (p. 242).

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<sup>10</sup> This claim is made to the best of the author's knowledge, based on peer reviewed, published research in the fields of sociology, gender studies, sexualities, and criminology. It is supported by corroborating claims made in both articles mentioned (the later article, Sumner & Sexton, 2014, only cites Girshick, 2011).

In contrast to Girshick's focus on institutional forces that restrict and often punish gender non-conformity, Sumner and Sexton (2014) focus on the ways gender nonconformity in women's prisons are "adaptive" practices, in opposition to "the largely detrimental nature of being trans in a men's prison" (p. 18). The authors also go so far as to argue that "transgender simply is not as salient a construct in women's prison culture as it is men's, rendering the examination of trans identity problematic" (Sumner & Sexton, 2014, p. 8). It is, however, important to note that this particular study did not utilize a TGNC sample – only one participant identified as gender nonconforming. It is questionable to claim that gender nonconforming women (as well as transmasculine persons) are solely advantaged, and never disadvantaged by their presentations, particularly when such a claim is made almost entirely based on interviews with outsider perspective gender-conforming cis people. It ignores the ways that heteronormativity and homophobia lead to active, systematic discrimination and violence against bisexual women and lesbians, and how gender nonconformity is punished in institutions, such as prisons, that are structured as systems of gender control. Sumner and Sexton's conclusions are called into question by findings across other studies, including Girshick's (2011) aforementioned findings regarding institutional disadvantages, Lutze's (2003) discussion of the control of women's gender in women's prisons, and Sexton and Jenness' (2016) findings that "[challenge] (...) that prisoners adopt trans identities as an adaptation to being in a sex segregated environment" (p. 559). Sexton and Jenness' work focuses on trans women in men's prisons, but their conclusions challenge the broad pattern of assumptions of situational "prison-specific" identities. Girshick's findings also call into question the claim that we cannot examine trans identity in the context of women's prisons by including trans persons.



### Gender, Sexuality, and “Prison-specific Identities”

Much of the literature on trans identity and gender nonconformity in prisons focuses on identity work in the context of prison communities and interpersonal relations. Research on trans women, for example, frequently discusses the relationships between incarcerated trans women and cis men. Historically, there have been discussions on the role of prison-specific sociosexual identities, such as queens and punks in men’s prisons (Sumner & Sexton, 2014, Sexton & Jenness, 2016) and aggressives (also known as “aggressors”) in women’s prisons (Girshick, 2011, Kunzel, 2008, Sumner & Sexton, 2014). For the purposes of this text, we will turn our attention to aggressives, specifically.

The definition of “aggressor” varies across different texts: “female-bodied (...) tomboys” who are sometimes trans, but “generally lesbians” (Girshick, 2011, p. 192); “a distinct male role in a same-sex, but decidedly not same-gender relationship” (Sumner & Sexton, 2014, p. 13). There are somewhat conflicting perspectives on gender nonconformity in women’s prisons. Kunzel (2008) describes such sociosexual identities in prisons as “circumstantial, rather than constitutional” (p. 59). Sumner and Sexton (2014), by contrast argue that these presentations are primarily rooted in gender identity, and that conceptualizing these identities as simply sexual roles “undermines the active engagement of female-identified prisoners and ignores the influence of their pre-incarceration gender identities” (p. 16). The continuation of gender nonconforming identities for incarcerated women and transmasculine persons outside of prisons presents an important case for the latter interpretation (as opposed to Kunzel’s earlier assertions). The emphasis on utility and function for TGNC identities and performances in prisons inadvertently erases transmasculine identities and distorts the nature of sexualities in women’s facilities.

Even amongst texts that acknowledge the gender implications of aggressives and other “masculine” identities in women’s prisons, there are somewhat troubling descriptions of gender

nonconforming persons that illustrate the ways in which research on trans persons can often perpetuate misconceptions and even discriminatory claims regarding non-heterosexual, gender nonconforming persons. Building from earlier critiques of “masculine” individuals in women’s prisons being advantaged within prison gender orders, analyses such as Sumner and Sexton (2014) also misconstrue the realities for bisexual and lesbian women by perpetuating butchphobia<sup>11</sup> and lesbophobia<sup>12</sup>. Their depictions (drawn from respondents’ descriptions) of aggressives, who they acknowledge as not trans men, but rather lesbians, as “controlling, dominating, and intimidating” who target “more vulnerable femmes<sup>13</sup>” perpetuates butchphobic rhetoric observed by sexualities research (see Eves, 2004). This theme illustrates the ways in which research focused on gender nonconforming persons often perpetuates gender normativity and heteronormativity through a lack of understanding of gender nonconforming identities. Conclusions regarding the experiences of TGNC persons are rendered problematic when the texts communicate mixed levels of understandings of the important social and historical contexts of TGNC identities.

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<sup>11</sup> “Butchphobia” refers to the ways in which butches, as a lesbian gender identity, are specifically targeted, stereotyped, and disadvantaged.

<sup>12</sup> “Lesbophobia” refers to a subset of homophobia that interplays with misogyny to particularly target and disadvantage lesbians.

<sup>13</sup> The authors use “femmes” here to refer to “non-aggressive,” gender conforming women, as opposed to the identity of “femme” used in conjunction with “butch” (see Levitt & Horne, 2002).

## CHAPTER 5: TGNC EXPERIENCES IN CRIMINAL JUSTICE CONTEXTS

### Encountering the Criminal Justice System

#### *Trans Persons as Criminal Subjects*

Disparities in experiences with the criminal justice system for TGNC persons begin with their encounters with law enforcement officers. The first emergent theme in TGNC persons' experiences interacting with police is the typing of trans people as potentially criminal suspects. There is, in particular, a stereotyped association between trans women and sex work. Multiple studies have found that trans women are more likely to be questioned, arrested, and convicted for sex work than their cis counterparts (Stoker, 2014, Woods, Galvan, Bazargan, Herman, & Chen, 2013). Trans women find themselves stopped on suspicion of sex work, even in cases where they were not *actually* engaging in sex work.

#### *Harassment and Assault from Police*

In their interactions with police, TGNC persons experience higher rates of harassment and assault. Few trans persons report being treated with respect, and are often subject to increased scrutiny, including invasive searches to confirm their gender/sex (Serpe & Nadal, 2017, Stoker, 2014). LGBT persons broadly face higher risks of police harassment, assault, and sexual coercion<sup>14</sup>, and these risks are amplified for TGNC persons (Owen, Burke, Few-Demo, & Natwick, 2017, Serpe & Nadal, 2017, Stoker, 2014). These experiences produce harmful ramifications for TGNC persons throughout the lifecourse: LGBT persons, and TGNC persons in

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<sup>14</sup> Sexual coercion refers to law enforcement officers soliciting sexual acts from persons in order to avoid arrest.

particular, are less likely to report being victims of crime and to ask for police assistance, particularly in the cases of discrimination, having greater negative associations with the police and discomfort interacting with police officers (Owen et al. 2017, Serpe & Nadal, 2017, Stoker, 2014, Woods et al., 2013).

### Prison Policies and Legal Protections

The most notable protections for incarcerated TGNC persons fall under updated provisions to the 2003 Prison Rape Elimination Act (PREA). Unfortunately, there are inconsistencies in state interpretations of the regulations, leading to inconsistencies (Routh, Abess, Makin, Stohr, Hemmens, & Yoo, 2017). Present federal protections require the gender identity and preferences of TGNC persons to be considered, but this provision is rarely enforced, and incarcerated persons rarely have the resources to bring legal action forth in their defense (Stoker, 2014). Additionally, failure to adhere to PREA provisions only endangers five percent of federal funding for prisons, and the regulations do not apply to private facilities that cannot be threatened by the withdrawal of government funding (Routh et al., 2014).

### TGNC Health Experiences While Incarcerated

#### *Health Care*

TGNC individuals deal with a variety of specific health issues connected to lifetime consequences of transphobia and homophobia, their gender and transitioning, and systematic problems in prison health care. LGBT persons are disproportionately impoverished and more likely to suffer from various forms of abuse, and as a result, enter the criminal justice system with a variety of health issues, from addiction, mental health problems, and chronic physical health issues (Faiver, 2017). HIV is also a top concern amongst LGBT populations, an outcome that deals with the intersections of serophobia, homophobia, transphobia, and racism (disproportionately affects gay men and trans women of color) (Nemec, 2011).

Clark et al. (2017) describe various barriers to sufficient and ethical trans health care in prisons. *Structural* barriers include health care policies, budget concerns, and the promotion of a culture of “safety” in prisons. Policies include the requirement of having previous documentation, such as prescriptions, to be allowed to continue HRT while incarcerated. As of 2015, only 21 states allowed for continuation of previously documented HRT in prison, and only 13 states allow for prisoners to possibly start HRT while in prison (Routh et al., 2017). Preoccupations with “safety” in prisons often contributes to the worsening of trans persons’ health. They particularly target gender expressions as a possible source of violence, citing a paternalistic approach towards trans persons. Vulnerable populations, such as TGNC individuals, are placed in protective custody/segregation as “safety measures,” which often exacerbates mental health issues (Stoker, 2014). Faiver (2017) also suggests that these placements can interfere with clinicians’ abilities to deliver health care in an ethical fashion (such as being forced to deliver treatment with prisoners’ arms through cell bars).

*Interpersonal* barriers consist of prison staff members’ biases towards care providers and towards TGNC persons (Clarke et al., 2017). *Individual* barriers deal with numerous concepts related to clinicians’ abilities to deliver care, from respecting TGNC patients to lacking knowledge on how to properly administer trans-specific care (Clarke et al., 2017). Incompetency regarding respect to trans patients often involves viewing trans persons as attention seekers and manipulative persons attempting to receive preferential treatment (Clarke et al., 2017). This viewpoint illustrates a lack of understanding of TGNC experiences by ignoring the documented risks and consequences of being trans, both in the prison setting, and in health care settings. Providers also may not be knowledgeable on administering transitional care or dealing with related complications such as drug interactions or follow up care, or may conflate being trans

with being mentally ill, or even withhold transitional care as a method of exercising control over the patient (Clarke et al., 2017)<sup>15</sup>.

Previous research has upheld the importance of providing proper transitional and other gender-related health resources in assuring TGNC individuals' long-term wellbeing. Faiver (2017) argues that transition is medically necessary for trans prisoners as an ethical concern. Routh et al. (2017) discuss the negative outcomes of the denial of various resources for gender expression and the care for gender dysphoria. The wide umbrella of health resources for TGNC persons includes formal medical care resources and procedures, as well as clothing and related items as mental and emotional health resources, which are frequently denied in a system that favors conformity (Girshick, 2011).

#### *Violence as a TGNC Health Experience*

Due to the myriad of mental and physical health effects connected to experiences of physical and sexual violence, for the purposes of this text, TGNC prisoners' experiences of victimization while incarcerated are conceptualized as *health experiences*, similar to access to care for other health conditions. In the previous chapter, it was discussed that prisons serve as spaces that encourage the proliferation of sexual violence, both amongst incarcerated persons, and through victimization by prison staff. Overall, TGNC persons are far more likely to be assaulted than their cis (gender conforming) counterparts, and reports of assaults are frequently ignored by prison staff (Stoker, 2014). Studies documenting experiences of trans women in men's prisons have found that sexual assault (particularly from other inmates) is a particularly common experience (Girshick, 2011, Reisner, Bailey, & Sevelius, 2014). Rates of assault are

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<sup>15</sup> These barriers are also roughly discussed in Nemec, 2011 (though not by specific type names).

particularly high amongst trans women of color (which holds true both in and outside of prison) (Reisner et al., 2014). Victimization of TGNC persons of color function at the complex intersection of race and transphobia, where multiple dimensions of disadvantage place these individuals in a particularly vulnerable position (Reisner et al., 2014, Saffin, 2011).

## CHAPTER 6: THE CURRENT STUDY

### Description

The current study examines the state of health experiences for formerly incarcerated TGNC individuals in women's prisons, along with experiences interacting with law enforcement for TGNC persons assigned female at birth. Health experiences, here, refers to individuals' victimization through physical and sexual assault, and the extent of trans-specific health care provided while incarcerated. This study addresses the glaring gaps in the literature related to TGNC individuals in women's prisons. To date, there are no analyses of the extent of victimization or provision of care in these facilities, and there are few quantitative analyses regarding the experiences of incarcerated TGNC individuals broadly. This study also aims to examine the ways in which trans identity and gender expression interact with TGNC experiences in the criminal justice system, particularly in terms of the relationship between gender nonconformity and victimization.

### Preliminary Data

Summary findings from the 2015 U.S. Transgender Survey indicate that many TGNC individuals who interact with law enforcement experience some form of harassment or assault, and often feel unsafe or uncomfortable interacting with police, including asking for help. The officers' treatment of TGNC individuals was often reflective of officers' assumptions or knowledge that those individuals were trans or otherwise gender nonconforming. While incarcerated, TGNC individuals were found to report higher rates of physical and sexual assault than cis, gender conforming persons, and were continually denied transitional healthcare.



## CHAPTER 7: METHODS

### Sample

This study draws from data from the 2015 U.S. Trans Survey (USTS). The total final sample of the USTS consisted of 27,715 respondents. The USTS was an online survey, consisting of over three hundred questions over thirty-two sections, and was designed to compare the experiences of transgender persons in the US context, and to allow comparisons between trans persons and other existing national level data sets and assessments. It utilized purposive sampling, aided by directed outreach efforts in order to target trans populations, with a specific focus on the inclusion of people of color and low income persons in order to counteract the notable race and class disparities in computer access. The final sample for the USTS was slightly skewed towards assigned female at birth (57%), mostly white, young in comparison to the general population, lower income, more highly educated than the national average, and generally representative of the geographic distribution of the total US population. The sample for these analyses then was determined by retaining respondents that met the following inclusion criteria:

1. Answered “female” to the question “What sex were you assigned at birth, on your original birth certificate?” **AND**
2. Answered “yes” to any of the following questions in the USTS questionnaire:
  - a. In the past year, did you interact with the police or other law enforcement officers?
  - b. In the past year, were you arrested for any reason?
  - c. In the past year, at any time were you held in jail, prison or juvenile detention?

The number of respondents who answered “female” as their assigned sex was 15,858, and the final sample of respondents who qualified under both criteria was 5,973.

## Variables

### *Demographics*

This analysis included respondents’ reported gender, sexual orientation, education level, income level, race, and geographic location. Gender was measured using the two-category recode (from 26 original options for respondents): trans woman/man (hereafter referred to as “binary”) and nonbinary/genderqueer (including both AFAB and AMAB participants). Sexual orientation was measured by a recode into three categories: straight (heterosexual), non-straight (respondents answered lesbian, gay, bisexual, pansexual, or same-gender loving), and other (respondents answered queer, asexual, demisexual<sup>16</sup>, or sexuality not listed).

Educational level was measured as a three-category recode of high school or less, some college, or bachelor’s degree or higher. This recode was derived from the original question with thirteen possible levels from less than 8<sup>th</sup> grade to professional degree, which USTS researchers later recoded into seven, six, five, and four categories; due to the small number of persons in the sample with less than high school education, high school graduates and those with less than high school were grouped together, producing a three category variable from the four-level recode. The original income question was measured at 18 possible levels from no income to over \$150,000, and then was recoded by USTS researchers into six categories from no income to over

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<sup>16</sup> Demisexual was added as a category by the USTS researchers after its frequency in the qualitative write-in data.

\$100,000. Due to the distribution of frequencies, for the purpose of these analyses, this variable was recoded into the following five categories from that recode: less than \$10,000, \$10,000 to \$24,999, \$25,000 to \$49,000, \$50,000 to \$99,000 or over \$100,000.

The original question regarding race provided ten possible options. These options were then recoded into eight categories for univariate and bivariate analyses: American Native, Asian/Pacific Islander, biracial/multiracial, black, Latino/Hispanic, Middle Eastern/North African, white, and other/not listed. For later regression analyses, race was further recoded into two categories: white and nonwhite. Geographic location was the USTS recode of respondents' current state of residency into regions based on categorization by the US census.

### *Independent Variables*

The main factors examined were gender transition status and gender conformity. Gender transition status was measured by what steps they had taken to medically transition, including therapy, hormones, and surgical procedures. Hormone use was measured by a dichotomous variable (yes/no). Surgical transition was a USTS staff recode using a set of questions regarding which surgical procedures respondents have undergone, producing a dichotomous (yes/no) variable if respondents had answered yes to any of the related procedure questions.

Gender conformity was measured by their gender category and if others can tell if they are trans. Gender category was a dummy variable for multivariate analyses derived from the previously described categorical variable for gender (binary/nonbinary). The latter measure was based off of the USTS question asking to what extent respondents agreed with the statement, "People can tell I am trans even if I don't tell them," along a five-point scale from always, most of the time, sometimes, rarely, to never. For the purposes of this study, the direction of the scale was flipped, and never was used as the reference category. This was used as a measure of "passing," where it ranged from passing (can't tell, rarely tell) to not passing (always can tell).

### *Dependent Variables*

This study examined both the experiences of AFAB TGNC persons in their interactions with police and their experiences while incarcerated. Police interaction factors included microaggressions (misgendering<sup>17</sup>, invasive questions regarding the respondent's transition), harassment (verbal), and assault (physical, sexual, and sexual coercion<sup>18</sup>). The variable "microaggressions" was a recode from two dichotomous (yes/no) questions from the USTS survey, regarding if the respondent had 1) been referred to by the wrong pronoun by police and/or 2) been asked invasive questions regarding their transition status by police. Similarly, verbal harassment, physical assault, sexual assault, and sexual coercion were all dichotomous (yes/no) questions from the original survey.

Experiences while incarcerated included physical and sexual assault (by both prison staff and other inmates), and having access to hormones while incarcerated. The assault variables drew from a section of dichotomous (yes/no) questions detailing experiences with both prison staff and other inmates. Respondents were asked if they were 1) physically assaulted by staff, 2) physically assaulted by another inmate, 3) sexually assaulted by staff, and 4) sexually assaulted by another inmate. The access to hormones was measured by a dichotomous (yes/no) question of if, while incarcerated, the respondent was allowed to continue previously initiated hormone treatment.

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<sup>17</sup> Being referred to by the wrong name or pronouns

<sup>18</sup> Defined here as being coerced by police into performing sexual acts in order to avoid arrest or other legal action

### Analyses

SPSS was used for all analyses. Univariate analyses produced frequencies for demographic characteristics of the total sample, and for health and violence experiences while interacting with law enforcement and while incarcerated. Bivariate analyses (chi-squares) examined differences in the demographic characteristics for incarcerated versus non-incarcerated TGNC persons. Logistic regressions modeled experiences of harassment and assault for both interactions with law enforcement and incarcerated TGNC persons. This particularly modeling was chosen due to the dichotomous nature of the questions asked concerning the dependent variables.

## CHAPTER 8: RESULTS

**Table 1: Demographic Characteristics of a National Sample of AFAB TGNC Adults**

<i>Demographics</i>	<i>Totals</i>		<i>Interacted with Criminal Justice System*</i>				<i>Incarcerated</i>			
	<i>N=15858</i>		<i>No</i>		<i>Yes</i>		<i>No</i>		<i>Yes</i>	
	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>
<b>Gender</b>										
Binary <sup>1</sup>	7973	50.3	4844	49.2	3117	52.5	7869	50.2	94	65.7
Nonbinary/Genderqueer	7844	49.5	5004	50.8	2825	47.5	7780	49.6	49	34.3
<b>Orientation</b>										
Straight	1599	10.1	944	9.6	654	11.0	1571	10.0	28	19.6
Non-straight <sup>2</sup>	6378	40.2	4014	40.7	2351	39.5	6319	40.3	48	33.6
Other <sup>3</sup>	7881	49.7	4914	49.8	2954	49.6	7800	49.7	67	46.9
<b>Education</b>										
High school or less	2702	17.0	1841	18.6	856	14.4	2668	17.0	32	22.4
Some college	7842	47.2	4628	46.9	2841	47.7	7402	47.2	70	49.0
College degree	5674	35.8	3403	34.5	2262	38.0	5620	35.8	41	28.7
<b>Income</b>										
Below \$10,000	7931	50.0	5130	52.0	2788	46.8	7850	50.0	71	49.7
\$10,000 to \$24,999	3500	22.1	1989	20.1	1505	25.2	3454	22.0	36	25.2
\$25,000 to \$49,999	2309	14.6	1377	13.9	930	15.6	2287	14.6	20	14.0
\$50,000 to \$100,000	1330	8.4	817	8.3	511	8.6	1318	8.4	11	7.7
\$100,000 or more	374	2.4	250	2.5	123	2.1	369	2.4	4	2.8
<b>Race/ethnicity</b>										
American Native <sup>4</sup>	173	1.1	93	1.0	80	1.3	172	1.1	1	0.7
Asian/Pacific Islander	192	3.0	312	3.2	161	2.7	474	3.0	1	0.7
Biracial/Multiracial	1055	6.7	608	6.2	445	7.5	1040	6.6	13	9.1
Black	489	3.1	281	2.8	206	3.5	475	3.0	14	9.8
Latino/Hispanic	940	5.9	604	6.1	336	5.6	924	5.9	13	9.1
Middle Eastern/ North African	92	0.6	58	0.6	34	0.6	92	0.6	-	-
White	12618	79.6	7908	80.1	4691	78.7	12499	79.7	101	70.6
Other	14	0.1	8	0.1	6	0.1	14	0.1	-	-
<b>Region</b>										
Northeast	3487	22.1	2179	22.1	1313	22.0	3455	22.0	34	23.8
Midwest	3255	20.5	2002	20.3	1246	20.9	3219	20.5	33	23.1
South	4286	27.0	2632	26.7	1649	27.7	4235	27.0	45	31.5
West	4782	30.2	3042	30.8	1731	29.0	4743	30.2	31	21.7

Totals may not sum to 100% due to rounding, missing data

\*Includes persons who reported any police interactions, including questioning, arrest, and incarceration.

<sup>1</sup>Includes responses of man, woman, trans man, and trans woman;

<sup>2</sup>Includes responses of gay, lesbian, bisexual, pansexual, and same-gender loving; <sup>3</sup>Includes responses of queer, asexual, demisexual, and sexuality not listed; <sup>4</sup>Includes “American Indian” and “Alaska Native”

### Demographics

Table 1 displays the demographic characteristics of the sample and subsamples. It was split evenly between binary trans and nonbinary persons (50.3% and 49.7%, respectively),

mostly non-straight (only 11% of the sample was straight), highly educated (only 14.3% with less than a college level education), mostly poor (50% at or below poverty, and 72% earning below \$25,000 per year), predominantly white (78.7% for the final sample), and fairly evenly distributed across regions. There were no noticeable differences for the subsample of persons interacting with the criminal justice system. Chi-square analyses (displayed below in Tables 2, 3, and 4) indicated significant differences in proportions for incarcerated vs non-incarcerated TGNC persons in terms of gender ( $p=0.001$ ), orientation ( $p<0.01$ ), and race ( $p<0.01$ ), but no significant differences in education, income, or region.

**Table 2: Cross Tabulation: Gender Category and Incarceration Rate**

Measures	Binary	Nonbinary/Genderqueer	$\chi^2$
Non-Incarcerated	7869	7780	
Incarcerated	94	49	14.616*

\* $p=0.001$

**Table 3: Cross Tabulation: Orientation and Incarceration Rate**

Measure	Straight	Non-Straight	Other	$\chi^2$
Non-Incarcerated	1571	6319	7800	
Incarcerated	28	48	67	17.497*

\* $p<0.01$

**Table 4: Cross Tabulation: Race and Incarceration Rate**

Measure	Native	Asian/PI	Bi/Multi	Black	Latino	Middle East/N. African	White	Other	$\chi^2$
Non-Incarcerated	172	474	1040	475	924	92	12499	14	
Incarcerated	1	1	13	14	13	0	101	0	35.019*

\* $p=0.001$

**Table 5: Harassment and Assault Frequencies During Police Interactions**

Experience	No		Yes	
	<i>N</i>	%	<i>N</i>	%
Verbal Harassment	1172	80.0	293	20.0
Physical Assault	1409	96.5	51	3.5
Sexual Coercion	1450	99.5	7	0.5
Sexual Assault	1432	98.6	21	1.4
Microaggressions	575	39.3	889	60.7

N=1468; Only a portion of the sample that reported interacting with police were asked questions about their adverse experiences with law enforcement. Percentages may not add up to 100% due to rounding and missing data.

Police Interactions

Table 5 displays the frequencies of harassment and assault for TGNC individuals during police interactions. Small portions of the sample reported experiences of physical assault (3.5%), sexual coercion (0.5%), and sexual assault (1.4%), while one-fifth of respondents reported verbal harassment (20.0%) and over half of respondents reported experiencing transgender microaggressions, such as being misgendered or being asked invasive questions regarding their transition (60.7%). Chi-square analyses indicated statistically significant differences in verbal harassment across orientation ( $p < 0.05$ ), income ( $p < 0.05$ ), and race ( $p < 0.01$ ); in physical assault across education ( $p < 0.05$ ) and race ( $p < 0.001$ ); and in microaggressions across education ( $p < 0.01$ ) and income ( $p < 0.01$ ).



**Table 6: Associations Between Demographic Factors and Gender Conformity and Transitioning Variables and Experiences of Verbal Harassment in Interactions with Police**

	<i>Experience of Verbal Harassment</i>			
	<i>Model 1</i>		<i>Model 2</i>	
	<i>B (S.E.)</i>	<i>Odds Ratio</i>	<i>B (S.E.)</i>	<i>Odds Ratio</i>
Intercept	-1.555 (0.250)***	0.211	-1.556 (0.311)	0.211
Demographics				
Orientation	0.259 (0.194)	1.295	0.292 (0.207)	1.339
Income				
Up to \$10,000	--	1.000	--	1.000
\$10,000-\$24,999	0.074 (0.159)	1.077	0.038 (0.162)	1.039
\$25,000-\$49,999	-0.214 (0.210)	0.807	-0.280 (0.213)	0.753
\$50,000-\$99,999	-0.439 (0.291)	0.645	-0.487 (0.295)	0.614
Over \$100,000	-19.827 (8188.854)	0.000	-19.900 (8154.977)	0.000
Education				
Less than college	--	1.000	--	1.000
Some college	-0.124 (0.199)	0.883	-0.141 (0.203)	0.869
College degree	-0.090 (0.221)	0.914	-0.187 (0.230)	0.830
Nonwhite	0.405 (0.153)**	1.500	0.386 (0.155)*	1.472
Gender Conformity				
Nonbinary	--	--	0.182 (0.165)	1.200
Non-Passing	--	--	--	1.000
Rarely can tell	--	--	-0.328 (0.228)	0.720
Sometimes can tell	--	--	-0.188 (0.217)	0.828
Usually can tell	--	--	-0.254 (0.272)	0.776
Always can tell	--	--	1.012 (0.421)*	2.752
Hormones	--	--	0.117 (0.162)	1.124
Surgical transitioning	--	--	0.289 (0.165)	1.335
	<i>Model Assessment</i>			
		<i>Model 1</i>		<i>Model 2</i>
Block $\chi^2$		24.368**		17.065*
Model $\chi^2$		24.368**		41.433***
R <sup>2</sup>		0.027		0.046

\*p<0.05, \*\*p<0.01, \*\*\*p<0.001

**Table 7: Associations Between Demographic Factors and Gender Conformity and Transitioning Variables and Experiences of Physical Assault in Interactions with Police**

	<i>Experience of Physical Assault</i>			
	<i>Model 1</i>		<i>Model 2</i>	
	<i>B (S.E.)</i>	<i>Odds Ratio</i>	<i>B (S.E.)</i>	<i>Odds Ratio</i>
Intercept	-2.913(0.476)***	0.054	-2.659 (0.590)***	0.070
Demographics				
Orientation	0.087 (0.407)	1.091	0.107 (0.442)	1.113
Income				
Up to \$10,000	--	1.000	--	1.000
\$10,000-\$24,999	-0.146 (0.349)	0.864	-0.159 (0.357)	0.853
\$25,000-\$49,999	-0.751 (0.525)	0.472	-0.827 (0.533)	0.438
\$50,000-\$99,999	-0.048 (0.550)	0.953	-0.040 (0.554)	0.960
Over \$100,000	-17.911 (8112.261)	0.000	-17,986 (8012.406)	0.000
Education				
Less than college	--	1.000	--	1.000
Some college	-1.047 (0.371)**	0.351	-1.032 (0.380)**	0.356
College degree	-0.604 (0.409)	0.574	-0.713 (0.431)	0.490
Nonwhite	1.159 (0.294)***	3.163	1.102 (0.298)***	3.011
Gender Conformity				
Nonbinary	--	--	0.520 (0.356)	1.682
Non-Passing	--	--	--	1.000
Rarely can tell	--	--	-0.606 (0.462)	0.546
Sometimes can tell	--	--	-0.689 (0.434)	0.502
Usually can tell	--	--	-0.834 (0.591)	0.434
Always can tell	--	--	1.041 (0.658)	2.832
Hormones	--	--	0.031 (0.352)	1.032
Surgical transitioning	--	--	0.275 (0.360)	1.317
	<i>Model Assessment</i>			
		<i>Model 1</i>		<i>Model 2</i>
Block $\chi^2$		26.283**		10.904
Model $\chi^2$		26.283**		37.187**
R <sup>2</sup>		0.070		0.099

\*p<0.05, \*\*p<0.01, \*\*\*p<0.001

**Table 8: Associations Between Demographic Factors and Gender Conformity and Transitioning Variables and Experiences of Trans Microaggressions in Interactions with Police**

	<i>Experience of Microaggressions</i>			
	<i>Model 1</i>		<i>Model 2</i>	
	<i>B (S.E.)</i>	<i>Odds Ratio</i>	<i>B (S.E.)</i>	<i>Odds Ratio</i>
Intercept	0.503 (0.205)*	1.653	0.190 (0.260)	1.210
Demographics				
Orientation	0.331 (0.150)*	1.393	0.155 (0.160)	1.168
Income				
Up to \$10,000	--	1.000	--	1.000
\$10,000-\$24,999	-0.252 (0.136)	0.777	-0.182 (0.138)	0.834
\$25,000-\$49,999	-0.470 (0.166)**	0.625	-0.444 (0.170)**	0.642
\$50,000-\$99,999	-0.566 (0.214)**	0.568	-0.546 (0.218)*	0.579
Over \$100,000	-0.851 (0.433)	0.427	-0.722 (0.441)	0.486
Education				
Less than college	--	1.000	--	1.000
Some college	-0.116 (0.174)	0.890	-0.084 (0.178)	0.920
College degree	-0.337 (0.189)	0.714	-0.304 (0.196)	0.738
Nonwhite	0.281 (0.136)*	1.324	0.314 (0.139)*	1.369
Gender Conformity				
Nonbinary	--	--	-0.018 (0.140)	0.982
Non-Passing	--	--	--	1.000
Rarely can tell	--	--	0.383 (0.188)*	1.467
Sometimes can tell	--	--	0.612 (0.183)**	1.844
Usually can tell	--	--	1.094 (0.234)***	2.985
Always can tell	--	--	0.522 (0.417)	1.686
Hormones	--	--	-0.131 (0.135)	0.877
Surgical transitioning	--	--	-0.130 (0.135)	0.878
	<i>Model Assessment</i>			
		<i>Model 1</i>		<i>Model 2</i>
Block $\chi^2$		39.211***		35.107***
Model $\chi^2$		39.211***		74.318***
R <sup>2</sup>		0.037		0.069

\*p<0.05, \*\*p<0.01, \*\*\*p<0.001

Tables 6-8 display the results of logistic regression modeling for verbal harassment, physical assault, and trans microaggressions. These models were constructed stepwise, with Model 1 only including demographics (orientation, income, education, and race),<sup>19</sup> and Model 2 adding in gender conformity and transition variables (gender category, how often others can tell

<sup>19</sup> Census region was excluded from regression modeling due to no previous significant differences found in univariate or bivariate analyses.

if the respondent is trans, history of HRT, and if the respondent has undergone any surgical procedures towards the transition process. For verbal harassment (Table 6), both models were significant ( $p < 0.01$  for Model 1 and  $p < 0.05$  for Model 2). Race was a significant factor across both models ( $p < 0.01$  and  $p < 0.05$ ), where respondents who were nonwhite were approximately 1.5 times as likely to experience verbal harassment compared to white respondents, even when accounting for gender and transition factors. Respondents who reported others always being able to tell they were trans were 2.75 times as likely to experience verbal harassment compared to those who reported never being read as trans ( $p < 0.05$ ).

For physical assault, only the demographic model was significant ( $p < 0.01$ ). The block significance for Model 2 indicated there was not a significant improvement in the model from Model 1 ( $p > 0.05$ ). In the first model, respondents with some level of college education were 65% less likely to experience physical assault than those with a high school education or less ( $p < 0.01$ ). Race was again a significant factor ( $p < 0.001$ ), where nonwhite respondents were over three times more likely to experience physical assault than white respondents.

For trans microaggressions, both models were significant ( $p < 0.001$ ). In the first model, both income ( $p < 0.01$ ) and race ( $p < 0.05$ ) were significant contributing factors. TGNC individuals with an annual income between \$25,000 and \$49,999 were 38% less likely to experience microaggressions, and individuals with an annual income of \$50,000-\$99,000 were about 43% less likely to experience microaggressions, compared to those making under \$10,000 per year. Nonwhite respondents were over 30% more likely to experience microaggressions than white respondents.



**Table 10: Associations Between Demographic Factors and Gender Conformity and Transitioning Variables and Experiences of Physical Assault By Prison Staff While Incarcerated**

	<i>Experience of Physical Assault</i>			
	<i>Model 1</i>		<i>Model 2</i>	
	<i>B (S.E.)</i>	<i>Odds Ratio</i>	<i>B (S.E.)</i>	<i>Odds Ratio</i>
Intercept	-2.071 (0.941)*	0.126	-1.584 (1.198)	0.205
Demographics				
Orientation	0.603 (0.871)	1.828	1.273 (0.963)	3.573
Income <sup>1</sup>				
Up to \$10,000	--	1.000	--	1.000
\$10,000-\$24,999	-1.852 (1.199)	0.157	-1.945 (1.265)	0.143
\$25,000-\$49,999	0.601 (0.840)	1.825	0.332 (0.959)	1.393
Over \$50,000	0.219 (0.941)	1.244	-0.259 (1.145)	0.772
Education				
Less than college	--	1.000	--	1.000
Some college	-2.522 (0.869)**	0.080	-2.687 (1.047)*	0.068
College degree	-1.026 (0.779)	0.358	-0.357 (0.943)	0.542
Nonwhite	2.045 (0.665)**	7.729	1.267 (0.606)*	0.700
Gender Conformity				
Nonbinary	--	--	-1.964 (0.997)*	0.140
Non-Passing	--	--	--	1.000
Rarely can tell	--	--	-0.361 (0.927)	0.697
Sometimes can tell	--	--	-0.778 (1.016)	0.459
Usually can tell	--	--	0.504 (1.105)	0.604
Always can tell	--	--	0.843 (1.464)	2.324
Hormones	--	--	0.224 (0.852)	1.251
Surgical transitioning	--	--	-0.566 (0.850)	0.568
	<i>Model Assessment</i>			
		<i>Model 1</i>		<i>Model 2</i>
Block $\chi^2$		22.384**		7.584
Model $\chi^2$		22.384**		29.968**
R <sup>2</sup>		0.305		0.398

\*p<0.05, \*\*p<0.01, \*\*\*p<0.001

<sup>1</sup>Due to the small sample size of respondents with incomes over \$100,000 for the incarcerated subsample, the last two income categories were combined for incarceration analyses.

**Table 11: Associations Between Demographic Factors and Gender Conformity and Transitioning Variables and Experiences of Sexual/ Physical Assault by Prison Staff While Incarcerated**

	<i>Experience of Physical Assault</i>			
	<i>Model 1</i>		<i>Model 2</i>	
	<i>B (S.E.)</i>	<i>Odds Ratio</i>	<i>B (S.E.)</i>	<i>Odds Ratio</i>
Intercept	-2.365 (0.959)*	0.094	-0.966 (1.286)	0.381
Demographics				
Orientation	0.878 (0.866)	2.405	1.495 (0.941)	4.459
Income <sup>1</sup>				
Up to \$10,000	--	1.000	--	1.000
\$10,000-\$24,999	-0.881 (0.920)	0.414	-1.013 (1.033)	0.363
\$25,000-\$49,999	0.637 (0.837)	1.891	0.372 (0.996)	1.451
Over \$50,000	0.399 (1.001)	1.491	0.148 (1.189)	1.160
Education				
Less than college	--	1.000	--	1.000
Some college	-2.133 (0.778)**	0.118	-2.354 (0.942)*	0.095
College degree	-1.173 (0.803)	0.309	-0.656 (0.984)	0.519
Nonwhite	1.868 (0.643)**	6.478	1.231 (0.747)	3.425
Gender Conformity				
Nonbinary	--	--	-2.717 (1.247)*	0.066
Non-Passing	--	--	--	1.000
Rarely can tell	--	--	-0.800 (0.914)	0.450
Sometimes can tell	--	--	-1.238 (0.994)	0.290
Usually can tell	--	--	-1.951 (1.386)	0.142
Always can tell	--	--	0.149 (1.443)	1.161
Hormones	--	--	-0.197 (0.892)	0.821
Surgical transitioning	--	--	-0.690 (0.867)	0.502
	<i>Model Assessment</i>			
		<i>Model 1</i>		<i>Model 2</i>
Block $\chi^2$		18.106*		11.737
Model $\chi^2$		18.106*		29.843**
R <sup>2</sup>		0.253		0.399

\*p<0.05, \*\*p<0.01, \*\*\*p<0.001

<sup>1</sup>Due to the small sample size of respondents with incomes over \$100,000 for the incarcerated subsample, the last two income categories were combined for incarceration analyses.

### Incarceration Experiences

#### *Sexual and Physical Assault*

Tables 9-11 depict logistic regression models for reported sexual and physical assaults for incarcerated TGNC individuals. Models were only run for dependent variables where assault frequencies were at least 15 (out of 143). Model 1 included only demographic factors, while Model 2 added in gender conformity and transition status variables, as with the previous models

for police interaction. The models for factors affecting the catchall variable for any assaults by either staff or inmates were both non-significant, and thus not included as tables.

Table 9 depicts the models for physical assault by either staff or other inmates. Only the first demographic model was significant ( $p < 0.05$ ). Education and race were both significant ( $p < 0.05$ ,  $p < 0.01$ , respectively). Respondents with some college were almost 75% less likely to experience physical assault than those with a high school education or less. Nonwhite individuals were over four times as likely to experience physical assault.

Table 10 depicts the models for physical assault by prison staff only. Model 1 was significant ( $p < 0.01$ ), with education ( $p < 0.01$ ) and race ( $p < 0.01$ ) both being significant factors. Respondents with some college were over 90% less likely to report being physically assaulted by staff members, while nonwhite individuals were nearly eight times as likely to experience physical assault from staff. Model 2 was still significant ( $p < 0.01$ ), but the block chi-square value was not significant ( $p > 0.05$ ), and thus the inclusion of gender conformity and transition variables did not improve the quality of the model.<sup>20</sup>

Table 11 includes the models for both sexual and physical assault by prison staff. Model 1 was significant ( $p < 0.05$ ), and both education and race were significant contributing factors ( $p < 0.05$ ,  $p < 0.01$ , respectively). Respondents with some college were almost 90% less likely to experience assault by prison staff, while nonwhite respondents were nearly 6.5 times more likely. As with the previous table, Model 2 was significant ( $p < 0.01$ ), but the block chi-square value was also not significant ( $p > 0.05$ ), thus it was not an improvement from Model 1.

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<sup>20</sup> Note: Gender category was significant, but barely ( $p = 0.49$ ).



### *Hormone Access*

Only 42% (N=60) of the total incarcerated sample (N=142) reported being on hormones prior to incarceration; therefore, there were too few respondents to conduct multivariate analyses. Bivariate analyses were largely inconclusive.

## CHAPTER 9: DISCUSSION

Race was a constant influential factor for adverse experiences for TGNC individuals interacting with the criminal justice system. Nonwhite individuals were several times more likely to be harassed and assaulted by law enforcement and prison staff. These findings are consistent with previous research on TGNC persons of color indicating they are consistently more vulnerable to violence, both outside and within criminal justice contexts (Saffin, 2011). Despite black TGNC persons only comprising 3.8% of the sample of AFAB persons, they comprised 9.8% of incarcerated TGNC persons.

Education was also a reoccurring factor in experiences of violence. Interestingly, only the group with some college experience displayed significant differences in experiences compared to the group with only a high school education or less. Individuals with at least a college degree did not show significantly different rates of harassment and assault from the reference group. Both in police interactions and while incarcerated, having some college (but not a degree) significantly reduced the likelihood of violence, between 65-90%. The related measure of income was only significant in reducing the likelihood of experiencing microaggressions during TGNC persons' interactions with police.

Findings related to the gender conformity and transitional status variables were largely insignificant, and often failed to strengthen regression models for TGNC experiences. Others being able to tell if the respondent was trans was only a significant factor for experiences of verbal harassment while interacting with police, where being unable to hide being trans from others led to a 2.75 times higher rate of verbal harassment. Interestingly, it was not a significant contributing factor in the analyses on experiences of microaggressions.

## CHAPTER 10: CONCLUSIONS AND IMPLICATIONS

### Conclusions

The findings of this study both support previous research on TGNC persons' experiences and suggest novel presentations for the experiences of transmasculine and AFAB nonbinary persons. The analyses here support previous assessments of the increased vulnerability of nonwhite TGNC persons within trans populations. This study also raises interesting questions about the relationship education (more so than income) may play in curbing harassment and assault, a factor that has been rarely explored in the literature on TGNC persons in the criminal justice system.

While many previous studies on prison populations broadly, and on women's prisons and LGBT populations more specifically, often explored the complex presentation of gender and sexualities, these findings do not suggest a particularly strong connection between gender conformity, orientation, and experiences of violence. It is, however, difficult to make conclusions regarding the relationship between gender conformity and harassment and assault without further data on the extent of respondents' presentations while incarcerated, and how this may differ from their general responses. As discussed earlier, prisons act as complex structures of gender control. To what extent might the regulation of gender presentation affect the ways incarcerated TGNC persons are able to express gender conformity or nonconformity. Additionally, presentations that are gender *nonconforming* in transmasculine contexts in non-restrictive, gender-integrated settings may be considered *conforming* to *sex* expectations in incarcerated settings. The lack of statistically significant differences in harassment and assault while incarcerated also supports criticisms from earlier in the text regarding gender nonconformity as *adaptive* or *advantageous* in women's prisons. Claims regarding the adaptive

nature of gender nonconformity in this setting imply that there would be a noticeable *reduction* in experiences of violence. Further examinations of such claims would require more detailed understandings of respondents' presentations while incarcerated, rather than just gender conformity across generalized contexts. Sexton and Jenness (2016), however, suggest that presentations may be fairly consistent across prison and non-incarcerated contexts.

The lack of concrete findings on the connection between gender conformity and transitioning and violence also highlight possible important understandings regarding the nature of TGNC experiences. As discussed in the earlier chapters, often, TGNC research boils down TGNC persons' experiences simply to their gender. The obvious salience of race and educational status amongst these findings illustrates the ways in which trans realities are highly complex, and how trans identities and experiences are often highly contextual. These findings also call into question the importance of "passing" in curbing adverse experiences, in line with criticisms of the focus on passing from previous transgender studies research (Namaste, 2000).

#### Strengths and Limitations

This study is the first quantitative examination of incarcerated transmasculine and AFAB nonbinary persons. It provides initial exploratory data regarding their experiences interacting with law enforcement and while incarcerated, and suggests possible contributing factors to experiences of violence. As discussed in the early chapters of this text, it may prove important in future research to expand samples similar to the one used in this study to include not only individuals who explicitly identify as trans, but also as gender nonconforming more broadly, in order to assess the possible similarities across these groups.

The racial balance of the sample (being predominantly white) posed a significant limitation, as the findings suggest race was a highly influential factor for experiencing violence. Future samples that are more reflective of the actual population distributions across race could

provide more balanced examinations of the role of race in TGNC experiences. There was also the relatively small sample of previously incarcerated TGNC persons. As there are no current reliable estimates on the number of trans persons incarcerated nationally, it is difficult to ascertain whether this small sample is reflective of the relative rarity of trans persons in prisons or if the sample drawn does not reflect the proportion of incarcerated trans persons relative to the entire trans population in the U.S. The small sample size made impossible an in-depth statistical analysis of factors surrounding the denial of access to hormones.

Lastly, this study largely ignored the effects of age, as the median age of AFAB persons in the USTS was 23. There is little research on the experiences of older TGNC persons, and there may be variations across the lifecourse, as well as generational differences, reflective of the ways TGNC identities, as highly political experiences, may be accompanied by drastic shifts in experiences over time. Adding to this issue, the data used is cross-sectional, and does not examine changes over time. Additionally, the questions concerning incarceration only covered experiences in the last year for respondents, missing any possible experiences from throughout the lifecourse, and skewing the overall gauge of lifetime instances of incarceration for trans and gender nonconforming persons.

#### Implications for Further Research

Additional research is needed on the realities of incarcerated TGNC persons in women's prisons. It is still unclear to what extent there may be disparities in hormone access, and what factors may contribute to any differences. Findings suggest the need for further in-depth qualitative work on the relationship between gender aspects and experiences while incarcerated, as it is difficult to assess why gender presentation may not clearly contribute to different rates of violence. One of the next steps would also be a comparative analysis between TGNC populations in women's prisons versus men's prisons. It will also be interesting to see the ways factors may

have changed since the completion of the 2015 USTS, particularly within the current political context. In 2018, the current administration announced numerous cuts to previous protections for incarcerated trans persons, alongside the rolling back of various other protections for trans persons outside criminal justice contexts at both the federal and state level (Caspani, 2018).

**APPENDIX A: UCF IRB APPROVAL LETTER**



University of Central Florida Institutional Review Board  
 Office of Research & Commercialization  
 12201 Research Parkway, Suite 501  
 Orlando, Florida 32826-3246  
 Telephone: 407-823-2901 or 407-882-2276  
[www.research.ucf.edu/compliance/irb.html](http://www.research.ucf.edu/compliance/irb.html)

### Approval of Human Research

From: UCF Institutional Review Board #1  
 FWA00000351, IRB00001138

To: Kristina Davis  
 Date: December 04, 2018

Dear Researcher:

On 12/04/2018 the IRB approved the following human participant research until 12/03/2019 inclusive:

Type of Review: UCF Initial Review Submission Form  
 Expedited Review Category #5  
 Project Title: Victimization and Health Outcomes for TGNC Individuals in Women's Prisons  
 Investigator: Kristina Davis  
 IRB Number: SBE-18-14508  
 Funding Agency:  
 Grant Title:  
 Research ID: N/A

The scientific merit of the research was considered during the IRB review. The Continuing Review Application must be submitted 30 days prior to the expiration date for studies that were previously expedited, and 60 days prior to the expiration date for research that was previously reviewed at a convened meeting. Do not make changes to the study (i.e., protocol, methodology, consent form, personnel, site, etc.) before obtaining IRB approval. A Modification Form cannot be used to extend the approval period of a study. All forms may be completed and submitted online at <https://iris.research.ucf.edu>.

If continuing review approval is not granted before the expiration date of 12/03/2019, approval of this research expires on that date. When you have completed your research, please submit a Study Closure request in iRIS so that IRB records will be accurate.

All data, including signed consent forms if applicable, must be retained and secured per protocol for a minimum of five years (six if HIPAA applies) past the completion of this research. Any links to the identification of participants should be maintained and secured per protocol. Additional requirements may be imposed by your funding agency, your department, or other entities. Access to data is limited to authorized individuals listed as key study personnel.

In the conduct of this research, you are responsible to follow the requirements of the [Investigator Manual](#).

This letter is signed by:

Signature applied by Gillian Morien on 12/04/2018 08:41:05 AM EST



## **APPENDIX B: NCTE DATA SHARING AGREEMENT**



**2015 U.S. TRANSGENDER SURVEY  
DATA SHARING AGREEMENT**

This DATA SHARING AGREEMENT (the “**Agreement**”) is made and entered into on (the “**Effective Date**”) December 26th, 2018 by and between the National Center for Transgender Equality (“**NCTE**”) and the individual executing this Agreement where indicated below as further described in Section 20 (the “**Researcher**”) (each, a “**Party**,” and together, the “**Parties**”).

**WHEREAS**, in 2015 NCTE conducted the U.S. Transgender Survey (“USTS”) and in connection therewith collected certain data; and

**WHEREAS**, Researcher has asked NCTE for access to the data collected for the USTS; and

**WHEREAS**, the data collected for the USTS are proprietary and highly confidential information of NCTE; and

**WHEREAS**, NCTE is willing to disclose the USTS data to Researcher subject to the terms of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual agreements contained herein, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

**1. Confidential Data.** For purposes of this Agreement, “**Confidential Data**” means the data collected by the NCTE from respondents in connection with the USTS and which is provided to Researcher as an electronic file or a link to an electronic file pursuant to this Agreement.

**2. Use and Disclosure of Confidential Data:**

a. Subject to the terms of this Agreement, NCTE hereby grants to Researcher a personal, limited, non-exclusive, revocable, non-transferable, non-sublicensable license to use the Confidential Data for the following purpose:

This study examines the prevalence of victimization and quality of transitional health care provided to transgender and gender non-conforming (TGNC) individuals formerly incarcerated in women’s prisons.

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b. Except to the extent expressly stated otherwise in this Agreement, Researcher shall not nor attempt to, nor enable any other person or entity to, (i) transfer, sell, license, distribute, disclose, or make available the Confidential Data to, or permit use of or access to the Confidential Data by, any person or entity other than Researcher and members of the research team identified in section 2(c), (ii) remove, alter, or obscure any intellectual property notice or other restrictive notice or legend contained or included in the Confidential Data, or (iii) contest, challenge, or otherwise make any claim or take any action adverse to NCTE's ownership of, or interest in, the Confidential Data, including the intellectual property rights therein.

c. Researcher may share the Confidential Data with members of the research team formally associated with the project described in section 2(a), on condition that the members are identified below and are bound by confidentiality obligations no less protective of NCTE than those set forth in section 2(d). The research team members approved to use the Confidential Data are:

Dr. Michael Armato (Department of Sociology, University of Central Florida)

If Researcher wants to share the Confidential Data with any additional research team members, Researcher must request approval from NCTE by sending a request to NCTE in accordance with section 11, and any approved member must be bound by confidentiality obligations as set forth in this section (the team members approved to receive the Confidential Data are "**Authorized Members**").

d. The Researcher acknowledges that the Confidential Data is highly confidential and proprietary to NCTE and shall maintain in confidence the Confidential Data and protect that Confidential Data from any unauthorized disclosure, access, use, destruction, alteration, or loss ("**Information Loss**"), exercising at least the same degree of care as Researcher exercises for its own confidential information, but not less than a reasonable degree of care. Researcher (i) shall take appropriate steps to inform and bind Authorized Members of their obligations of confidentiality and nondisclosure set forth in this Agreement, and (ii) is liable to NCTE for the failure of any Authorized Member to comply with such obligations to the same extent that Researcher would have been had Researcher failed to comply.

e. Notwithstanding any other provision of this Agreement, Researcher may disclose the Confidential Data to the extent required by applicable law. If Researcher is required in any civil or criminal legal proceeding, regulatory proceeding, or any similar process to disclose any part of the Confidential Data, Researcher shall (to the extent permitted by law) (i) give prompt notice of such request to NCTE prior to disclosure so that NCTE may seek appropriate legal relief, and (ii) cooperate with NCTE to ensure the disclosed Confidential Data is treated in a confidential manner after disclosure.

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### 3. Ownership and Publication.

- a. As between the Parties, NCTE is the sole and exclusive owner of the Confidential Data (including all intellectual property rights in and to the Confidential Data). Researcher acknowledges that: (i) the Confidential Data is valuable property of NCTE; (ii) the Confidential Data includes trade secrets of NCTE; (iii) the Confidential Data is an original compilation pursuant to United States copyright law; and (iv) NCTE has dedicated substantial resources to collecting, managing, and compiling the Confidential Data.
- b. Except for the limited license set forth in section 2(a), nothing in this Agreement will in any way grant Researcher any intellectual property rights in the Confidential Data or in any edits, updates, modifications, adaptations, additions, supplementations, and/or derivative works to or based on the Confidential Data. To the extent Researcher obtains any such rights, Researcher hereby irrevocably assigns those rights to NCTE for no additional consideration. Researcher shall not, without the prior written consent of the NCTE, seek to obtain any protection of intellectual property derived from the Confidential Data.
- c. As between the Parties, Researcher is the sole and exclusive owner of the results of any analysis conducted in connection with Researcher's use of the Confidential Data, and of any reports, articles, books, studies, conference posters, and other materials in which those results are published, disseminated, or distributed ("**Published Materials**").
- d. Within 60 days of publication, Researcher shall provide to NCTE a copy of any reports, articles, books, or studies created by Researcher in connection with its use of the Confidential Data. Upon NCTE's request, Researcher shall provide additional Published Materials and other materials created by Researcher in connection with its use of the Confidential Data within 30 days. NCTE may include information regarding the Published Materials on any USTS and NCTE websites (and any successor sites thereto). Researcher shall provide a copy or a link to the Published Materials, and NCTE prefers that these materials be provided electronically (either as a file or via a URL link). If access to the materials is restricted by a paywall, Researcher must provide a URL link to the paywall page or a complete citation that will identify the publication's location.
- e. Upon NCTE's request, Researcher shall share with NCTE the results of any calculations or other manipulations made with the Confidential Data.

**4. Institutional Review Board.** If Researcher is requesting access to Confidential Data containing potentially sensitive information, such as qualitative responses and ZIP codes, Researcher must obtain approval for the project outlined in section 2(a) from an Institutional Review Board ("**IRB**") prior to using the Confidential Data. Where such approval is required and has been obtained, Researcher shall use the Confidential Data only in accordance with the IRB's policies and procedures. Upon NCTE's request, Researcher shall provide written evidence of the IRB's approval.

**5. Attribution.** Researcher shall include in and on any Published Materials an attribution credit for NCTE as follows:

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- a. For academic publications, NCTE must receive attribution as the source of the data in a manner consistent with the citation style then in use.
- b. For non-academic publications in which citations are included for data sources or to cite to existing research, NCTE must be credited according to the directions outlined in section 5(a) above.
- c. For non-academic publications that do not include citations, the attribution must include language to the following effect in the acknowledgements or equivalent section:

“This work is based on data generated from the 2015 U.S. Transgender Survey, which was conducted by the National Center for Transgender Equality. To find out more about the U.S. Transgender Survey, visit <http://www.ustranssurvey.org/>.”

- 6. Term.** The Agreement is effective as of the Effective Date and will continue in effect for two years therefrom, unless terminated earlier in accordance with its terms (the period in which the Agreement is in effect, the “**Term**”). If the Researcher desires to continue using the Confidential Data for a longer period, Researcher must submit a request in writing to NCTE, which must include a justification for such continued use. NCTE may terminate this Agreement without cause on notice to Researcher, although NCTE will endeavor to give Researcher five days’ prior notice. Researcher may terminate this Agreement by notifying NCTE and following the steps set forth in section 7 with respect to returning or deleting the Confidential Data and related materials.
- 7. Return of Confidential Data.** Upon termination of this Agreement, or at the written request of NCTE for any reason, Researcher shall (i) stop using and copying the Confidential Data, and (ii) at NCTE’s option, promptly destroy or deliver to NCTE all Confidential Data, including, without limitation, all copies (digital or otherwise) of all documents and other materials which the Researcher has received, and all copies of any documents or items in which the Confidential Data has been copied. Researcher shall deliver to NCTE a certificate signed by Researcher that all such information has been destroyed or returned, and that none of the Confidential Data has been retained by the Researcher in any form.
- 8. No Warranty.** THE CONFIDENTIAL DATA IS PROVIDED “AS-IS” AND NCTE HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER (INCLUDING ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE), AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, RESEARCHER ACKNOWLEDGES THAT NCTE DOES NOT MAKE ANY WARRANTY TO RESEARCHER ABOUT THE SCOPE, CORRECTNESS, OR COMPLETENESS OF THE CONFIDENTIAL DATA.
- 9. Indemnification.** Researcher shall indemnify, defend, and hold NCTE and its officers, directors, employees, agents, and other representatives harmless from and against any and all losses, liabilities, costs, or expenses based upon, arising out, of or otherwise in

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respect of Researcher's breach of this Agreement or with respect to Researcher's use of the Confidential Data.

**10. Limitation of Liability.** TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL NCTE BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, CONSEQUENTIAL DAMAGES, OR LOST PROFITS ARISING OUT OF OR RELATING TO THIS AGREEMENT, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL THEORY, EVEN IF NCTE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NCTE'S LIABILITY TO RESEARCHER OR ANY THIRD PARTIES IN ANY CIRCUMSTANCE IS LIMITED TO \$100.

**11. Notices.** All notices, requests, demands, instructions, consents, and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if and (a) when delivered personally, (b) when delivered by e-mail (with a telephonic acknowledgment of sending, except that any e-mail received after 5:00 p.m. at the location of receipt will be deemed received on the immediately following business day); (c) five days after they are mailed by first class certified mail, return receipt requested, postage prepaid, or (d) two days after they are sent by a nationally recognized express courier service, postage or delivery charges prepaid, to the Parties at the following addresses or to such other addresses as the Parties may give notice in accordance with this section:

If to NCTE: National Center for Transgender Equality  
Address: 1133 19th Street, NW, Suite 302  
Washington, DC 20036  
E-mail: [ustsdata@transequality.org](mailto:ustsdata@transequality.org)  
Attn: Mara Keisling

If to the Researcher:  
Institution/Organization: University of Central Florida  
Department: Department of Sociology  
Address: Howard Phillips Hall, rm. 403, 4297 Andromeda Loop N.  
Orlando, FL 32816-1360  
Attn (Researcher Name): Kristina Davis

**12. Injunction.** Researcher acknowledges that (a) the Confidential Data is valuable to NCTE, and any Information Loss will cause NCTE irreparable injury, and (b) the remedies at law for any Information Loss are inadequate and the damages resulting from any breach of this Agreement may not readily be measured in monetary terms. Without limiting any of NCTE's other rights and remedies, (i) if Researcher becomes aware of an actual or threatened Information Loss, Researcher promptly shall notify NCTE and cooperate with NCTE to regain possession of the Confidential Data and prevent any further Information Loss, and (ii) if there is an actual or threatened Information Loss, NCTE may seek any injunctive or other equitable relief that a court of competent jurisdiction deems proper (including an order restraining any threatened or future Information Loss), on use of affidavit evidence or otherwise, and without

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furnishing proof of actual damages or posting a bond or other surety.

- 13. Entire Agreement; Amendment.** This Agreement contains the entire agreement between the Parties regarding the matters contained herein, and supersedes all prior agreements and understandings, whether oral or written, between the Parties. This Agreement may not be amended or modified in any respect except by a writing executed the Parties.
- 14. Governing Law; Jurisdiction, Venue.** This Agreement shall be governed by and construed and interpreted in accordance with the laws of the District of Columbia without reference to its conflicts of law rules to the extent those rules would require applying another jurisdiction's laws. Any suit, action, or proceeding arising out of or relating to this Agreement may only be commenced and maintained in, and each Party hereby consents to the exclusive jurisdiction of, the courts in the District of Columbia and waives objection to such jurisdiction and venue.
- 15. Public Disclosure.** Neither Party shall make any public disclosure concerning the subject matter hereof or the transactions referenced herein without the prior written consent of the other Party, with the exception of stating that NCTE has shared the Confidential Data for the purpose of the Researcher's project.
- 16. Attorneys' Fees.** In any suit, action, or proceeding brought to enforce any provision of this Agreement, or where any provision hereof is validly asserted as a defense, the prevailing Party shall be entitled to recover from the non-prevailing Party reasonable attorneys' fees, including attorneys' fees for any appeal and costs incurred in bringing such action or proceeding, in addition to any other available remedy.
- 17. Severability.** If any provision of this Agreement is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof and all such other provisions will remain in full force and effect.
- 18. Assignment.** Researcher may not assign, delegate, or otherwise transfer this Agreement or any of its rights, remedies or obligations under this Agreement without NCTE's prior written consent, which NCTE may grant or withhold in NCTE's sole discretion. Any purported assignment, delegation, or other transfer in contravention of this section is void. NCTE in its sole discretion may assign, delegate, or transfer this Agreement or any of its rights, remedies, or obligations under this Agreement. This Agreement binds and inures to the benefit of the Parties and their respective permitted assignees and successors.
- 19. Waiver.** A Party's failure to enforce any provisions of or rights deriving from this Agreement does not waive those provisions or rights, or that Party's right to enforce those provisions or rights. Except to the extent stated otherwise in this Agreement, each Party's rights and remedies under this Agreement are cumulative and are in addition to any other rights and remedies available at law or in equity.
- 20. Counterparts; Electronic Signatures.** This Agreement may be executed in counterparts, each of which shall be deemed an original signature and both of which together shall constitute a single agreement. EITHER PARTY MAY EXECUTE THIS AGREEMENT

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MANUALLY OR BY ELECTRONIC SIGNATURE, WHERE ELECTRONIC SIGNATURE MEANS ANY TEXT, SYMBOL OR OTHER MANIFESTATION OF ASSENT THAT A PARTY ENTERS INTO ITS DESIGNATED SIGNATURE BLOCK BELOW (EVEN IF ANY SUCH TEXT, SYMBOL OR OTHER MANIFESTATION OF ASSENT DOES NOT COMPLY WITH ANY INSTRUCTIONS FOR ELECTRONIC SIGNATURES SET FORTH ON THE SIGNATURE PAGE BELOW). FURTHER, EACH PARTY AGREES THAT: (a) ANY ELECTRONIC SIGNATURE OF THIS AGREEMENT BY EITHER PARTY WILL HAVE THE SAME FORCE AND EFFECT AS A MANUAL SIGNATURE; AND (b) ANY ELECTRONIC SIGNATURE OF SUCH PARTY IS MADE WITH THE INTENT TO EXECUTE THIS AGREEMENT AND CREATE A BINDING CONTRACT WITH THE OTHER PARTY.

**21. Captions.** The captions of this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, or the intent of any provision hereof.

The Parties have caused this Data Sharing Agreement to be executed by their respective duly authorized representatives. ANY PARTY THAT DESIRES TO EXECUTE THIS AGREEMENT BY ELECTRONIC SIGNATURE MUST TYPE SUCH PARTY'S NAME WHERE INDICATED BELOW.

RESEARCHER

Name: Kristina Davis  
Title: M.A. Candidate and Graduate Teaching/Research Assistant  
Institution/Organization: University of Central Florida, Department of Sociology  
Date: December 26th, 2018

NATIONAL CENTER FOR TRANSGENDER EQUALITY

By:  Date: 12.26.18  
Mara Keisling  
Executive Director

Please initial: KD



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