

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/gender-and-justice-in-america/transgender-people-at-higher-risk-for-justice-system-involvement>

Public Facing Advocacy Writing

While recent police brutality headlines have motivated movements like #BlackLivesMatter and #SayHerName, activism surrounding transgender people has been pushed to the margins in mainstream media. In response to police violence against transgender people, #BlackTransLivesMatter has made continuous efforts to raise awareness to the many transgender persons, particularly minorities, who have suffered under the current penal system. Transgender people are distinctly positioned for maltreatment within a corrections system that separates people based only on their gender at birth, and not on their current gender identity. They are more likely than their cisgender (people whose gender identity corresponds with their sex assigned at birth) counterparts to end up on a path towards incarceration, and more likely to experience severe prejudice and violence sometimes fatal once incarcerated.

The problem starts early. [Research](#) notes that transgender youth are more likely to leave school due to harassment, physical assault, and sexual violence; experience homelessness; and suffer verbal and physical abuse in a range of public spaces, including crisis centers and shelters. These transphobic experiences often lead to transgender people being excluded from formal economies. As a result, they are more likely to commit crimes of survival like prostitution, involvement in the drug trade, or violent acts of self-defense. These crimes, in turn, lead to increased police stops and arrests for transgender people.

This disproportionate contact with the justice system is equally pervasive for youth and adults 16 percent of trans-identified adults have been incarcerated, compared to 2.7 percent of cisgender adults.

The types of facilities where transgender people are placed places them at risk of harassment, sexual assault and other violence. Placement in male or female facilities is determined by genitalia or government records, rather than self-identification or concerns for personal safety. Transgender woman CeCe McDonald who accepted a plea bargain after stabbing a man who had previously assaulted her and her friends acknowledged in a Salon interview that while placed in a male prison, she felt as though the corrections officers wanted her to hate herself as a trans-woman.

In its [Policy Review and Development Guide: LGBTI Persons in Custodial Settings](#), the National Institute of Corrections reported that incarcerated transgender people are 13 times more likely than their cisgender peers to experience sexual assault, making up 59 percent of sexual assault cases in prisons and having the highest reports of multiple trauma. They are often placed into segregated housing as a means of protection, a tactic that has been proven ineffective and can have extremely harmful effects. Extended periods of isolation exacerbate mental health issues, such as depression, while punishing transgender persons rather than helping them. It is not uncommon for people in segregation to commit [self-harm and suicide](#).

There are indications of progress. [Prison Rape Elimination Act \(PREA\)](#) was created in 2003 to combat high rates of sexual assault within prisons and to protect those particularly at risk, such as transgender people. In addition, after four years of research and construction, The Equity Project launched "Toward Equity" in 2015. Toward Equity is a fully, interactive curriculum to assist corrections practitioners in understanding the nuances and inequities impacting transgender people, alongside training documents and workshops. Vera also launched its [Safe Alternatives to Segregation Initiative](#) to implement alternatives to segregated housing conducive to the protection and proper treatment of incarcerated people isolated from the general prison population.

These efforts are promising, but there is more work to be done in implementing comprehensive reform so that incarcerated people are placed with consideration to their safety not their anatomy as well as in decriminalizing survival crimes that transgender people are more vulnerable to committing than their cisgender counterparts.

Through the [Gender & Justice in America](#) blog series, Vera will explore issues facing justice-involved women and girls in the fields of adult corrections, youth justice, immigration, victimization, substance use, and mental health.

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