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COURAGEOUS ENDURANCE: THE LIVED EXPERIENCES OF TRANS FOLX AND THE
CRIMINAL LEGAL SYSTEM

by

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May 2021

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ABSTRACT

COURAGEOUS ENDURANCE: THE LIVED EXPERIENCES OF TRANS FOLX AND THE CRIMINAL LEGAL SYSTEM

April Carrillo
Old Dominion University, 2021
Director: Dr. Vanessa R. Panfil

The field of criminology and criminal justice have widely ignored the experience of being a trans person and interacting with the criminal legal system, despite the reality that trans folx experience discrimination and harm at the hands of criminal legal practitioners. This dissertation explores these experiences, as well as how trans folx navigate a myriad of other issues to include their identity and institutional discrimination. Trans folx are not guaranteed many protections or rights in the United States which leaves them at an especially vulnerable position when entering the criminal legal system. Essentially, trans folx are forced to navigate a society and various systems (housing, employment, medical, criminal legal) which have historically ignored their existence and may even place them in harm's way because of how they identify. This research seeks to explore the questions of: What are trans people experiencing in their daily lives? What are the experiences of a diverse group of trans people with the criminal legal system? These research questions were investigated using a queer praxis that combined queer theory, intersectionality, and critical race theory. In-depth, semi-structured interviews center the narratives of trans folx who had experiences with the criminal legal system, in order to understand the impact of these situations.

Using this queer praxis alongside a community-based study, 44 interviews with trans folx were conducted to understand narratives centering on the trans experience from identity development, to institutional discrimination, criminal legal experiences, perceptions of the

criminal legal system, and policy implications. Highlighting these experiences and the resilience of the participants is important to provide a glimpse into the challenges and triumphs that participants faced. In a society currently fixated on policing gender modality in bathrooms, on sports teams, and in medical offices, it is vital to listen to trans folx, who are the experts on their own lives. The final chapter discusses the author's recommendations and conclusions.

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This project is dedicated to all the trans folx who greeted me with open arms and allowed me the honor to share their truth, with all the joy and pain included. I am forever grateful for being invited into a community that took a chance on me and has showed me love and support ever since. I hope that the education and awareness this work brings can repay at least some of the gifts I have been given over the years of this project.

Con todo mi carino.

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During the conducting of this project I also received monetary contributions that allowed me to expand my project and allow it to be fully fleshed out. Firstly, I thank Old Dominion University's Department of Sociology and Criminal Justice. Secondly, I thank Old Dominion's

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CHAPTER 1

INTRODUCTION: TRANS RESILIENCY IN THE FACE OF DISCRIMINATION, ERASURE, AND VIOLENCE

In early 2018, I wrote to three incarcerated trans women of color through the pen pal program offered by the LGBTQ+¹ abolition society, Black & Pink. Over months of correspondence, their firsthand experiences allowed me to see beyond the edges of the world I thought I knew. Some things I was ready for; many I was not. And yet, through my pen pals' exposure to violence and degradation, what I found most inspirational was their unwavering strength, positivity, and compassion.

One day, a water pipe burst in my apartment, and while standing in a couple of inches of water, Tulip, one of my pen pals, called me. Frazzled, I told her about the flood and whined about how I would have to sleep on an air mattress, get my floors replaced, and dry all my things out. Tulip listened quietly, providing me support throughout the entire conversation. A week later, she called me one morning because she was worried about me. Tulip was still incarcerated and was calling to check on me and her concern surprised me as my water pipe issue paled in comparison to her daily difficulties. At that moment, I realized I was not going to learn about the trans experience from books. I was not going to get a deeper understanding from academic papers that did not exist. I had to go out there and get my hands dirty. I had to open the door and uncover realities once hidden from me. When I finally did, my whole life changed.

I started this journey by volunteering at the local LGBT Life Center, where a group called TAP VA, or Transgender Assistance Program of Virginia, meets monthly. TAP VA is a community group that seeks to end trans homelessness by providing emergency housing and

¹ See Appendix A

resources to help clients towards sustainability and self-sufficiency. Homelessness in the trans community is an epidemic, as a staggering 1 in 5 trans people will experience homelessness at some point in their lives (NCTE, 2019). Many trans folx² are thrown out of their homes by families who reject them, and only 21 states protect trans folx from public and private discrimination on the basis of their gender (MAP, 2018). This means that many trans people who live in the United States have no legal recourse if their loved one or landlord kicks them out of their home. When I attended my first meeting for TAP VA, I was greeted with open arms in a predominately trans space. After I offered to help in any way I could, I aided with the TDOV (Transgender Day of Visibility) event held in March of 2018. After that, I was then tasked with providing transportation for clients who needed to attend therapy, go on job interviews, or just to run errands. It was then I met Daisy, a client of TAPVA, when I picked her up to attend therapy.

Each time Daisy and I talked, her cheerful demeanor intermingled with stories of past trauma and intense current difficulties captivated me. One day, De Sube, who is instrumental in TAP VA, sent out an email stating Daisy was in the hospital, but is otherwise okay. I visited Daisy every day to provide support during her stay. One visit, while De, Daisy, and I were talking in her room, we realized we would have to create a plan to get Daisy sustainable housing upon her discharge. This was because no one at the hospital was listening when Daisy expressed the shelter she was being sent to was explicitly transphobic, and had previously housed her with men. As a result of this incorrect placement, she was sexually assaulted when one of the men in the facility trapped her while she was taking a shower. During our discussion, a doctor came in to talk to us about Daisy's situation, but before he sat down, he asked if we were Daisy's family. De and I looked at each other, and without hesitation said, "Yes." The daunting reality was that

² Folx: A variation on the word folks, folx is meant to be a gender-neutral way to refer to members of or signal identity in the LGBTQ+ community (Dictionary.com, 2019).

she had no one outside of TAP VA, which she disclosed during one of my first visits with her. As De and I walked to our cars, leaving the hospital for the night, I asked her what happens to people like Daisy if there is no one to advocate for them. Her answer burned into my brain and tore apart my soul: “They just fall through the cracks.” Her words captured the unnerving truth that without financial, familial, or even community support, people like Daisy are forgotten, left behind as someone else’s problem.

Trans resiliency is real. Every day, trans people have to function and thrive in a society that refuses to give their lives and experiences any legitimacy, but these beautiful human beings keep on fighting and moving forward. Trans resiliency looks like organizing and collaborating with community members to join together and advocate for themselves. TAP VA was created explicitly as an organization to address trans homeless and folx in crisis which is ran predominately by trans people because in the face of so few resources, they created one. Resiliency is facing the everyday realities that they may be insulted, harassed, questioned, or mistreated because of who they are by a widely ignorant public. Existence is resistance for trans folx since their lives inherently challenge traditional notions of gender, sex, and gender roles, which generally upsets those who refuse to change or face the reality that their narrow views are inaccurate and harmful (Nicolazzo, 2016).

Much of what I do with TAP VA weighs heavily on me. I now acknowledge there are more challenges than I ever imagined within our criminal legal system, a system I once had more faith and trust in. I view society and myself differently. I am not just a scholar; I am someone who can use my institutional legitimacy as a microphone for those who are systemically silenced. Trans voices remain silent because trans people are rarely acknowledged as full human beings, let alone given a chance to speak. Through community volunteering and activism, I have

learned that trans people are subject to prejudice, degradation, and threats of assault on an almost daily basis. They must assess each incident and decide whether to speak up, fight back, or try to stay alive. Further, they must continue to navigate any sense of normalcy after upsetting or dangerous encounters. Daisy and the other trans people I have met over the past year have left an indelible mark on my life. They have relayed their devastating personal accounts of systemic erasure, discriminatory practices, and physical violence without a trace of self-pity.

The 2011 National Transgender Discrimination Survey, conducted by the National Center for Transgender Equality (NCTE), had a sample size of 6,450 transgender and gender non-conforming people; half of the respondents in this study reported discrimination like being verbally harassed out in public (Grant et al., 2011). While attempting to complete everyday activities, trans people cannot escape the discrimination that they face from a society that systematically works to exclude them. In another study by NCTE in 2015 which surveyed almost 28,000 participants, 46% of respondents were verbally harassed because of their trans identity, with almost one in 10 being physically assaulted because of their trans identity (2016). Additionally, the fact that only 28 states have explicit protections against gender identity discrimination is undoubtedly a large factor in trans folx having double the rate of unemployment than the general population (MAP, 2021).³ Moreover, 90% of the respondents experienced harassment in the workplace, and were almost four times more likely to have a total household income of less than \$10,000 as opposed to the general population. As a result of low income and unstable employment, respondents who had lost their jobs found themselves adrift in the underground economy (sex work and drug selling) at double the rate of those employed.

³ However, while not all states offer protections, the Supreme Court ruling in *Bostock v. Clayton County* affirmed that the definition of sex in the 1964 Civil Rights Act extends protections for sexual orientation and gender modality (*Bostock v. Clayton County*, 2020).

These respondents also had twice the rate of homelessness, double the HIV infection rate, and were incarcerated 85% more often than their employed counterparts (Grant et al., 2011).

When trans folx interact with the criminal legal system, they are harassed and assaulted by the police at disturbingly high rates (Amnesty International, 2005; NCTE, 2016; Ritchie, 2017), disrespected and marginalized by court professionals who consistently refuse to use their correct names and pronouns (Lambda Legal, 2015; NCTE, 2016), and are often placed in correctional facilities that match their sex assigned at birth rather than their gender (Black & Pink, 2015). Trans people experience government-sanctioned violence, abuse, and harassment at every juncture of the criminal legal system, even when no crime has been committed. For instance, ‘walking while trans’ describes the phenomenon of trans women being profiled as sex workers by police⁴ (Lopez, 2015). In these occurrences police have been found to harass trans women, particularly Black trans women, at hotels (Lopez, 2015), walking around inner cities (Ritchie, 2017), and taking a car ride to a local bar (Nichols, 2014).

Empirical information within the field of criminology and criminal justice is virtually non-existent, despite systemic maltreatment being well-known by non-profit organizations for decades. Hence, this work explicitly uses the term “criminal legal system” purposefully in place of the traditional “criminal justice system” as posited by Mogul, Ritchie, & Whitlock (2011) in their work, *Queer (In)Justice: The Criminalization of LGBT People in the United States*. They argue, “This system [“criminal justice”] has not produced anything remotely approximating justice for the vast majority of people in the United States—particularly for people of color, poor people, immigrants, and queers—since its inception, but rather bears major responsibility for the

⁴ Notably, on February 2nd, 2021, Governor Andrew Cuomo signed a piece of legislation to ban walking while trans in New York State (Yurcaba, 2021).

continuing institutionalization of severe, persistent, and seemingly intractable forms of violence and inequality” (Mogul, Ritchie, & Whitlock, 2011, p. xx).

This project centers on the experiences of trans folx in the criminal legal system (police, court, corrections) by interviewing trans-identified people (transgender, non-binary, genderqueer, genderfluid, etc.) with questions focusing on issues of safety, interactions with law enforcement, and treatment within the criminal legal system itself. Other questions revolve around everyday considerations, such as life history (How did you come to think of yourself as trans?), how respondents navigate their identities daily (What is it like being out and/or visible as trans?), interactions with other members of the LGBTQ+ community, and related topics. A criminological approach to understanding the lived experiences of trans folx with the criminal legal system will help to close the gap between the lack of academic scholarship and numerous pieces of grey literature⁵ from non-profit research institutions, which have captured decades’ worth of accounts of trans people interacting with and/or victimized by the criminal legal system. Further, because my research includes people from under the trans umbrella instead of only binary trans folx (trans people who identify as male or female), this is valuable since I will be able to draw comparisons between varying gender identities and expressions. This research seeks to explore the lived realities of trans folx through semi-structured, in-depth interviews, which allow participants to explain their experiences with identity formation, dealings with the public, and interactions with the criminal legal system. This method of interviewing is preferred as it relies on participants and their stories, placing expertise solely in the hands of those being interviewed. Rather than being guided by strict questions with little deviation from the material,

⁵ Grey literature refers to works from, “government, academics, business, and organization in electronic and print formats not controlled by commercial publishing i.e. where publishing is not the primary activity of the producing body” (GreyNet International, 2020, para. 3).

when participants are in charge of their own narratives it allows for richer, more complex data from which deeper meaning and analysis can be derived.

CHAPTER II

MODERN DISCRIMINATION OF TRANS FOLX: A STORY OF SYSTEMIC VIOLENCE

Through my work with TAP VA, I knew that one day, I may be asked to temporarily house a client while arrangements were being made. I had a couple of close calls, but in the early afternoon hours of a Sunday, I watched Lily sleep on my couch from my kitchen table, her long arms curled on her chest and her body arched in a crescent position. She looked at peace. I slowly smiled and stopped unwrapping my new dish set to watch her for a couple of minutes. I experienced a myriad of emotions while she blissfully was somewhere far from my living room.

Deep sadness coursed through me as I reflected on two days prior, when I had parked my car two streets over from her address, covered my green hair with a black knit cap, and walked in a way where I could tell if I was being followed on the way back. Lily was leaving an abusive home and I knew that for Lily, the danger could escalate since she decided to leave (Campbell et al., 2003). I found her walking her bike on the street, wearing a hoodie, an oversized coat, and a backpack while she was precariously balancing a suitcase. My thoughts raced as I tried to steady my breathing. I told her that we would talk in depth later, but that we needed to get the hell out of here. I instructed her to turn her location off on her phone and asked her to describe what cars were driven in the household. "Let me know immediately if you see them or their cars," I said as calmly as I could, but I was terrified. I had situational awareness, justice, and a collapsible police baton on my side, but I did not know exactly who I was dealing with. We zigzagged along the sidewalks and the streets until we reached my car and placed all her things inside. My heart was pounding in my ears as I waited on bated breath to see if anyone was following us.

Right after I picked her up, I brought her to Wal-Mart so I could buy food to accommodate her diet. While shaking and constantly losing her trains of thought, she repeatedly

made choices based on the price because she didn't want to spend too much of my money. She hardly slept the first night, but still put in a 12-hour day with me at a community event I had previously scheduled and did a fabulous job. I thought about the enjoyably bad movies we watched together, and the video games we discussed, all filled with joy and laughter. My eyes misted, and I found myself pondering yet again what kind of society (and family) would turn their back on Lily and other people like her. Lily was an absolute delight but was actively robbed of a supportive and loving home because of who she is. She was in her early 20s, but her youthful demeanor and baby face made her barely seem 18. All she wanted was a home that was supportive, and in desperation to just be herself, here she was, on my couch sleeping, experiencing a brief, quiet moment despite the chaos she left behind. Conversely, as I reflected on Lily's entire situation, it forced me to think about the countless others like her and what the outcomes could be.

Lily's situation is not uncommon nor is it an extreme case. Lily called TAP VA instead of the police or making her way to a homeless shelter because the latter options would have been risky. Essentially, even if she were to utilize these resources, Lily may have experienced discrimination and/or violence from the police (Grant et al., 2011) or have been placed with cisgender men in a homeless shelter, as she would have been seen as a "danger" to cisgender women (Mottet & Ohle, 2006). Further, alarmingly, most IPV (intimate partner violence⁶) resources are tailored to cisgender,⁷ straight women, and are not designed for, or friendly to, LGBTQ+ folx (Messinger, 2014). Lily knew that her resources were limited, and instead of taking the chance that she would face violence, she spent a couple of nights on a stranger's couch

⁶ Intimate Partner Violence (IPV) is used instead of Domestic Violence or DV because IPV "encompass(es) a broader understanding of violence in relationships" (Wallace, 2015, para. 6).

⁷ Cisgender people are folx who identity as the sex they are assigned at birth (GLAAD, 2018).

(mine), but one that was deemed safe by an organization comprised of trans folx. Trans people in the United States face consistent discrimination from everyday occurrences and are presented to the public as deceivers and deviants who should not be trusted (Mogul, Ritchie, & Whitlock, 2011). However, contrary to the false narrative that being trans is a fad, trans people of all kinds can be found throughout American historical records, which reveal trans folx and how they have been repeatedly criminalized, policed, and degraded for living outside of the gender binary.

Trans Folx Throughout History

The history of trans people in the United States is complicated because it is almost impossible to attach modern concepts of gender and sexuality to historical figures since the interpretation of their identity is based on written records, which may not be accurate (Halberstam, 2017). However, there are accounts in American history of people who can accurately be described as trans that have been forgotten or suppressed. These people's experiences and even their names are important to discuss because they reveal that trans folx throughout history have been present in public discourse. For example, Christine Jorgensen, an American veteran of World War II who publicly transitioned in 1953, sparked curiosity about the trans community (Arune, 2006). Jorgensen became a popular celebrity with several newspapers and magazines publishing interviews with her, but she used her notoriety as a platform to advocate for transgender rights and visibility (Arune, 2006). While in Jorgensen's case, she was viewed as a 'blonde bombshell' and was generally given positive coverage (Arune, 2006), it is important to note that Jorgensen was a white trans woman who happened to be a veteran and served her country during the war. Her experience can be seen as a bright spot in history, a hopeful figure who stood for trans visibility, but other historical experiences of trans folx in the United States have not been nearly as kind. The practices of policing and punishing those who

dare to express themselves outside of the binary gender have a long, dark history in the United States. These histories provide insight to contextualize how the criminal legal system continues to be an institutional force to ensure that binary gender expression is the only acceptable existence.

Historical descriptions of indigenous people from European colonizers concerning gender presentation and non-heteronormative relationships indicate the presence of queer identity and expression (Mogul, Ritchie, & Whitlock, 2011). The presence of non-heteronormative relationships and gender presentations in the indigenous community fueled European colonizers to beat, rape, and kill indigenous people who did not fit into heteronormative, Anglo-Christian standards of living (Miranda, 2013; Mogul, Ritchie, & Whitlock, 2011). For instance, Miranda (2013, p. 353) uses the term “gendercide” (an attack on a group of victims based on the victims’ gender/sex) in order to describe the brutal killings of Joyas in Spanish California during the 1500s. Joyas were described as those who were supposedly dressed as women, but had “male genitalia.” While priests would attempt to beat the word of God into Joyas, Spanish soldiers were known to instruct their dogs to attack Joyas and rip them apart. In one documented instance in 1513, 40 Joyas had the misfortune of running into explorer Vasco Núñez de Balboa, who commanded his men to kill all the Joyas by instructing their estimated 250-pound mastiffs to attack them (Miranda, 2013).

However, the most haunting part about the treatment of gender non-conforming indigenous people, either real or ascribed to them, is that “policing and punishment of sexual and gender ‘deviance’ have existed for centuries in what is now known as the United States” (Mogul, Ritchie, & Whitlock, 2011, p. 1). While Joyas were killed directly for their gender expression and presentation, Mogul, Ritchie, & Whitlock (2011) asserted that in some cases, European

colonizers could have labeled these indigenous folx as queer, but equating the term with negative connotations, like being depraved and undesirable because of their non-conformity. Despite being labeled as savages, sodomites, etc., Mogul, Ritchie, & Whitlock (2011) point out that the real crime of the indigenous folx was living on the land that Europeans wanted to take for themselves. Hence, to justify their actions, they decided to label indigenous people as something akin to what we might understand as a queer identity, regardless of if this was true, in order to ensure that the savage narrative would be upheld. This is a legacy that has continued to brutalize and victimize LGBTQ+ folx, especially trans people.

While the unforgiveable mistreatment of indigenous folx in America was ramping up as the United States was starting to expand in the 1800s, the country erupted in the Civil War. Albert Cashier, who was assigned female at birth (AFAB), lived his life as a man before, during, and 50 years after his service (Ale, 2017). After the Civil War, he moved to Illinois, where he worked various labor jobs until he broke his leg and went to a veterans' facility to recover, but the staff discovered that Albert was AFAB (Ale, 2017). After this discovery, he was moved to a mental hospital, where they forced him to wear women's clothing until his death at the age of 72 (Ale, 2017). Despite his ill treatment, Albert was never denied his military pension and was buried in his uniform with a tombstone that bore his name. Hence, because he lived his full adult life as a man and identified as such, historical scholars have labeled Cashier as a trans man. Unfortunately, even though Cashier appears to be a trans man from documented historical accounts, currently, there are still articles that bear titles with his dead name⁸ (which I have purposefully excluded): "Albert Cashier AKA [dead name]," "[dead name] AKA Private Albert Cashier," and "She went to the Field: Women Soldiers of the Civil War." While the way Cashier

⁸ The name a trans person used before their transition, often their birth name (Roschke, 2018).

was treated towards the end of his life is an indication of gender policing, the continued disregard of his identity signals the realities of historical erasure. Thus, revealing that even in modern times where society considers itself to generally be more progressive, dead naming is still a frequent practice, which taints discussions of the long-recorded existence of LGBTQ+ people, especially trans people, both past and present.

Further, while trans folx and gender policing have long existed, so have laws which have given homophobia and transphobia legal legitimacy to punish LGBTQ+ people. The earliest laws preventing cross-dressing occurred in the 1850s; many other laws cropped up to police gender presentation (Stryker, 2008). These laws became a vicious tool of the state as they effectually enforced specific notions of gender, motivated by ideas of “moral purity” and “public decency” (Sears, 2014). Sears (2014) further postulated that these ideals of how someone should present their gender was a result of the backlash in the wake of slavery being abolished. Hence, “cross dressers” were labeled as another vice, like alcohol and the brothel culture that was prevalent at the time (Sears, 2014). However, many other places had less specific laws, with verbiage that was vague enough to include a large number of people, making them easier to enforce on the streets. These laws would typically be similar to New York’s, which “prohibited individuals from assembling [by being] disguised in public places” (Capers, 2008, p. 9) and was often used as probable cause to stop and arrest a person suspected of pretending to be another gender. In the case of Trondle,⁹ a transman and sailor (who had tattoos from his service), he was arrested in Brooklyn in 1913, as he was enjoying a night out at a bar because police accused him of cross-dressing (Cain, 2019; Ryan, 2019). After failing to convict on the cross-dressing statute he was found guilty of associating with “vicious persons” (Ryan, 2019, para. 9) and a magistrate

⁹ Accounts refer to Trondle with his birth name and because I cannot ask find his actual name I will only be using his last name.

was quoted saying, “No girl would dress in men’s clothing unless she is twisted in her moral viewpoint” (Ryan, 2019, para. 9). Trondle served his three-year sentence in a reformatory, with his punishment clearly centered around his trans identity.

While cross-dressing laws were enforced at the state and city level, in 1953, President Eisenhower signed Executive Order 10450, that deemed suspected “sexual perverts” (LGBTQ+ people) would be subject to investigation and dismissal, as they were considered unfit for public service (Francis, 2013; Zagria, 2012). In the four months following the order, 1,456 people were dismissed from federal employment, supposedly for security reasons, and by 1955, another 800 had been fired or resigned (Francis, 2013). This executive order, combined with the sentiment brought about by the McCarthy trials, contributed to the Lavender Scare, a 40-year campaign to remove gay and lesbian people from federal jobs (Arune, 2006; Johnson, 2009). At some points there were more LGBTQ+ fired from their jobs than suspected members of the communist party (Francis, 2013). These legal actions effectually criminalized LGBTQ+ identity to the general public, as headlines such as, “Begin Purging State Dept of Homosexuals” in the Chicago Tribune (Moore, 1953) reaffirmed existing anti-LGBTQ+ sentiments. Following Executive Order 10450, states began to pass (or tighten) their own legislations that targeted LGBTQ+ people as well as ramp up law enforcement practices centered around penalizing non-normative sexual activity and gender presentation. For instance, the enforcement of cross-dressing laws around the country was in full force by the 1950s and 1960s, even though laws had been on the books since the 1850s (Sears, 2014). Further, by 1969, every state other than Illinois had an anti-sodomy law that made any consensual sex act between two people of the same sex illegal and an arrestable offense (Lopez, 2017).

These strong anti-LGBTQ+ sentiments that were passed by legislatures and reinforced by law enforcement were creating fewer social spaces for LGBTQ+ people to exist publicly. Leading up to the Stonewall Riots in New York City, police were reported to arrest over 100 men a week, charging them with “homosexual solicitation,” ironically, often as a result of police entrapment (Zagria, 2012). Hence, The Stonewall Inn, an LGBTQ+ friendly bar, was one of the only refuges that LGBTQ+ people, including trans and gender non-conforming people, could safely enjoy their night, free of public and police harassment (Stryker, 2008). However, on June 28, 1969, police raided the Stonewall Inn and roughly handled patrons, then arrested 13 people who violated New York State’s gender-appropriate clothing statute (Stryker, 2008). The gender-appropriate clothing statute was enforced that night by female officers taking various people into the bathroom to ensure that their clothing matched their biological sex (Stryker, 2008). The police’s actions did not go unnoticed as people who stayed behind became agitated, and the evening climaxed when an officer reportedly struck a lesbian woman in the head as he forced her into a police van (Stryker, 2008). The woman called out to those remaining, and suddenly, objects began to be thrown at the police, igniting a riot and resistance that lasted six days (Stryker, 2008).

While anti-LGBTQ+ legislation, policing, and enforcement had long histories in America, resistance shown at Stonewall was a single incident in a long line of influential demonstrations. In years prior, the cities of Los Angeles, Philadelphia, and San Francisco were met with LGBTQ+ people fighting back against unjust legal practices that purposefully excluded and harmed them. In 1959, Cooper’s Do-Nuts, located in a lower income area of Los Angeles, was a frequent gathering place for local LGBTQ+ people after bars closed for the night (Stryker, 2008). This area was often patrolled by police in a similar way to the streets near Stonewall in

New York City. Officers would check identification, which was problematic for transgender patrons, and would often arrest LGBTQ+ people for committing nuisance crimes like loitering and vagrancy (Stryker, 2008). In May of 1959, police started rounding up LGBTQ+ patrons inside Cooper's Do-Nuts and arresting them. Resistance was met in the form of "throwing doughnuts at the cops and ended with some fighting in the streets, as squad cars and police wagons converged at the site to make arrests" (Stryker, 2008, p. 82). In 1965, at Dewey's Lunch Counter in Philadelphia, a similar set of circumstances to Cooper's Do-Nuts unfolded. Dewey's was frequented by local LGBTQ+ patrons and in April of 1965 they stopped serving young people, as they argued these "gay kids were driving away other business" (Stryker, 2008, p. 82). In protest, three teenagers who represented those "gay kids" engaged in a sit in at the restaurant and were arrested for disorderly conduct. Public, relentless protests of Dewey's immediately followed, and after another larger sit in the restaurant eventually buckled and began to serve LGBTQ+ patrons once again (Stryker, 2008).

The Compton Cafeteria Riots in 1966, just three years shy of Stonewall, took place in San Francisco in the Tenderloin neighborhood, a low-income area of the city that was frequented by LGBTQ+ people. One night, the management of the restaurant called police to break up a group of LGBTQ+ patrons who were labeled as loitering and preventing paying customers from taking their place. After attempting to charge the group a service fee and blatantly harassing them, management turned to law enforcement. Upon entering the restaurant one officer grabbed the arm of a drag queen to pull her away from the table, and she responded by throwing "her coffee in his face, and a melee erupted. Plates, trays, cups, saucers, and silverware flew through the air at the startled police officers, who ran outside and called for backup" (Stryker, 2008, p. 86). It was estimated that 50 or 60 patrons were involved in the brawl, but in the aftermath a

program office was opened to help trans women leave sex work, and a trans support group, who subsequently published a newsletter, was formed (Stryker, 2008).

This in-depth discussion of the historical treatment of trans people is intended to show how the criminal legal system and other institutions have weaponized homophobia and transphobia in repeated acts of violence. However, at each of these instances there were also folx fighting back. The discrimination against trans people still disturbingly continues into the present, as it is fueled by society's insistence on a gender binary, which is easily disseminated by mass media.

Current Issues of Discrimination

In terms of gender within the United States, there is a great deal of emphasis on the idea of a gender binary, the adherence to the idea that there are only two social genders, “man” and “woman”¹⁰ (Stryker, 2008). This is challenged and subverted by queer theorists, notably Judith Butler (2002), who wrote that the “articulation of an identity within available cultural terms instates a definition that forecloses in advance the emergence of new identity concepts” (p. 15). Hence, any identities that are created outside of “acceptable” terms are inherently disruptive to the singular goal of society to have a normative view of gender accompanied by concrete definitions (Butler, 2002). Additionally, Michel Foucault (1990) has argued that desire itself is created by a repressive power preventing people from free expression. Essentially, non-normative sex and sexuality (and in this case, gender modality¹¹) are constructed in a way which deems them unacceptable by traditional social standards. Specifically, in terms of trans people, both Butler (2002) and Foucault (1990) make the point that seemingly finite ideas of gender and

¹⁰ “Man” and “woman” are in quotes as I and my study participants do not believe in the legitimacy of the gender binary but acknowledge that many individuals do identity as a man or a woman.

¹¹ Gender modality “refers to how a person’s gender identity stands in relation to their gender assigned at birth” (Ashley, 2021, p. 1).

sexuality are instead socially constructed from ideals that we as a society accept and in turn, exclude those who are outside of it. Further, West and Zimmerman (1987) describe this phenomenon as the act of accountability, where members of the general population hold each other to traditional gender roles and expression while punishing those who deviate from “culturally approved standards” (p. 136).

Moreover, in addition to these fragile notions of gender and sexuality, since few people even know a trans person in their public life (30% as opposed to 87% knowing a gay or lesbian in a study conducted by PEW (2016)), typically their only source of information about trans people will come from the media (Lipka, 2016). Depictions of LGBTQ+ people, especially trans folx, in the media are poor representations, as they are often inaccurate and disparaging (Barker-Plummer, 2013; Gross, 1991; Mackenzie & Marcel, 2009; Mogul, Ritchie, & Whitlock 2011; Sloop, 2000). For instance, previous studies concerning mass media coverage of trans people found that the media consistently misgendered trans subjects (Barker-Plummer, 2013; Booth, 2015), portrayed trans people as tricksters who knowingly lure innocent, straight cisgender people into their beds (Sloop, 2000), and sexualized the physical bodies of trans people (Mackenzie & Marcel, 2009; Sloop, 2000). These portrayals of trans people are easily embraced by a public who are insistent that gender presentation must match one’s corresponding biological sex (Booth, 2015), especially one’s sex assigned at birth. With these depictions, the mass media transforms itself from disseminating important information to becoming a machine that produces and reinforces dangerous stereotypes about trans people, especially since trans people have not been historically depicted in a humanizing way (Gross, 1991; Lester, 2015).

The reality is that cisgenderism and heteronormative values are still greatly treasured in American culture. Cisgenderism describes a “cultural and systemic ideology that denies,

denigrates, or pathologizes” (Lennon & Mistler, 2014, p. 63) any gender other than cisgender identities. Heteronormative values describe: “a culture or belief system which assumes that heterosexuality is the norm” (McMahon, 2021, para. 1), such as being married to a person of a different sex and/or gender, having biological children, and financial success. This has immediate effects on trans people’s everyday experiences, as landlords, employers, and criminal justice professionals make determinations about who is allowed to rent their apartment, work at their company, or be allowed in public space. Thus, these determinations are the final say since the absence of policies that protect LGBTQ+ people, especially trans people, leave many in vulnerable situations. For instance, in the state of Virginia, until the Virginia Values Act was passed in April 2020, someone who is LGBTQ+ could have been evicted from their home or fired because of their sexual orientation, gender modality, and/or gender expression because there were no explicit laws protecting them from discrimination (Equaldex, 2018). Further, in Virginia until July 2020, a trans person could not legally change their gender marker on their birth certificate unless they have had gender affirming surgery (Equaldex, 2018), an expensive, invasive procedure that a trans person may not even desire. This idea that trans people have to achieve a perfect standard consistent with a sex binary *and* a gender binary is a small example of how trans folx are constantly policed and controlled through laws and legal standards. Such measures, while not based in fact or reason, blatantly serve to subject trans people to oppression.

A notable, recent example of a law designed to oppress trans people is North Carolina’s House Bill 2, or the Public Facilities Privacy & Security Act. More popularly known as HB2, passed in 2016, HB2 was “an act to provide for single-sex multiple occupancy bathroom and changing facilities in schools and public agencies and to create statewide consistency in regulation of employment and public accommodations” (HB2, 2016, para. 1). The law

infamously outlined that trans people could only go to the bathroom that matches their biological sex and/or their birth certificate (HB2, 2016). Before voting on the measure, supporters of HB2 held a rally in the capital (Raleigh) where they said LGBTQ+ people “behave like perverts” and disparaged Chaz Bono, a trans American actor and musician, by referring to him with the wrong name and incorrect pronouns saying that he was “under the influence of the devil and demon spirits of perversion” (Schofield, 2016, para. 4). Separately, a coalition called KeepNCSafe was created to unite businesses and private citizens who wanted to ensure that HB2 passed with such catchphrases as “It’s common sense” and “Keep women safe; no men in women’s bathrooms” (KeepNCSafe, 2016). This imagery of a man in the women’s bathroom is a common disparaging myth, but was reinforced by the law, as it specifically aimed to protect the “physical condition of being male or female” (HB2, 2016).

Essentially, this is a prime example of trans people being perceived as “improperly inhabiting a space” such as a bathroom because they are traversing cultural norms that do not include trans folx (Walker, Sexton, Valcore, Sumner, & Wodda, 2018, p. 222). The paternalistic idea is that cisgender women should be protected from trans women, as they had “male genitalia” and were “clearly perverts” (Brady, 2016). Immediate coverage cited specific scenarios where a man would dress up like a woman to commit a heinous act as anecdotal evidence (Brady, 2016). These oppositions had no basis in fact and were inherently outrageous, since trans folx are more likely to be assaulted and harassed in public spaces, like bathrooms, than their cisgender counterparts (Grant et al., 2011). Indeed, the commonly referenced scenario was of a man being deceptive to commit harm, but that scenario was used to question the legitimacy of being trans while painting trans women as dangerous. These narratives run parallel to President Eisenhower’s perception of LGBTQ+ people as perverts, which directly led to the

Lavender Scare as well homosexual solicitation and transphobic cross-dressing laws. HB2 has since been repealed after North Carolina was publicly denounced, and cost the state an estimated 450-630 million dollars after its enactment (Blest, 2017). However, the repeal only focused on the bathroom aspect, but the “three-year ban on local nondiscrimination ordinances” (Silva, 2017, para. 9) remained, which effectually was not a full victory against the discriminatory spirit of this bill. Further, the failure of HB2 did not dismantle KeepNC Safe, which still exists in order to continue to fight the new decision and protest any new LGBTQ+ equality initiatives in North Carolina. Notably, while HB2 is one of the more infamous examples of anti-trans bills, there have been numerous others and even in the 2021 session. Some of these bills are designed to prevent healthcare access for trans youth, exclude trans youth from athletics, and restrict the ability for trans folx to change their identity documents (ACLU, 2021).

Federal Government and Trump Administration

Since the inception of the Trump administration, any supposed campaign promises made during 2016 to protect LGBTQ+ people were quickly forgotten and replaced with a series of discriminatory laws. On the same day Trump was inaugurated, January 20, 2017, the White House quickly erased all its information concerning LGBTQ+ Americans from the official White House webpage (Petrow, 2017). Soon after, the administration enacted numerous inequitable policies that included withdrawing support to protect transgender students, dropping the federal lawsuit against North Carolina for the controversial HB2 law, removing demographic information concerning LGBTQ+ people from the Department of Health and Human Services, and dismissing a proposal to collect demographic information on LGBTQ+ people in the 2020 Census (NCTE, 2018a). These policies all occurred within the first three months of Trump’s presidency. The latter examples were explicitly chosen to highlight the obvious forms of

preemptive, predatory state violence that this administration enacted. These actions police transgender bodies in public spaces and refuse them safety and peace. As previously discussed, negative attitudes towards trans people coupled with the lack of protections has devastating effects. While it is estimated that 1 to 1.4 million adults identify as trans in the United States (Hoffman, 2015; Meerwijk & Sevelius, 2017), the problem is that we do not have any official statistics in the U.S. about how many trans and/or LGBQ+ people live in the United States. This means that without a defined number of people, it is easier to pass discriminatory legislation because of the lack of official data and records. Without an accurate number of LGBTQ+ folx, it can be harder to “build political power, access support and services, and enforce civil rights protections” (Malagon, 2020, para. 7).

An active form of erasure through policy can best be exemplified by the decision to ban trans troops from military service and a leaked memo which revealed that the administration was advocating to change the definition of gender to only be associated with one’s biological sex. In July of 2017, President Trump announced via Twitter that there would be a ban on transgender people from serving in any branch of the military, eliminating President Obama’s former policy that allowed trans troops to serve openly (Davis & Cooper, 2017). Despite Trump’s claims that he consulted with military and medical experts who stated that trans service members cost massive amounts of money, his defense secretary, Jim Mattis, was notably only given a day’s notice of the announcement and the claim of monetary cost was unfounded (Davis & Cooper, 2017). Following this decision, four separate courts blocked the ban (Block, Strangio, & Esseks, 2018), and it was proven that the military spends more on the erection-enhancing drug Viagra than it would on healthcare for trans troops (Ingraham, 2017). Additionally, the military had accepted the previous policy, which stated that transgender troops serving openly “posed no

threat to military readiness or unit cohesion” (Stern, 2017, para. 2.). However, despite the mounting evidence that trans troops serve no threat, a policy moved forward to ban those who are trans from enlisting, and troops who were out could only openly serve if they have a gender dysphoria diagnosis (Block, Strangio, & Esseks, 2018). Effectually, this insistence that a trans person is only legitimate if they have a medical diagnosis pathologizes the trans experience as an illness that can be cured. Hence, this perspective results in eliminating numerous identities that do not want, or need, to seek medical validation for their existence. Importantly, the Biden administration reversed the trans military ban within its first two weeks of being in power, a powerful contradiction to Trump’s order (Cooper & Shear, 2021).

On October 21, 2018, Green, Benner, & Pear (2018) of *The New York Times* reported on a leaked memo from the Trump administration, which outlined intentions to explicitly define “gender as determined on a biological basis that is clear, grounded in science, objective, and administrable” (para. 4). The memo went further and detailed how this new definition would be unchangeable, taking the stand that gender is solely attributed to a person’s biological sex instead of a person’s articulated gender. Further, the policy change would also come with the caveat that any potential dispute about a given person’s sex would be determined with genetic testing (Green, Benner, & Pear, 2018), a cost most likely incurred by the person whose sex and/or gender is in question. This act of blatant discrimination not only shows that the former administration did not see trans people as valid, but it is worth noting here that this level of discrimination is only allowed to thrive in a society that would be accepting of such drastic changes. As noted by Walker et al. (2018), trans and non-binary folx are “scapegoated, vilified, and denied their rights—when it is politically convenient” (p. 220).

While the Trump White House was busy setting its own precedent, the transphobic attitudes coming from that administration have trickled down to the states. Tennessee introduced three bills that restricted bathroom access for trans youth in schools and protected schools who would utilize transphobic policies (NCTE, 2018b). (While these laws have not passed as of 2020, anti-trans and anti-LGBQ+ legislation are consistently, repeatedly discussed and voted on in individual committees). Additionally, Alaska unsuccessfully tried to pass Proposition One in April 2018, which would have restricted “access to public bathrooms and locker rooms based on an individual’s sex assigned at birth” (Ballotpedia, 2018). Further, states like Indiana have actively debated prohibiting teachers from discussing gender modality or sexual orientation in their classrooms if they don’t have explicit permission from parents (NCTE, 2018b).

These attitudes from state governments fuel bigotry against trans folx, thus allowing discrimination to thrive. Effectually, opinions about trans people and their perceived “lifestyle” have real-life implications on actual trans people. Laws that do not protect trans folx from discrimination and/or institutional bias limit legal or legitimate options to make money, which can in turn can affect access to housing. These causal factors coalesce to increase the chances that trans folx will interact with the criminal legal system. Thus, impacts from recent (and historical) transphobia vary how/if trans folx can access precious resources such as employment, housing, and medical treatment.

Everyday Discrimination

Employment.

Discrimination faced by trans folx in terms of employment presents a two-fold problem. Firstly, there is the issue of even being hired, as 71% of respondents in the report by the NCTE reported that they hid being transgender so they were able to at least be considered for hiring

when they were interviewed (Grant et al., 2011). Despite advancements in laws and protections for LGBTQ+ folx, a study in 2017 found that 18.7% of their sample from ages 18-24 consciously would not disclose any information on their application that would out them as LGBTQ+ (Singh & Durso, 2017).

Further, in Singh and Durso's (2017) study, there was a divide between LGBTQ+ folx of color and white folx, as 12% of LGBTQ+ people of color hid their identities from their resumes, as opposed to only 8% of their white counterparts. The fear that drives these preemptive actions by folx who hide their identity is supported by an exploratory study from the Office of Human Rights in the United States (Rainey, Imse, & Pomerantz, 2015). Rainey, Imse, and Pomerantz's (2015) study measured how 38 different employers reacted to a sample of transgender and cisgender applicants to jobs in universities, restaurants, retail, hotels, grocery, and administration. On the resumes and cover letters of trans applicants, both the chosen name and dead name were written, with an obvious note that the dead name was the legal name (Rainey, Imse, & Pomerantz, 2015). From that simple difference alone, the study revealed that overall, all of the workplaces were more likely to call the cisgender applicants back over the trans applicant, and the trans applicant who worked at a trans organization received the least call backs (Rainey, Imse, & Pomerantz, 2015). Unsurprisingly, 48% of the employers appeared to generally prefer the under-qualified cisgender candidates over the more adequately qualified transgender applicant (Rainey, Imse, & Pomerantz, 2015).

Secondly, even when a trans person is hired to a workplace, discrimination and harassment inside the workplace is rampant. A study by Kattari, Whitfield, Walls, Langenderfer-Magruder, and Ramos (2016) used a statewide dataset that included 4,619 LGBTQ+ folx, and when compared to cisgender people, trans folx reported to have experienced employment

discrimination 5 times more than their cisgender counterparts, and were 2.3 times more likely to question if they experienced employment discrimination. Further, the longer an individual was “out,”¹² each year of being out added a 2% likelihood they were to experience employment discrimination. Additional analysis from the NCTE revealed that in terms of employment, 90% of the sample experienced harassment at the workplace, and 47% reported that they were fired, not hired, or denied a promotion because of their gender modality. The combined issues of being hired and remaining in the workplace as a trans person have unsurprisingly made just meeting basic needs difficult. Moreover, trans folx have been found to have an average total household income of less than \$10,000 (Grant et al., 2011), four times less than the general population. Using the poverty threshold determined by the United States government that same year (2011), \$10,000 is still below that, as the number was \$10,890 (H.H.S., 2011).

Housing.

The financial implications of not having access to stable employment and an income below the poverty line have long-term effects. The 2011 NCTE study reported that only 32% of trans folx in their sample of 6,450 owned their own home (as opposed to 67% of the general population in 2011) and 19% were even refused a home or apartment, while 11% were evicted due to their gender modality (Grant et al., 2011). When being denied employment opportunities, which can lead to financial and housing instability, discrimination effectually ensures that trans people teeter on the edge of eviction, poverty, and homelessness. In the study conducted by Kattari et al. (2016), findings on housing discrimination revealed that trans folx were 2.2 more times likely to be discriminated against in terms of housing than their cisgender counterparts.

¹² Coming out or out describes the “process of recognizing, accepting and sharing with others one's sexual orientation and/or gender identity” (UCCS, 2020, para. 2).

Furthermore, variables such as the number of years being out, age, gender, and race/ethnicity were all predictive factors for experiencing housing discrimination.

Housing insecurity can further drive some folx into the underground economy in order to survive. Among 517 trans women in Los Angeles who engaged in sex work, Fletcher, Kisler, & Reback (2014) found that 35% of their sample reported being homeless, while 22% reported being marginally housed (couch surfing, living in a hotel room, etc.). Sadly, these findings were then correlated to significantly higher rates of drug use, such as crack, meth, and marijuana (Fletcher, Kisler, & Reback, 2014). Even though this study was conducted in Los Angeles, a city relatively well known for LGBTQ+ activism, the lack of legal safeguards and protections on the federal level still burden trans folx as they navigate everyday life. Frighteningly, these findings are typical (as seen in Grant et al., 2011), but these statistics regularly only come from trans folx who live in urban areas, so the experience of trans people from a variety of environments is still relatively unknown. Couple the latter statement with the fact that there is no national account of the number of trans people in the United States through any federal recognized agency, this problem could be much more prevalent than what is already known.

Medical and Mental Health.

Concerning medical and mental health of trans folx, suicide attempt rates are higher in the trans community when compared to the general population: 41% vs. 1.6% (Grant et al., 2011). These high rates of suicide attempts were reportedly fueled by the loss of employment, surviving a physical and/or sexual assault, or a result of the general hopelessness they felt due to their financial situation (Grant et al., 2011). Further, in order to cope with their repeated abuses, 70% of the sample either reported drinking or using drugs to self-medicate (Grant et al., 2011). Even when seeking help for their medical issues, trans people still found themselves educating

their doctors about transgender care at a rate of 50%, coupled with almost a third (28%) experiencing medical discrimination, with 19% that were outright refused medical care because of their experiences (Grant et al., 2011).

Oftentimes, the ignorance and/or maltreatment from medical staff towards trans folx is labeled as “trans broken arm syndrome” (Payton, 2015, para 3). Trans broken arm syndrome describes a scenario when a trans person enters a hospital for a broken arm, and their reported symptoms are ignored as the medical staff attribute these experiences back to the person being on hormones, other than their obvious injury or illness (Payton, 2015). Further, when fixating on a trans person’s identity as a clinical issue, it can lead to the “misallocation of time resources, spending too much time taking the patient’s history of transition-related intervention and failing to address the condition they came in for, [and] erroneous attempts to change the course or regimen of hormonal treatment” (Dietz & Halem, 2016, para. 13). Hence, fixating on the hormones may distract the doctor from the actual issue, and the doctor instructing the patient to stop hormones can cause more distress in the patient (Dietz & Halem, 2016; O’Hara, 2020; Payton, 2016). For instance, in O’Hara’s (2020) coverage of trans people sharing their stories with healthcare professionals via Twitter using the hashtag #transhealthfail, started by Robyn Kanner of MyTransHealth.com, Kanner shared her own trans health fail. Kanner described how she had kidney stones because she was holding her urine, as she actively avoided using public restrooms because she was afraid of the possibility of harassment or assault due to her gender modality (O’Hara, 2020). “I’m afraid they are going to have the power to take away something that I need,” Kanner said of doctors. Specifically, she relayed, “I had these stomach issues and I didn’t want to go to the doctor because I was worried that they would blame my stomach

problems on my hormones and make me stop taking them. It becomes this thing you build up in your head” (O’Hara, 2020, para 9).

These specific types of discrimination (employment, housing, and medical) are small examples of the experiences of trans folx facing difficulty with vital institutions necessary to live healthy and secure lives. In each of these instances, trans folx often deal with a lack of protections or active discrimination, as well as hostility from individual practitioners, such as employers, landlords, and doctors. These everyday acts of prejudice do not end once a trans person interacts with or enters the criminal legal system, but often intensifies, as issues of bias and the lack of legal safeguards have more dire, and sometimes deadly, consequences.

CHAPTER III

THE TRANS EXPERIENCE IN THE CRIMINAL LEGAL SYSTEM

In the words of trans woman of color activist, CeCe McDonald, “The show ain’t over because you can put a ring on it” (McDonald, 2015). CeCe is directly referencing the critique leveled at the mainstream LGBTQ+ community, who were granted marriage equality in 2015, but have widely forgotten trans folx and non-normative LGBTQ+ people who still have little to no rights in America. CeCe herself served 19 months of a 41-month sentence for second-degree manslaughter for fatally wounding a man, one in a group of four, who had violently assaulted CeCe and her friends (National LGBTQ+ Task Force, 2014). She was initially charged with first-degree murder, even though the man not only participated in calling CeCe and her friends ugly, racial epithets, as well as homophobic and transphobic slurs, but one of his friends escalated the situation by smashing a glass on CeCe’s face while she and her friends were attempting to walk away from the scene (National LGBTQ+ Task Force, 2014). Notably, she served her 19-month sentence in a men’s prison, even after the prejudice she faced from her attackers. While CeCe has since used her experience to advocate for the rights of trans folx, her treatment after her assault is unfortunately not unique, but instead is one example in a broader picture of how the criminal legal system treats trans folx.

Law Enforcement

Historically, police respond to gender non-conformity with slurs rooted in heterosexism and cisgenderism (Ritchie, 2017) that is often followed by physical violence. An Amnesty International (2005) report found that when trans or gender variant people produced photographic identification that did not match their appearance, they were “regarded as fraudulent or deceitful, creating a heightened risk of abuse and harassment” (p. 26). In a 2013

national report on hate violence towards LGBTQ+ and HIV-affected communities, it was found that trans people were almost four times more likely to be on the receiving end of police harassment and seven times more likely to face physical violence as opposed to their cisgender counterparts (NCAVP, 2013). Moreover, trans women are at an increased risk of sexual violence from police, especially if they are women of color (NCAVP, 2013).

In the most recent national survey of trans people in the United States, half of respondents reported abuse from police, explicitly after the police found out they were trans (NCTE, 2016). Specifically, 57% of respondents said they were either never or only sometimes treated with respect from police, while 58% reported “some form of mistreatment, such as being repeatedly referred to as the wrong gender, verbally harassed, or physically or sexually assaulted” (NCTE, 2016, p. 185). Additionally, 57% of respondents reported that they were uncomfortable in asking for help from the police, and of the 2% of respondents arrested in the past year, 22% believed that they were arrested *because* they are transgender (NCTE, 2016). These findings also revealed that Indigenous trans women were the most likely to report police violence against them, followed by Black trans women and other women of color (NCTE, 2016).

This distrust of law enforcement has also been found among LGBTQ+ youth. Expressed in interviews with a sample of 35 young people ages 12-25, there was an inherent understanding that the young people’s perceived queerness translated as a threat to police officers (Dwyer, 2014). For example, respondents described their experiences of being repeatedly stopped and questioned by police for their outward appearance, with officers frequently calling these youth “suspicious” (Dwyer, 2014). Dwyer’s (2014) interviews also revealed that LGBTQ+ youth who were seen as risky and stopped by police oftentimes were accused of either having or selling drugs (such as their physician-prescribed diabetic insulin/needles), as well as targeted for being

homeless. Xavier, a 22-year-old trans man described “We would constantly get moved on like yeah if you’re in an area and obviously you look homeless and you smell homeless” (Dwyer, 2014, p. 72). Effectually police in this instance are targeting LGBTQ+ youth who are in certain areas because they must be homeless, and thus, must be removed from the areas where they live. This does not build trust between especially vulnerable LGBTQ+ youth and the police who are seen as an invasive force. While these experiences have been specifically noted in Australia, there is support for these occurrences replicating themselves in the United States. In a study conducted by The Trevor Project and Morning Consult (2020) it was found that among their national sample of 600 LGBTQ+ youth that they widely distrusted the police — at 71% — while only 6% of trans and/or nonbinary youth reported that they trusted the police “a lot.” Trans and nonbinary youth also reported the highest levels of mistreatment by police as well as the highest percentage of “strongly disagreeing” that police in their neighborhood were there to protect them (The Trevor Project & Morning Consult, 2020).

These findings around distrust of police from LGBTQ+ youth (Dwyer, 2014; The Trevor Project & Morning Consult, 2020) and trans adults (Amnesty International, 2005; NCAVP, 2013; NCTE, 2016) are highlighted to reveal that members of the LGBTQ+ community, especially trans folx, are well aware of police perception. Distrust from the police is founded on negative personal experiences, as well as accounts of local community members and trusted narrators (friends and family). Additionally, law enforcement further strains relationships between themselves and the trans community because of how they police gender expression, and how they answer domestic violence calls when a trans person is one of the involved parties, both of which I discuss below.

Walking While Trans

Trans women, especially trans women of color, are often stereotyped as sex workers by police, and these untrue beliefs have given law enforcement the power to police gender expression in public, otherwise known as “walking while trans.” These acts of bias are enforced by manifesting prostitution laws where police can arrest a person for supposedly manifesting an intent to commit or solicit an act of prostitution. One such law, in Phoenix, Arizona, under Municipal Code Section 23-52(A)(3), states that a person may be arrested if they “repeatedly beckon to, stop, or attempt to stop or engage passers-by in conversation, or repeatedly stop or attempt to stop motor vehicle operators by hailing, waiving of arms, or any other bodily gesture” (City of Phoenix, 2018). Laws like Municipal Code Section 23-52(A)(3) allow police officers to reinforce prejudices that stereotype trans women as sex workers or drug dealers (City of Phoenix, 2018; Ritchie, 2017). In places like Phoenix, people accused of manifesting prostitution can be arrested for just repeatedly stopping and engaging a passerby in conversation on the street (Nichols, 2014). However, especially for trans women of color, simply being visible can mean harassment, loss of access to precious resources, such as housing and medical services, and rejection from traditional workplaces (Grant et al., 2011).

Moreover, there are only 17 states that consider gender modality-based violence to qualify as a hate crime (MAP, 2018), while there are eight states with manifesting prostitution laws that allow police to arrest people who look like they are engaging in prostitution (Brown, 2014). In one highly publicized case, Monica Jones was arrested under manifesting prostitution laws after she accepted a ride to a bar from people who happened to be undercover police officers (Nichols, 2014). Despite the fact that there was no sexual act suggested or engaged in, Jones was arrested for accepting the ride because of her supposed intent to commit prostitution

(Nichols, 2014), but her arrest probably revolved around her identity as a trans woman of color. Another public case of police enforcing walking while trans occurred in 2012, when 17-year-old Bianca Feliciano, a Latinx¹³ person, was walking with her friend (who is also trans) in Cicero, Illinois. They were taunted by police officers who accused them of being sex workers. There was no evidence that Bianca and her friend were engaging in any form of sex work, but officers assumed they were, since the area is well known for prostitution.

Upon producing her state ID that affirmed her gender as female, the officers threatened to arrest her for fraud and verbally assaulted Bianca by telling her that “you are not female; you have a dick between your legs,” and telling her that if she was adequately disciplined as a child, she wouldn’t be transgender (People’s Law Office, 2012). They subsequently placed her under arrest for violation of Cicero Town ordinances that were not related to sex work, but possession of tobacco as a minor and a weapons-related offense. The supposed weapon was not a knife or gun, but a sock with a rock in it that was probably used for self-defense as the use of alternative, non-lethal weapons by LBGTQ+ folx has been documented (Drake, Eldevik, Kleindl, Mathwig, & Ronald, 2017). The officer’s ill treatment continued at the department when they refused to refer to her with her correct pronouns (she/her) and made disparaging remarks about her genitals and breasts (Ritchie, 2017). While completing her arrest paperwork, they used her male birth name and withheld her state ID card, even after she proved she had legally changed her name (People’s Law Office, 2012). After the charges were dropped, Bianca successfully sued the Cicero police department, and as a result, Chicago police were mandated to craft an inclusive policy that would outline how police would treat trans people in the future (People’s Law Office, 2012; Ritchie, 2017).

¹³ Latinx is a gender-neutral term used instead of Latino or Latina (Ramirez & Bley, 2016).

Walking while trans describes how folx like Bianca and Monica are consistently harassed by police as they are being penalized for “taking up” public space. However, even when trans folx call 911 for aid because there is no alternative, the outcomes can be retraumatizing and discourage them from calling emergency services in the future.

Calling 911

When trans folx are calling police explicitly after they have survived an occurrence of IPV (intimate partner violence), assault, or sexual assault, they can find themselves blamed for their victimization by the officers who they have called to help. Trans folx who have called the police after being assaulted have reported that at best, police do not respect their pronouns and at worst, insist that people whose sex was assigned male at birth (AMAB) can’t be raped and that the survivor would not have been victimized if they would stop being trans (Guadalupe-Diaz, 2019; Meyer, 2015; Woods, Galvan, Bazargan, Herman, & Chen, 2013). Meyer (2015) explicitly notes that this idea of trans folx “pretending” to be the gender they identify being the rationale for victimization by police demonstrates a clear misunderstanding of gender. This societal misunderstanding of gender (which was addressed in chapter 2 of this work) is embedded here in police understandings of LGBTQ+ people and victimization, especially with their ideas of “realness” and what characteristics define a woman or a man (Meyer, 2015). Hence, the simple solution, albeit ignorant and transphobic, from responding officers is that to prevent future victimization, trans folx should embrace their sex assigned at birth rather than their gender.

In terms of IPV specifically, transgender and gender non-conforming folx experience IPV at a rate three times higher than their cisgender counterparts, while trans women specifically were stalked and experienced financial violence 2.5 times more than other members of the LGBTQ+ community (NCAVP, 2016). Despite these high rates, only 7% of respondents even

reported being able to access necessary services because of the result of their victimization (NCAVP, 2016). As Guadalupe-Diaz (2019) noted, trans survivors of IPV felt they had to “walk the gender tightrope” in order to be seen as legitimate to people outside the relationship when accessing vital services. This gender tightrope was also used by victims after police arrived on scene, since law enforcement was found to have incorrectly identified the perpetrator and the victim based on gender stereotypes (Guadalupe-Diaz, 2019). For instance, John, a trans man, was confronted by police after they perceived his perpetrator girlfriend to be the victim, even though John was nursing a head injury from having a coffee cup shattered against his skull by the girlfriend (Guadalupe-Diaz, 2019). And Jessica, a trans woman, reported that although police officers knew her from the community, whenever they would show up to her house during a domestic dispute, previously friendly officers would pretend not to know her and had refused Jessica’s request of a same-gender body search (Guadalupe-Diaz, 2019). But overall, “the perception and actual experience of transphobia by police structured and limited legal recourse for these survivors” (Guadalupe-Diaz, 2019, p. 131).

Furthermore, poor responses and mistreatment of trans folx who call the police for help are compounded if the trans person is revealed to be a sex worker by law enforcement (Meyer, 2015; Woods, Galvan, Bazargan, Herman, & Chen, 2013). Police treat law-abiding trans folx with reckless transphobia and impunity (Amnesty International, 2005; NCAVP, 2013; Grant et al., 2011; NCTE, 2016; Ritchie, 2017), and trans folx who are actively engaging in sex work are further devalued and not seen as “worthy victims” (Meyer, 2015). Although engaging with sex work and being trans has been found to increase the likelihood of being victimized by others (Woods, Galvan, Bazargan, Herman, & Chen, 2013), officers do not take these cases as seriously. Similar to the concept of less-dead in serial killer research, people considered less-

dead “are essentially ignored and devalued by their own communities or members of their neighborhoods and generally not missed when they are gone. Examples are prostitutes, the homeless, vagrants, migrant farm workers, homosexuals, the poor, elderly women, and runaways. They are often vulnerable in locations they frequent, and easy to lure and dominate” (Egger, 2003, p. 279). Hence, trans folx who are sex workers are devalued and are not considered ideal victims who deserve justice for what has been done to them, unlike their cisgender, heterosexual counterparts (Meyer, 2015; Woods, Galvan, Bazargan, Herman, & Chen, 2013). While not all trans folx engage in sex work, because of previously mentioned factors in chapter 2 about the lack of employment opportunities and/or numerous legal protections concerning social safety nets, sex work is an issue that disproportionately affects trans communities (Grant et al., 2011; Meyer, 2015; NCTE, 2016).

Regardless of criminal involvement, it has been shown that trans folx hesitate to call police at alarming rates. In over half of NCTE’s (2016) almost 28,000 sample size (57%), folx reported feeling uncomfortable about calling the police for help, while 56% of Woods, Galvan, Bazargan, Herman, & Chen’s (2013) 220 sample size reported along similar lines. As an attempt to rectify this, police departments have been creating positions in their police departments known as LGBT liaison officers, who are supposed to be the bridge between the police and the LGBTQ+ community.

LGBT Liaisons

Despite more than 50 years passing since the raid of the Stonewall Inn by the NYPD in 1969, police departments have consistently come under fire for their continuing treatment of LGBTQ+ people. Generally, police are not trusted by the LGBTQ+ community, and in order to attempt to alleviate this distance between the police department and the LGBTQ+ public, LGBT

liaison positions have been cropping up around the United States. LGBT liaison officers are officers assumed to be competent in LGBTQ+ issues and to use this knowledge to make connections in their local community to increase trust. In the Hampton Roads area of Southeast Virginia, the predominant area where this study was conducted, each of the seven cities (Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, and Virginia Beach) state that they have at least one LGBT liaison officer in their police departments (Hampton Roads Pride, 2020). However, when looking for information concerning the effectiveness of these LGBT liaison officers, the data does not exist, which begs the question of these officers' effectiveness.

Three assessments of LGBT liaison officers were published relatively recently by Colvin (2012), Dwyer, Ball, Bond, Lee, & Crofts (2017), and Pickles (2019); these evaluations were done for the United States, Australia, and England, respectively. Colvin (2012) used data from surveys and follow up interviews with LGBTQ+ officers, which also compared LGBTQ+ liaison programs from the United States, Australia, and England. The respondents in this study noted that LGBT liaison officers worked not only with the community, but other police in order to facilitate training and foster cultural competency (Colvin, 2012). Also, in some of the LGBTQ+ liaison units which were well organized (Washington D.C. and Wiltshire, U.K.) it was found that their units reported better relationships with community groups and service providers, LGBTQ+ trainings, higher rates of reporting of hate crimes, and even the development of community based alternatives (Colvin, 2012). In Dwyer, Ball, Bond, Lee, & Crofts' (2017) evaluation, they found that while LGBTQ+ people were aware of LGBT liaison officers, they were still hesitant to reach out to them because of general distrust. Further, respondents indicated that while they did not interact with liaison officers, they felt the jobs of liaison officers should revolve around

establishing a relationship with local LGBTQ+ communities, fighting systemic transphobia and homophobia, as well as being an advocate (Dwyer, Ball, Bond, Lee, & Crofts (2017). It was also found that in areas where the LGBT liaison officer position was not advertised or made aware to the community, contact was not initially made by local LGBTQ+ communities (Dwyer, Ball, Bond, Lee, & Crofts, 2017), which then ultimately defeats the purpose of having an LGBTQ+ liaison officer in the first place. Pickles (2019) had similar findings, as LGBTQ+ respondents indicated that little awareness of the liaison officer questioned the effectiveness of the role itself, as well as the lack of visibility and engagement between the liaison officer and the broader LGBTQ+ community.

Furthermore, when searching for any information about the effectiveness of LGBT liaison officers in the United States, there is limited information. However, considering the findings of Dwyer, Ball, Bond, Lee, & Crofts (2017) and Pickles (2019), it is likely that assessments of American liaison officers would run along similar lines. Many reports of police departments who have added a liaison officer should be a good thing, as these positions indicate that police departments are moving in the “right direction,” but without measuring effectiveness or speaking to community members, it is really anyone’s guess if these positions are more than symbolic.

Courts

Unfortunately, trans people often face another set of hurdles that occur once they enter the court system, as court staff may refuse to use correct names and pronouns during court proceedings (Lambda Legal, 2015). This finding came from Lambda Legal, an LGBTQ+ advocacy organization, that interviewed 2,376 people in the United States, in order to survey their experiences in the criminal legal system. Other findings revealed that a judge quoted the

Bible at a trans defendant in order to weaponize religion against the transgender person's "perceived choice" (Lambda Legal, 2015) and another judge threatened to deny "visitation/custody rights to a transgender parent if she followed through with her plans for gender [affirming] surgery" (Lambda Legal, 2015, p. 1a). Another common infringement by courtroom professionals is that sometimes they out¹⁴ the LGBTQ+ defendant to the court, even if such information does not directly pertain to the case (Lambda Legal, 2015). This can have varying consequences, such as impacting the outcome of the case against the defendant by pushing a false narrative equating criminality and being LGBTQ+, generally attempting to shame them in front of a packed courtroom, or often excluding them from jury duty because of how they identify (Lambda Legal, 2015).

Additionally, of the 965 respondents that were in court during the previous five years before Lambda Legal's (2015) study, 19% of respondents heard a courtroom professional (judge, attorney, other court employee) make disparaging comments pertaining to someone's sexual orientation, gender modality, or gender expression. Of these respondents, 53% of those who heard comments on their LGBTQ+ status were trans or gender non-conforming people of color. This reaffirms that transgender and gender non-conforming individuals of color are found to be the most vulnerable to discrimination and humiliation because of the intersection of their race and gender (Lambda Legal, 2015). Further, the marginalization within the courtroom conducted by "professionals" also lends itself to creating an atmosphere that perpetuates biased behavior, as Lambda Legal (2015) found witnesses, jurors, and other parties to any given proceeding were found to use discriminatory language about sexual orientation or gender modality: 28%, 12%, and 22% respectively.

¹⁴ To out someone is to disclose a person's LGBTQ+ identity without their permission (Friedrichs, 2017).

Even when attending court for civil matters, such as a name change, trans people are scrutinized when trying to complete a simple civil process, which can require a hearing or an announcement of a name change in the local paper, depending on the jurisdiction. For instance, the nationally representative survey conducted by NCTE (2016) revealed that when trans folx attended court in order to change their name, 23% of those who went to court were addressed with the incorrect gender pronouns (e.g., using he, and not she) or the wrong honorific (such as Mr. instead of Ms.). Further, almost 1 in 5 of those who had interacted with the courts were asked about their gender transition, hormone use, or if they had completed any surgeries. Fewer respondents had experiences with verbal harassment (3%) or unequal treatment (9%), but more than a third of respondents (36%) who had been to court had experienced at least one of the previously mentioned instances. These experiences exemplify the fact that even interacting with the legal system in a completely legitimate way independent of having committed a crime opens trans people up to harassment and scrutiny, even when they have not broken any laws. Because of the difficulties previously mentioned, it should not be surprising that only 11% of respondents reported that all of their IDs and records had their chosen name and correct pronouns, compared to the staggering 68% of respondents reporting that none of their IDs had their correct name and pronouns. While changing name and gender markers through the legal system can be harrowing, it is an important step, as 32% of respondents reported that they were verbally harassed when denied services or benefits, or physically attacked when their ID did not match their gender presentation or expression (NCTE, 2016).

Furthermore, specific laws on topics such as criminalizing HIV, drug laws, bathroom regulations, and sex work tend to unfairly target and affect trans folx, since their access to traditional resources and employment is often out of their reach (CAP & MAP, 2016).

Specifically, such laws as “solicitation while positive” (CAP & MAP, 2016, p. 9) allows trans people to be arrested if they are suspected of being HIV-positive and conducting sex work, forgoing any considerations of the use of condoms or even that the person arrested was not even engaging in sex work. Again, as previously mentioned, trans folx are often locked out of the traditional employment network and often have to rely on the underground economy, such as sex work and drug selling. These laws have been created to subject trans folx to the criminalized notions of their gender modality and gender expression. Specifically, this idea of subjection comes from Dean Spade (2015), where he carefully makes the distinction that trans folx are not oppressed, but rather subjugated as the criminal legal system “captures how the systems of meaning and control that concern us permeate our lives, our ways of knowing about the world, and our ways of imagining transformation” (p. 6).

Corrections

Incarceration

Angel,¹⁵ a trans woman of color who at the time was an inmate in a male facility, sent me a three-page letter to read aloud in order to educate my students. This document describes Angel’s experiences while being incarcerated, which begins with her explicitly discussing how she had been abused by a cellmate. His aggression forced her to move to a different cell, but because of the relationship he had with prison staff, he was able to convince them to have Angel transferred back as his cellmate. Despite being initially moved for safety reasons, his abuse escalated into sexual assault, and did not stop until he was transferred to another facility. Angel immediately reported the incident but was told she deserved it for wanting to be a woman. Eventually, a clinician paid attention and had her interviewed, but four months had already

¹⁵ A pseudonym

passed. The next year, while eating dinner, an inmate who had threatened Angel (she had filed reports previously), walked up to her and sliced her on her head, ear, hand, neck, and face with a box cutter; monitoring officers did not stop the attack. Angel scrambled to her feet and was able to get away on her own, gushing blood, but before she was taken to an ambulance, she was accosted about the attack. She was made to feel that her trans identity was the cause of her assault, an attack that resulted in 63 stitches and 14 staples, which later transformed into keloids. Keloids occur when skin grows over the sight of the original injury, resulting in a raised scar that causes the person discomfort and pain (AAD, 2019). Angel recently got surgery to take care of the keloids, but the scars doubled in size during the course of two years, and nothing was done in that period of time to fix them.

Angel also described being discriminated against in the facility, not being allowed certain privileges as her cisgender peers, and being treated with blatant disrespect by the staff. This is despite the fact that Angel has paperwork that indicates her correct pronouns and gender approved by the state of California. Sadly, Angel's story is not unique. A study from the California Department of Corrections found that over 75% of trans folks in men's prisons identify as women, and outside of incarceration, they live as women (CAP & MAP, 2016). But overall, the criminal legal system is not equipped to handle trans and non-binary offenders once they are in the system because of its bio-essentialist correlations of sex with gender and all of the nuances of being trans (pronouns, medical needs, etc.) (Walker et al., 2018).

Further, 16% of NCTE's almost 6,500-person sample (6,450) reported they had spent time in jail or prison. Ten percent of the trans men in the study reported being incarcerated, while trans women reported that 1 in 5 (21%) experienced incarceration (Grant et al., 2011). When placing a trans person in a jail or prison that does not match their gender, it can prevent meeting

the needs of the inmate to relieve gender dysphoria, such as specific clothing, hygiene products, beauty products, or even the appropriate medical care (CAP & MAP, 2016). Additionally, transgender inmates are typically placed in some form of segregation, which isolates them for their “safety.” Commonly referred to as administrative segregation, people in solitary confinement are in their cells for a majority of their day, typically 23 hours (CAP & MAP, 2016). The resulting isolation of solitary confinement has many devastating effects on the brain, including visible neurological shrinking of regions that directly impact a person’s ability to learn, their memory, and even spatial awareness, as well as severe psychological damage that can result in depression or other mood disorders (Blanco-Suarez, 2019).

Furthermore, the Federal Bureau of Prisons, an arm of the U.S. Department of Justice, released a notice titled “Transgender Offender Manual” to announce changes to their policy when dealing with trans inmates. Under the guise of “maintaining security and good order in Federal Prisons” (Justice, 2018, p. 1), the letter explicitly noted that the use of biological sex, not gender, will be used to determine where an inmate is housed, as well as limit the cell and/or unit assignments, and assess if the inmate poses a threat to other inmates with histories of trauma (Justice, 2018). The original standards are kept in the memo, represented by having a line through it (being struck through), while the new language is plain text. The following select phrases encapsulate the drastic changes, as quoted from the document: “In order for an inmate to be considered for transfer to another institution of the same sex as the inmate’s current facility location, ~~including a facility housing individuals of the inmate’s identified gender~~” (Justice, 2018, p. 2). Purposefully removing the old language, which was more indicative of affirming and humane care, represents a conscious, sinister choice.

Moreover, other aspects of the letter include the addition of “necessary” to the hormone medical treatment section, explicitly noting that “hormones or other necessary” medical treatment may be provided after the permission is granted from the facility (Justice, 2018). Another change reads as follows: “The TEC (Transgender Executive Council) may also consider facility-specific factors, including inmate populations, staffing patterns, and physical layouts (e.g., types of showers available). ~~The TEC will recommend housing by gender identity when appropriate.~~” (Justice, 2018, p. 6). This directly reveals that before this policy change, the TEC did see gender as a valid reason for moving an inmate to a facility that matched their gender rather than their biological sex.

These policies pervade the carceral system despite the fact that in 2012, the Prison Rape Elimination Act of 2003 (PREA) was expanded to explicitly protect trans and intersex folx in terms of housing, protective custody, segregated LGBTQ+ pods or units, and being searched (NCTE, 2012). For instance, in terms of housing, PREA specifically notes that, “Decisions about where a transgender person, or a person with an intersex condition, is housed must be made on a case-by-case basis; they cannot be made solely on the basis of a person’s anatomy or gender assigned at birth” (NCTE, 2012, p. 2). In 2018, a trans woman of color, known as Jane Doe, was transferred from a men’s prison to a women’s facility as the result of a federal lawsuit and the transfer was the first of its kind (GLAD, 2019). The following is Jane’s description of her experience: “Being a woman in a men’s prison was daily torture. I was threatened, harassed, and humiliated nearly every day, and lived in constant fear for my safety. The stress and anxiety were totally unbearable. I’m serving my time, but no one should have to face what I did when I was at Norfolk” (GLAD, 2019, para. 4). Additionally, PREA guarantees that although administrative segregation—also known as “solitary confinement” or “protective custody”—can be used to

protect trans inmates, PREA takes special note to point out that this form of segregation is used too often, and high doses can be tantamount to torture (NCTE, 2012).

Isolating trans inmates also leaves the door open for harassment, abuse, and degradation of the inmate's mental state (CAP & MAP, 2016), yet many trans women are put in solitary confinement against their will at a high rate (Black & Pink, 2015). In Black & Pink's (2015) study, *Coming out of Concrete Closets*, they reported that out of their 1,100 respondents, 85% of their respondents had been held in solitary confinement during their sentence. This is unsurprising, since solitary confinement is often used to control LGBTQ+ prisoners, especially trans women and cisgender gay men (Black & Pink, 2015, p. 9). This report also found that being LGBTQ+ in prison increased the likelihood of assault by six times as compared to the general, non-LGBTQ+ population, and that 79% of trans women and 68% of non-binary respondents disclosed that they had been sexually assaulted by other inmates (Black & Pink, 2015).

In a 2019 analysis of PREA policies concerning trans folx, only half of states have published guidelines which align with only some of the 13 PREA standards, but many (40%) uphold policies that contradict PREA (Malkin & DeJong, 2019). Such examples concerned protective custody and segregated housing, which have previously been mentioned as to why they are problematic, while others will have trans protections on their books, but then house folx in accordance with their genitalia. Notably in the state of Virginia, the official departmental policy is to place people who are incarcerated in facilities that match their biological sex rather than their gender (Green, 2019). Yet of the reported 42 trans folx who are currently housed in the Virginia Department of Corrections system, only 1 is in a facility that aligns with her gender, Toni Nanette Hartlove, who has had gender confirmation surgery (Green, 2019). Thus, Toni is

housed with women because her external genitalia has been changed (Green, 2019). Housing based on genitalia comes with another set of issues, especially in terms of access, desire, and financial resources to gender confirmation surgery.

Correctional staff have been shown to take advantage of trans folx, as shown in a 2009 study of transgender inmates in California prisons, where 13.6% of trans women reported being assaulted and/or sexually assaulted by correctional staff (Jenness, Sexton, & Sumner, 2009). In Black & Pink's (2015) study, 35% of their participants had been physically assaulted by staff and 70% had been verbally harassed. One respondent described their experience as the following:

A female CO kept patting me down and stripping me. I asked her why. She said, "Because I can." She would call other staff to strip me and she would watch and then comment on my body parts. I also had a mental health doctor touch me and try to assault me, saying, "Who will they believe, me or you?" And this is still a problem, but I am in [a] mental health unit for suicide attempt and can't go anywhere (Black & Pink, 2015, p. 40).

The previous experience describes a repeated scenario found in Black & Pink's (2015) study, despite the fact that PREA outlines explicitly that trans people should be given the choice of either a male or female officer to examine them, and that staff should be properly trained on how to do competent searches (NCTE, 2012). Additionally, concerning searches, strip searches specifically should only be used to ensure security (NCTE, 2012), but 36% of Black & Pink's (2015) respondents indicated that they have received strip searches too many times to keep account of, which in the study is denoted as "T.N.T.C.: too numerous to count" (Black & Pink, 2015, p. 41). Black & Pink's (2015) study also revealed that 37% of participants experienced unwanted touching from staff, 12% were sexually assaulted, and 15% were promised something

from correctional officers in exchange for a sexual favor. However, even if staff are not abusing the inmates, Jenness et al.'s (2009) study revealed that only 29.3% of officers were even aware of any sexual assaults against trans women inmates by fellow inmates, as opposed to generally being aware of 60.6% of the sexual assaults that happened to the overall population.

While it is important to note that trans women made up the third largest response group from Black & Pink's (2015) study, the largest respondent group of the aforementioned study is that of cisgender men who identify as bisexual and/or queer, followed by cisgender gay men (Black & Pink, 2015). Cisgender gay men in prison, despite their LGBTQ+ identity, typically are not nearly as visible as trans women in male prisons, but they are routinely targeted by correctional staff within their facilities, and this indicates a greater vulnerability for all LGBTQ+ folx in prisons. PREA also remarks that although separate LGBTQ+ pods or units could be beneficial in terms of safety, it actually opens the door for abuse by the staff, as it places some of the most vulnerable inmates in one place, isolated from other inmates and most staff (NCTE, 2012). Generally, trans folx are supposed to be allowed protections, treated on a case-by-case basis, and their safety is supposed to be in consideration, but in the words of a respondent from Black & Pink (2015, p. 43), "I have been raped at nearly every level 5 camp in MO. PREA is a joke."

Further, especially concerning trans women in men's prison, findings from Jenness, Sexton, and Sumner (2019) revealed that trans women dealt with homophobic and transphobic slurs and were targeted for physical violence and oversexualization to the point of being called a "cum bucket" (p. 617). Many trans women in this study were physically assaulted (80.3%) and 58.5% reported being coerced to commit sexual acts, especially if they were in a relationship with another person, more than likely for safety reasons, known as a protective pairing (Jenness,

Sexton, & Sumner, 2019). The findings of this study also reveal the gendered nature of incarceration facilities and how trans women adapt in order to survive, like being compliant and entering into relationships where they can be protected, even if that is associated with sex that is pressured, coerced, or forced (Jenness, Sexton, & Sumner, 2019).

However, this understanding of the gendered nature of carceral facilities is also utilized by incarcerated trans women who weaponize gender binary centered ideas into assets to secure “the real deal” where as a trans woman in a men’s facility, she can still live her truth to be a “real girl” (Jenness & Fenstermaker, 2013, p. 13). In these facilities where it is established that these trans women are trans by the nature of them being in a men’s facility, the issue is not about being clockable, but to be as feminine as possible, in order to gain the respect of the correctional staff and other incarcerated folx (Jenness & Fenstermaker, 2013). This journey to authenticity in order to gain legitimacy for trans women in Jenness and Fenstermaker’s (2013) study has also been found to be applicable to trans men and masculine identified people in women’s prisons (Girshick, 2011).

Girshick (2011) postulates that since people in women’s prisons are supposed to be “passive, emotional, weak, submissive, and dependent” (p. 191), trans masculine folx are more heavily policed since they are trying to be forced back into being complacent. This policing takes the form of staff banning the wearing of boxers and shaving their face, being intimidating to them, and even oversexualizing their interactions with women who were incarcerated (Girshick, 2011). Unlike trans women in men’s facilities though, trans men in women’s facilities did not fear sexual or physical assault from other incarcerated people, but from correctional officers. This fear was so present in the study that trans masculine folx voiced their opposition to being segregated from cis women incarcerated folx since they would be vulnerable to correctional

officers (Girshick, 2011). Overall, regardless of gender, trans folx are living out these nightmare scenarios without much attention being paid to them, and the sad reality that there are few studies concerning the experiences of trans folx in prison speaks volumes about how we view these narratives in criminology.

Community Re-entry

In the United States, recidivism¹⁶ has consistently been found to be high, as in a recent study published in 2019 which revealed that 64% of folx who served time in federal facilities were rearrested within 8 years (Clarke, 2019). In a study from 2018 from the U.S. Department of Justice that measured the recidivism rates of former incarcerated folx at the state level, it was found that 45% of approximately 413,000 people were rearrested within the same year that they were released (Clarke, 2019). While these numbers seem shocking, it is overall unsurprising considering that correctional centers do not spend significant amounts of money on what would lessen recidivism, such as appropriate mental health care or rehabilitative programs (Clarke, 2019). However, these two studies described were generalized reports that did not measure LGBTQ+ identity, but when the intersections of sexual orientation and gender modality are added, they can compound an already difficult existence that is riddled with discrimination.

In chapter 2, I covered the discrimination and erasure faced by trans communities and earlier in the law enforcement section of this chapter, I highlighted a few of the many ways that trans people face harassment for being in public spaces. After leaving incarceration, many of these same stressors still apply, and unfortunately, are now compounded since they have a criminal record. While the concept of walking the gender tightrope was described when survivors attempt to take advantage of resources after being a victim of IPV (Guadalupe-Diaz,

¹⁶ Recidivism is defined as the “arrest, reconviction or return to prison with or without a new sentence during a three-year period following the prisoner's release” (NIJ, 2020, para. 1).

2019), LGBTQ+ people on probation and parole have to face similar hurdles (Kerrison, 2018; LGBTMAP, 2020). LGBTQ+ people, and especially trans folx, are not guaranteed an affirming probation or parole officer who is culturally competent about LGBTQ+ issues. This can result in travel restrictions that prevent LGBTQ+ people from getting access to adequate medical care or for their transitions, the inability to engage with romantic partners because they are the same sex, and even a trans person expressing their own gender can be seen as a defiance of the rules of their probation or parole (Kerrison, 2018; LGBTMAP, 2020).

Further, societal sanctions after a person has served time in prison have lasting effects known as collateral consequences, which are “sanctions and disqualifications that can place an unanticipated burden on individuals trying to re-enter society and lead lives as productive citizens” (Berson, 2013, para. 1). For example, while not having equal access to employment opportunities is not an explicit part of the punishment outlined in the conviction, it is still an unintended consequence, as at least 60 percent of formerly incarcerated folx are unemployed one year after serving time, and even when finding a job, they take a 40% pay cut compared to their non-incarcerated peers (Vallas & Dietrich, 2014). Also, people who are convicted of crimes generally have a harder time changing their name, since it needs to be approved by a judge, and there is an attempt to ensure that the name change is “without [the] intent to commit fraud, and in the best interest of health and public safety” (Trans Lifeline, 2017, p. 2). However, it is vital for a trans person to have their ID aligned with their gender, as it has been found to be a source of discrimination when they do not match (Grant et al., 2011).

Additionally, in a nationally representative survey, 29% of trans folx were found to be living in poverty, compared to only 14% of the general population of the United States (NCTE, 2016). Because of this disparity, trans people, especially trans folx of color, are more likely to

need public assistance in order to survive (LGBTMAP 2020; NCTE, 2016). Unfortunately, another collateral consequence of having a felony record is that many resources, such as food stamps, are banned for life if a person has been convicted of a drug felony (Born, 2018). While studies around collateral consequences do not typically account for those with LGBTQ+ identities it is not a hard to imagine how the intersectionality of being trans and having a felony would make life significantly more difficult to navigate (Grant et al., 2011; Rainey, Imse, & Pomerantz, 2015; Singh & Durso, 2017).

Summary

In light of the various issues that trans folx face concerning discrimination in their everyday lives as well as the criminal legal system, it is important to acknowledge these difficulties and analyze the roles their identities play in these experiences. Thus, research should center their narratives, such as their unique positions as trans folx with varying intersecting identities (race, SES, etc.) and how this affects their encounters with the criminal legal system and criminal legal practitioners. It is important for this research to position the participants as the experts on their own experiences and present their narratives effectually to address the inequities that trans folx face both inside and outside the criminal legal system.

CHAPTER IV

THEORETICAL FRAMEWORK

This section explains the theoretical framework, which I will refer to as a queer praxis, which was constructed for this study to address questions concerning the lived experiences of trans folx regarding identity formation, unemployment, homelessness, their experience with criminal victimization or involvement, and most importantly, their experiences interacting with the criminal legal system. The queer praxis used in this study was built under the broad umbrella of queer criminology, which is a paradigm similar to critical criminology in that they both reject traditional ideas, politics, and attitudes concerning crime and justice (Ball, 2014).

However, unlike critical criminology, queer criminology emphasizes LGBTQ+ populations, since criminologists tend to archetype LGBTQ+ patterns of criminality and victimization (Woods, 2014). Queer criminology is a paradigm in the field of criminology that arose from the intellectual backdrop of queer theory, which “seeks to highlight and draw attention to the stigmatization, the criminalization, and in many ways the rejection of the LGBTQ population, as both victims and offenders, by academia and the criminal legal system” (Buist & Lenning, 2016, p. 1). This subversion of traditional criminology presents more deconstructive approaches that focus on the nuances of injustice and inequity, which lead to experiences with criminality, victimization, and/or discrimination, rather than solely what law was broken (Ball, 2014).

Queer criminology is fairly new. The introductory article of queer criminology is sometimes credited to Groombridge’s (1999) *Perverse Criminologies: The Closet of Doctor Lombroso*, which argued that although Lombroso’s works are often attributed with creating the positivist movement, he also mentioned that “homosexuals” were deviants and were sexual

perverts that were obviously biologically lesser than their straight counterparts; specifically that “homosexuality” was important to the criminal enterprise, as it was seen as an aspect of the criminal person (Groombridge, 1999). While Lombroso’s view are now seen as inherently problematic, early criminologists argued that sexuality was related to crime and with criminality. Groombridge’s entire point was that queer theory and criminology were not fringe ideas, but ideas embedded in the discipline that needed to be addressed. Interestingly, Groombridge’s call was not the first; another early call in the first edition of *Cultural Criminology* by Ferrell and Sanders (1995) postulated that there needed to be a subsect in cultural criminology to address the nuances of being LGBTQ+ in the criminal legal system. Further, in an article by Stephen Tomsen in 1997 entitled “Was Lombroso a Queer? Criminology, Criminal Justice, and the Heterosexual Imaginary,” criminology was criticized for utilizing “a homoerotic/homophobic male canon” (p. 34). This meant that the criminal legal system portrayed ‘homosexuals’ as deviants while simultaneously oversexualizing their behavior when they interacted with the criminal legal system (Tomsen, 1997). Tomsen (1997) suggested the lack of awareness of the homosexual/homophobic canon especially in studies from Lombroso and Sheldon that fixated so heavily on “young naked offenders” juxtaposed the criminalization of queer folx with the inherent homophobia of the researchers. Hence, there needed to be a field of study that looked at LGBTQ+ issues from a nuanced perspective that took in a more cultural approach competent in LGBTQ+ issues. Since these calls in the mid-to-late 1990s, queer criminology began to form together to have a true academic discourse on issues of LGBTQ+ people and the justice system that had been ignored for so long.

However, it was not until 2014 when the cornerstone text of the field of queer criminology was edited by Dana Peterson and Vanessa Panfil, entitled *Handbook of LGBT*

Communities, Crime, and Justice. Before this publication, there was no other anthology that organized a large amount of information about criminal justice and LGBTQ+ populations. LGBTQ+ issues before this point had largely been left to fields such as gender studies and sociology, rather than discussing the enormous impact that the justice system has on LGBTQ+ people. Within *Handbook of LGBT Communities, Crime, and Justice*, not only is criminal justice and criminology critiqued as a discipline, but the wider issues of bias crime, the LGBTQ+ offender, juvenile justice issues, global issues, and further directions are discussed in full detail. Since then, numerous books, articles, and special issues of journals have been published explicitly examining LGBTQ issues and/or using queer perspectives to critique the criminal legal system, many of which are cited in this dissertation.

The specific queer praxis for this study uses queer criminology as a guide, but also employs the ideological lenses of queer theory, intersectionality, and critical race theory. Thus, when queer theory, intersectionality, and critical race theory are combined in a single praxis, and used under the broader guide of queer criminology, this will allow for a deeper, more nuanced understanding. This understanding applies to not only the trans folx who were interviewed, but also is able to address general issues of trans discrimination in public spaces, in the criminal legal system, and how this plays a role with race, especially for Black trans folx or trans people of color in general. Hence, this section will explain each component of the queer praxis used in this study (queer theory, intersectionality, and critical race theory), and this section will finish with explaining how they are all tied together and used as the framework for this study.

Queer Theory

While a true summation of all important figures and works for queer theory would not be possible for this brief section, I will highlight selected works in order to provide important

context that will outline essential ideas in a relatively chronological order. Simone de Beauvoir's book *The Second Sex* (1949/2011) outlines how women are relegated to be "the other," dependent beings, who rely on men, who provide women's purpose and structure. The title itself is referring to these phenomena outright, purposefully showing how women are indeed "the second sex," as in secondary and second place, and women understood that they are complements to men, and not necessary (2011). de Beauvoir emphasized this point by highlighting that women were encouraged to be servicing nurturers for their families, but men were encouraged to express their individuality because women needed to be relegated for their "purpose" of being beholden to the household, and not for their dreams or aspirations (2011). This ties into queer theory, as becoming a woman is not a destination, but rather a journey shaped by societal norms that nurture women to their fates as "other," but also defines the consequences for those who break away from these standards (de Beauvoir, 2011). Applying this concept to sexuality, Alfred Kinsey's studies of sexual behavior and sexuality revealed that these concepts were on a spectrum instead of the harsh lines that people were expected to follow (Kinsey, Pomeroy, & Martin, 2003).

As a trained biologist, Kinsey argued that he wanted to show that "nearly all the so-called sexual perversions fall within the range of biological normality" (Brown & Fee, 2003, para. 4), including same-sex intimacy. Kinsey's published sexual histories of 5,000 men and 6,000 women revealed that societal norms about sex in 1950s America were a far cry from the actual, lived experiences of the sexually active adults whom he interviewed (Brown & Fee, 2003; Kinsey, Pomeroy, & Martin, 2003). For instance, in *Sexual Behavior of the Human Male*, Kinsey (1948/2003) found that 1/3 of his around 5,000 male participants at some point had sexual encounters with other men, despite the fact that not all of these men identified as gay or bisexual.

This resulted in Kinsey developing the “Kinsey Scale” (or the Homosexual-Heterosexual Rating scale) to determine a person’s sexual behavior or attraction, regardless of personal or societal labels (Galupo, Mitchell, Gryniewicz, & Davis, 2014). Hence, similar to de Beauvoir’s (2011) work, which argued gender is what we become and not what we are, Kinsey (2003) showed that sexual attraction and behavior is not as finite and rigid as the labels we give them.

This understanding of behaviors and experiences outside heteronormativity¹⁷ was expanded on by the work of West & Zimmerman (1987), Michel Foucault (1990), and Judith Butler (2002). Specifically, while West & Zimmerman (1987) and Butler (2002) addressed how gender identities are both constructed and performed, Foucault (1990) explored how power and authority relate to non-normative desires or expressions. West & Zimmerman (1987) described gender performance as an active verb rather than a passive action, stating that, “doing gender merely involves making use of discrete, well-defined bundles of behavior that can simply be plugged into interactional situations to produce recognizable enactments of masculinity and femininity” (p. 135). These acceptable actions of masculinity and femininity through action, clothing, language, etc., are not only modeled for folx through popular culture, but also through active policing by friends, family members, or even strangers (West & Zimmerman, 1987). For instance, consuming media, which positively portray married women as homemakers, and demonizes women who are childless, sends a clear message to young people about the limitations of a certain gender. However, while these depictions can be willfully ignored, they can also be reinforced by trusted family or friends who discourage girls from the pursuit of a college degree in favor of someone settling down and having a family. This tactic is meant to

¹⁷ Heteronormativity describes the preference of heterosexuality in society, which then forces anything outside of heterosexuality to be marginal by exclusion, which in turn justifies homophobia (Warner, 1991).

ease someone into traditional femininity, which is more comfortable for a society that is more attuned to heteronormativity instead of non-conformity (West & Zimmerman, 1987).

Both Butler (2002) and Foucault (1990) address how gender identities and sexuality have been formed from an institutional understanding, using “acceptable” forms of expression to govern how people can express themselves. For instance, Butler (2002) labeled binary genders (woman/man) as “intelligible genders, which in some sense institute and maintain relations of coherence and continuity among sex, gender, sexual practice, and desire” (p. 17). Thus, those who express themselves in expected and socially recognized ways are understandable to the gender public, and serve to continue to reinforce established norms. But, for those who fall outside the gender binary, by either failing to align themselves with acceptable forms of masculinity or femininity or reject it all together, they are “called in to question by the cultural emergence of those incoherent or discontinuous” (Butler, 2002, p. 17). This labeling is effective, as calling someone incoherent or discontinuous allows the intended subject to be intentionally excluded from the “order” established by societal norms. This not only serves to ensure that people “do gender” properly as in to not attract unwanted attention, but also creates mechanisms of marginalization that ensure to push out those who do not fall in line. Yet, as Butler (2002) and de Beauvoir (2011) point out, these conceptions of gender would not exist without institutional interest in the creation and maintaining of gender stereotypes.

This concept also pertains to sexuality and sex in general as pointed out by Foucault (1990), who argued that non-normative sex practices would not be labeled this way without disapproval from power structures. Foucault (1990) called this phenomenon “the repressive hypothesis,” where institutions would use legal definitions of supposedly abnormal sexual acts in order to institute punishment for engaging in “illicit acts” (p. 37). These illicit acts of course

include “homosexuality,” as well as some of the following: “infidelity, adultery, spiritual or carnal incest, and bestiality” (Foucault, 1990, p. 38). While Foucault (1990) was explicitly discussing so-called “western cultures,” especially during the Victorian era, practices of institutions using their power to control sexual activity outside of the “acceptable range” has still occurred in the modern era. For instance, until the Supreme Court ruled on *Lawrence v. Texas* (2003) in the United States, two consenting adults could be charged with sodomy or “homosexual acts,” even if they were in the privacy of their own home (Kennedy & SCOTUS, 2002).

While queer theory revolves around the queerness of LGBTQ+ folx and how this shapes their experience in the world around them, especially in terms of perception, the acknowledgement of how multiple identities create a unique experience is needed to enhance understanding. This can be easily done with the concept of intersectionality, as layering this with queer theory allows for varying experiences within a group to be highlighted.

Intersectionality

Intersectionality was first conceptualized by Black feminist and lawyer Kimberlé Crenshaw (1989), and describes the nuanced differences not only between groups of people, but also among groups of people divided by their gender, race, socio-economic status, etc. Crenshaw (1989) calls out more privileged folx for not recognizing that some people are “multiple-burdened” (holding more than one marginalized identity. This ignorance is a form of direct erasure and is oppressive in itself. Specifically, Crenshaw (1989) used intersectionality to illuminate the differences in experiences between Black and white women in the context of the feminist movement, which assumes that gender is enough of a characteristic to unite all women (Potter, 2015). Her most straightforward finding, however, concerned the fact that while women

faced sexism and Black people face racism, being a Black woman in particular placed these women at specific intersections that included racism *and* sexism, which left them vulnerable to discrimination from both racist and sexist angles that overlapped and intertwined (Crenshaw, 1989). This is especially important since, as Potter (2015) notes, feminist groups with predominately white leadership leads to “colorblind feminism,” where experiences of women of color are placed secondary to the leadership’s experiences as women. Further, in contexts of studying LGBTQ+ issues, choosing to be colorblind or blind to other intersecting identities in a group, such as fixating on sexual orientation or gender without taking race into account, will not give the full picture of the person’s lived experience or difficulties they face.

Further, intersectional frameworks combine a multi-layered analysis of identities and how they are socially constructed, as well as how they are related to power (Burgess-Proctor, 2006). Specifically, in terms of how this relates to the criminal legal system, Way (2004) presented historical institutionalism as a way to analyze these various layers of intersecting identities and how they make implications in the criminal legal system and those who fall within these identities of class, race, and sex. Way (2004) justifies the use of institutional analysis to reveal hidden patterns previously undetected with only using one type of analysis (solely examining race, class, or sex). Additionally, Daly and Tonry (1997) pointed out that only conceptualizing the inequity in the system concerning gender and race without analyzing them side by side loses the interactions and nuance of individual identities. Instead, they presented a deeper analysis that is reflected in this study, that of three modes which included, racist/sexist, white/male, and racialized/gendered as a way to alternatively see the criminal legal system as working in both racialized and gendered ways (Daly & Tonry, 1997). Essentially, rather than thinking about the criminal legal system solely working in either sexist or racist terms, it instead

runs both parallel to utilize these systems as tools of oppression that would further be exacerbated if an individual belonged to both minority groups, i.e. Black women (Daly & Turny, 1997). In the case of the present study, gender modality would be a further intersection that would need to be understood as a system of cisgenderism/heterosexism.

Moreover, identifying intersections and acknowledging them as a layered issue instead of a singular one is important when applying queer studies to the Black experience. As this can be a wholly different cultural understanding, as explained by E. Patrick Johnson (2001) in his use of the word “quare” rather than queer. In his own analysis of queer studies as a Black gay man, Johnson (2001) notes that while he identified with the word “queer,” he searched for a name that would more align with his identity. Thus, he uses the word “quare,”¹⁸ a word his grandmother uses to describe something a “little off-kilter” (Johnson, 2001, p. 3), to describe the study of LGBTQ+ people of color and their unique experiences. Further, Johnson (2001) stated that, “because much of queer theory critically interrogates notions of selfhood, agency, and experience, it is often unable to accommodate the issues faced by gays and lesbians of color who come from ‘raced’ communities” (p. 3). In this way, quare runs parallel to queer, but the unique differences in race, culture, and experience call for the acknowledgment of the differences, just as intersectionality seeks to do.

So, when applying intersectionality to studying the criminal legal system, the intent is to actively recognize that any identities of race, socio-economic status, gender, gender modality, sexual orientation, gender expression, citizenship status, etc., that a person may hold affects their experience. Additionally, it is important to value an individual’s belief in their significance of their identities and lived experiences as they “should be considered for criminological research”

¹⁸ Note: Quare explicitly refers to how Johnson’s grandmother pronounced the word “queer.”

(Potter, 2015, p. 11). This is important because the perception an individual may hold because of their identities are just as valid as an officer outright using homophobic or transphobic language. Hence, LGBTQ+ people of differing identities may have vastly altered experiences of the criminal legal system, so keeping these intersecting identities in mind serves to inform the queer praxis of this study in not streamlining individual narratives to one collective experience.

Critical Race Theory

Intersectionality is essential to understand how many identities can inform a person's experience—especially in terms of race—as historically and contextually there is a relationship between race and power in the United States. Critical race theory describes the relationship between race, racism, and power, while adding analysis of how societies and institutions weaponize racist ideology to ensure that current racial hierarchies remain in place (Delgado & Stefanic, 2000). As outlined by Delgado & Stefanic (2000), there are three main themes of critical race theory: colorblindness (fighting for equality without acknowledging the intersection of race), material determinism (racism works in the favor of white supremacy financially and psychologically), and social construction (races are socially constructed to ensure division).

All three of these main dimensions are applicable in this queer praxis, especially in context of Black and Brown trans lives. For instance, Black trans women have been found to face higher rates of discrimination, assault, and police violence (Amnesty International, 2006; Grant et al., 2011; NCTE, 2016). Black trans women represent a threat as they are indeed Black AND transgender AND women, three identities that threaten heteronormative ideologies about who “deserves” to occupy public space (Ritchie, 2017). Hence, by using critical race theory in conjunction with queer criminology, queer theory, and intersectionality, it provides the context that violence faced by Black trans women by all parts of the criminal legal system is by design

from a system that views their existence as inherently criminal and a threat to the public (NCTE, 2016; Ritchie, 2017).

The acknowledgement of race as an important dimension, especially in the United States, is essential to accurately discuss Black and Brown trans lives and the criminal legal system. Historically, the criminal legal system in the United States was founded with colonial, homophobic, transphobic, and racist ideologies, and has repeatedly used these powers as mechanisms to further marginalize minority populations (Mogul, Ritchie, & Whitlock, 2011). It is not an accident that Indigenous trans women are the most likely to report police violence against them, followed by Black trans women and other women of color (NCTE, 2016). Their gender modality and race compound into a phenomenon known in critical race theory as structural determinism, which describes that these institutions are not broken, but are intentional (Delgado & Stefanic, 2000). Basically, institutional racism, transphobia, and homophobia are not accidents or the results of individual bad actors, but rather the system is working to complete its objective of social control, exclusion, and punishment (e.g., Black, Brown, and other people of color) (Delgado & Stefanic, 2000).

Utilizing the ideas of structural determinism and social construction pertaining to Black and Brown trans lives serves to provide greater context for the institutional issues embedded in the criminal legal system. Nationally representative studies of trans issues that repeatedly show higher rates of violence towards Black and Brown folx from the criminal legal system (Grant et al., 2011; NCAVP, 2014; NCTE, 2016) are not accidental. They are instead the results of institutional condoning of a legal system that allows prejudice to flourish, masking it as protecting and serving (Delgado & Stefanic, 2000).

This Queer Praxis

Collectively, the queer praxis used in this study combines queer criminology, queer theory, intersectionality, and critical race theory. This informed me of who to study, as well as designed the multi-faceted nature of this study. The conception of the queer praxis that I utilized under the umbrella of queer criminology is fundamental since a competing paradigm does not exist in mainstream criminology. Also, understanding that trans folx's experiences with the criminal legal system are not just singular is essential. Trans folx deal with issues centering on their perceived otherness, their existence that challenges cisgenderism and heteronormativity, and their intersecting identities, especially if they are not white. Hence, the queer praxis that I have employed by using all of these lenses is meant to provide necessary context for a broader analysis of queerness, trans identity, intersectionality, and institutional power, as well as informing my methodology.

CHAPTER V

METHODS, SETTING, AND SAMPLE

I am a gay, cisgender Latinx woman with a strong passion for aiding in movements of social justice to address societal inequity. As an educated professional, I came to my doctorate program at Old Dominion University seeking to address LGBTQ+ issues, and one of my first courses, *Queer Communities, Crime, and Victimization*, opened my eyes. For instance, I had no idea that trans people are murdered at such a high rate in the United States. When writing a paper concerning how trans women are profiled by the police (walking while trans), I realized that, paradoxically, the academic field of criminology had relatively little to contribute to issues surrounding trans people and the criminal legal system. There was a whole world of people who had decades of accounts of their mistreatment with the criminal legal system because of their gender modality, but they were not validated because they lacked institutional legitimacy. Further, since I desire to make this work as clear as possible for anyone who wishes to read this document, I wrote this purposefully in a way that appropriately reflects my voice, which is a mix of an academic voice and a colloquial one. These issues are important to more than just academics, and in order to engage more folx, the necessary next steps need to prioritize accessibility since systemic change will take all of us. This stance in presenting a more authentic version of my voice in my academic work is also in line with positioning myself as a public intellectual where I bridge academic knowledge of my discipline, current politics, and historical context in order to engage with communities both inside and outside of the academy (Parker, 2001; Seidman, 1995). Also, when placing my own queer face as a representative to these issues that center queer lives, as Wallace (2002) states, I am engaging in a “process of reexamination

[that] can lead to the deconstruction of the larger cultural norms that comprise dominant ideologies” (p. 65).

My encounter with Daisy was the first of many throughout this process. I have stopped asking why the discrimination and violence against trans people happens, but have instead replaced that sentiment with, “What can I do?” I realized then that my resources and agency are valuable for daily tasks that can be obstacles for trans clients, so as a board member of TAPVA, I stepped up. I started taking clients to doctor appointments, talking to them on the phone, coordinating with the board of directors for outreach plans, and using my institutional legitimacy to step in, when needed. While frustration and curiosity led me to this path, it was the willing and open arms of the members of TAPVA who let me in and allowed me to see the realities of the trans experience. My on-the-ground work and advocacy has also shown the community that I am not a “hit-and-run” scholar, meaning that I am not just here for the prestige of possible publications. I’m here to make a difference. Hence, my overall motivation for this research is to broadcast the experiences of trans folx with the criminal legal system and reveal opinions from a population that society has willfully ignored. To accomplish this goal, this study is driven by the following research questions: What are trans people experiencing in their daily lives? What are the experiences of a diverse group of trans people with the criminal legal system? To explore these questions, I conducted in-depth, semi-structured interviews with 44 trans people, using an instrument designed specifically for this study, guided by queer praxis and ethics.

Designing a Study with Community Input

Formally, I was trained at the Master’s level in a mainstream program that did not allow other possibilities for data analysis outside of statistics. While these are respected parts of our discipline, it was not until my first interview that I finally realized qualitative data, such as

narratives, is the kind of data I was meant to collect. However, this path was paved by first cultivating community ties as well as reading trans-focused literature. In the book *Normal Life* by Dean Spade (2015), he actively critiqued how once-grassroots nonprofits have been institutionalized and professionalized. As Spade (2015) discussed modern LGBTQ+ and other civil rights organizations, he described how “an explosion of nonprofits have changed movement work and expectations to look more like a career track for people with graduate degrees” (p. 30). This really affected me, as I realized that without grounding myself in the community, I would be another privileged person with a graduate degree entering a space that was not mine, demanding respect and time. Even with good intentions, it would still be highly colonial to assume a marginalized community would trust that I was more of an expert than they were concerning their own experiences and lives.

Upon reflection of my methods concerning how I have conducted this study, I have framed it as a queer praxis, utilizing queer criminology, queer theory, intersectionality, and critical race theory (as outlined in chapter 4). This is a break from traditional methods, as I chose to be informed by the community that I was studying rather than come into this research with a strict set of rules that were dictated by my academic training. Everything I have done I see as logical. I read books about trans folx and historical accounts, and then I reached out to trans people in prison to see what their reality was. From there, I realized I did not know what issues plagued the trans community outside of prison, so I went and found a group in Hampton Roads (TAPVA). I began volunteering as a form of basic reciprocity, but then realized that I could give so much more. Then, since I am not trans myself, I asked for help when formulating the questions and recruiting participants, which I thought was reasonable. It was actually not until a conference in 2019 when I presented some initial data analysis that I realized I was truly

engaging in a queer praxis. By setting aside my standing as a highly educated person and just getting to know local trans folx, I learned so much more about the community I was studying and cared about.

When I first began to formulate the questions for my interview guide, I reviewed the questionnaire from the 2015 U.S. Transgender Survey completed by the NCTE with a sizeable sample of almost 28,000 trans-identified respondents (2016). I also consulted existing instruments for use with crime-involved queer populations (such as that used in Panfil, 2017). I then sought the help of another Ph.D. student who had conducted qualitative interviews, and once I compiled a list of questions, I talked to De Sube about my research. I told her that I wanted her help in creating my interview guide to ensure that I was asking questions in a respectful manner. I wanted to be effective and precise, but I did not want my respondents to feel like they were getting interrogated. She then provided me an edited copy, showing me where the terminology was off, how I could ask about homelessness, and how to navigate certain personal questions. Her help was invaluable, as well that of my instructor and peers during my Interviewing and Ethnography course. During this course I was able to workshop my draft guide to ensure that I would be clear and competent during my interviews. Further, it was through this class that my interview guide was shown to two trans-identified criminology scholars (who also conduct research with trans populations), who reviewed and provided feedback before I submitted the project for IRB approval.

At each step of the process for this study, I have included community members and sought out opinions and support. This method of utilizing trusted community members concerning LGBTQ+ participants, especially when there is skepticism about trusting authority figures, is not unknown in the literature. In a study about the experiences of urban LGBTQ+

youth of color, Panfil, Miller, & Greathouse (2017) partnered with community members, youth advocates, and youth-serving agencies in order to ensure that participants could trust the researchers, since the material was asking information that could be seen as difficult or sensitive.

Despite the fact that I emphasized that the community *allowed me* to conduct this research, I have still been referred to by colleagues as a subject matter expert concerning trans issues. This term has caused me to grapple with my identity and where I fit within this research. Although, technically, this is what I am working toward for my Ph.D., how can I be an expert in someone else's experiences? How can I possibly equate my research with the experience of my participants and people I know in the community? I can never and I will never attempt such a fruitless venture. I see myself as the bridge between two worlds, hoping that criminology will one day listen to the people who are the real experts, even if they do not have graduate degrees.

Sampling Procedures

During the data collection phase of my dissertation, I interviewed 44 participants, as I was working towards 50 total participants. A 50-person sample size would be consistent with other published works of qualitative interviews concerning gender and sexuality in criminology; for example, 48 in *One of the Guys* (Miller, 2001) and 53 in *The Gang's All Queer* (Panfil, 2017). While I did not reach my personal goal of 50 due to logistical barriers near the end of the data collection period, I actively attempted to maximize diversity in the sample, as there are many identities under the trans umbrella. In May of 2019, I realized that out of 18 participants (at the time), I only had four participants of color and three trans men. With 18 participants, I could have been satisfied with my sample size as a graduate student completing my dissertation, but I was uncomfortable that I did not have many trans men of color. I wanted to ensure that my sample was diverse on various dimensions. So, I contacted one of my previous participants to

help me recruit more trans men of color and asked what I could do in order to gain their trust. He introduced me to quite a few people, which included the host of a podcast that focuses on trans men of color, who subsequently posted my information on social media. I also reached out to local support groups and focused on people of color and trans men.

My final group of participants have an average age of about 35 years old,¹⁹ ranging between 19 to 65 (48% falling between ages 25-39). Fifteen (34%) are people of color and 29 (66%) are white, with 9 (20%) non-binary trans people (1 identifying as genderqueer, 2 AMAB, and 6 AFAB), 10 (23%) trans men, and 25 (57%) trans women. In terms of how this sample compares to the trans population in the United States and the state of Virginia, the Williams Institute at the University of California-Los Angeles law school did an assessment using data from the Centers for Disease Control and Prevention (CDC) (Flores, Herman, Gates, & Brown, 2016). They found an estimated 1.4 million adults (0.6%) identify as trans in the United States and in the state of Virginia there are approximately 34,000 trans folx (Flores, Herman, Gates, & Brown, 2016). This data also revealed that both in the United States population and in the population of the state of Virginia, a majority of folx fall between the ages of 25-64 (58% and 54% respectively) which is consistent with participants in this study (Flores, Herman, Gates, & Brown, 2016). Further, when considering the demographics from the NCTE's (2016) U.S. Trans survey, a majority of participants reported being white (62%), with most folx falling in the 25-64 age bracket (56%). Regarding gender, 29% were trans men, 33% were trans women, and 35% were non-binary folx. Thus, my study's sample parallels these nationally representative assessments fairly closely even with such a small group of folx.

¹⁹ For ethics approval purposes, I only interviewed participants if they were 18 years of age and older, so this study does not reflect the experience of trans teens or younger trans kids. In order to capture a spectrum of experiences across generations and other intersecting identities, I did not employ an upper limit on age.

Interviews took approximately 1-3 hours, and field notes were also recorded at events aimed to support trans people, or after interpersonal interactions with study participants during the period of data collection. Some of these field notes have turned into vignettes that have been placed into different sections of this dissertation. Further, participants were primarily recruited through the Hampton Roads community, as I have contacts through being a volunteer with a local trans-focused organization, as well as other organizations focused on LGBTQ+ people more broadly. I also received a number of interviews via snowball sampling, where study participants refer other eligible folx to the researcher. In these cases, the new participant still received their initial \$15 for the interview, while the original participant received \$10 for referring the new participant. The participants who pursued the referral option brought me anywhere between 2-5 participants each. I have also gained interviewees from posted flyers²⁰ on Facebook and the LGBT Life Center in Norfolk, as well as posting them at community events I have attended. Respondents were also provided with a list of trans-specific services in the Hampton Roads and Richmond areas so that they can be connected with services they may want or need, and were encouraged to contact me in the future if they ever need anything.

Defining the point of saturation for this study is difficult, considering that my sample is diverse in terms of race, class, age, and gender. Even among trans women, the experiences of Latinx, Black, and white trans women are radically diverse, depending on a number of intersectional factors. As defined by Morse (1995), saturation is “data adequacy and operationalized as collecting data until no new information is obtained” (p. 147). I do not think that I would have reached saturation in this study unless I interviewed many more people in every group and subgroup that I have (e.g., trans Black men, trans Black women, trans white

²⁰ See Appendix D

women, etc.). Further, the fact that a detailed demographic estimate of trans folx in Virginia does not exist impeded my ability to ensure that my sample was representative. However, the experiences of those who live in Hampton Roads, from participants who do not know each other, are similar enough to reach some semblance of saturation. Further, I find these similar narratives important, as they are reflecting a common experience of trans folx across race, economic, and other intersectional identities in the area of Hampton Roads. In this way, I am showing that the institutional structure of a certain area is having similar successes and failures amongst a diverse group of people.

Sample Limitations

The limitations of this study are both methodological and practical, which reflect the issues generally with qualitative work and the amount of work that could have been accomplished during the dissertation process. Due to practical limitations, I was unable to add certain components to the study. For example, not all trans identities are represented in my sample; I am at least missing gender fluid and two spirit folx.²¹ Due to a lack of knowledge concerning indigenous praxis, I was unable to reach out and properly advertise to groups of folx who may have offered different perspectives. Because this research does not include all trans identities, this data cannot speak for every trans experience. It should be noted that in the 2017 Accelerating Acceptance Report from GLAAD, respondents who identified as gender fluid, bigender, genderqueer, and agender represented at or below 3% (GLAAD, 2017). Further, a majority of the folx with these identities under the trans umbrella were identified as millennials, people 18-34 (GLAAD, 2017). This reveals that these identities could be missing from this study

²¹ Two-spirit is an indigenous identity which describes “people who are male, female, and sometimes intersexed individuals who combined activities of both men and women with traits unique to their status as two-spirit people. In most tribes, they were considered neither men nor women; they occupied a distinct, alternative gender status” (IHS, 2021, para. 2).

since they are more likely to be represented among millennials and the average age of this sample is 35. Due to IRB restrictions that would have precluded completing the study in an acceptable timeframe for my doctoral program, I was unable to include currently incarcerated people in this study. I believe that the addition of currently incarcerated people would have allowed for even more diverse and rich narratives in order to provide a broader perspective of trans narratives and the criminal legal system.

To summarize in terms of more traditional methodological limitations: qualitative methodology is designed to grapple with broader, more complex issues through the narratives of participants, and may not be generalizable (Queirós, Faria, & Almeida, 2017). The use of field research and observation have additional difficulties in that they are time consuming, reliant on the observer's impartiality, and challenging to collect immediately (Queirós, Faria, & Almeida, 2017)—this is especially relevant when attempting to sample among diverse, sometimes hard-to-reach populations. These aspects could also be limitations since this study had to grapple with difficult subject matter, especially concerning people who I grew to care about and issues that I consider worth advocating for.

Interview Process

I conducted semi-structured interviews after first asking a series of screening questions.²² Interviewees were reminded that they could stop the interview at any time, refuse to answer any question, and decline to be recorded (or turn the recorder off when they wished). Also, the pseudonyms were chosen by each participant, which were sometimes based on favorite actors (Nicholas Cage), musicians (Elvis), or comic book characters (Kate Kane). Each interview began with questions pertaining to each participant's childhood, education, and employment in

²² See Appendix C for interview guide

order to grasp a life history of the participant. Questions then followed about identity formation as a trans person and how they navigate daily life. The next sections of the interview discussed interactions with the criminal legal system. Participants are asked about their various experiences with police, courts, and/or corrections, and their opinions about the criminal legal system in general. The interviews end with questions about the future and the interview itself. These questions help address gaps in literature pertaining to trans people's experiences. As described above, they were crafted with the help of De Sube, an instrumental community activist, as well as three queer criminology scholars, two of whom identify as trans. This was to ensure that I (as a cisgender gay woman who is not trans) asked appropriate, thoughtful, and provoking questions that addressed my study's main goals. Participants were paid \$15 for completing the interview.

Conducting the Interviews

Initially, many of my interviews were comprised of people I knew through TAPVA and whose participation in the study relied on their personal relationship with me. For instance, my first interviewee, Karen, a 24-year-old trans woman who experienced being sex trafficked as a child, told me, "I trust you and I think you are doing good work." Later, Karen disclosed to me that if she did not know me, she would not have divulged her experiences, which were heavily traumatizing for her to recount. Ember, a 25-year-old trans woman, also shared this sentiment with her answer, "I really appreciate the work that you've done with the non-profit that we both work for. I have been really happy getting to know you better as time has gone on." These relationships were built in part with my involvement in the community, but also being open and transparent about the entire process. After consulting with De Sube concerning my interview questions and receiving IRB approval in October of 2018, I sent a proposal I had written for a scholarship that included the flyers and interview guide to the entire board of TAPVA, to be

transparent. My email detailed the study, my motivations, and end goals. Even though after the email, no one had questioned me about my study, I felt it was important to be as open as possible to ensure my lasting relationship with the group.

When I started to connect with people I did not know before the interview, I took a relaxed approach with the goal of helping them be comfortable with my presence and the invasive questions that I would ask. I engaged in small talk, laughing about something silly to ease two strangers into discussing serious issues. While at first, these instances can be awkward—though not always, as I have interviewed some big personalities—I figured out that when I could make them laugh, I had achieved a level of comfortability that would make the interview easier. However, this was not a catch-all, as with Jack, a 23-year-old non-binary person, did not laugh at any of my jokes or even smile. They would just maintain eye contact and nod, indicating for me to move on, continuing to give me one-word answers that did not allow for deeper discussion. I realized that Jack was not relating to me and we had not achieved any comfortability. However, Jack studies a specific medical issue that is controversial in the medical community. So, when they made a comment about this, I indicated that I had survived a similar medical condition in order to make a connection between the two of us. After disclosing my experiences with the illness, Jack immediately filled me in on the issues they researched. Although spending a chunk of time on Jack's research was not going to draw out their narrative of their experience, I felt it was important to show them that I was indeed interested in what they had to say. After this conversation, I managed to tie it back into the interview, and Jack's answers allowed for better, open discussions. While this is one example of helping a respondent become more comfortable with me, I feel like this basic reciprocity is important to qualitative

research. I am asking these respondents about some of the darkest parts of their lives; the least I can do is share relevant information about myself, when appropriate.

Additionally, concerning reciprocity, if during an interview, traumatic events were disclosed, or the interviewee seemed visibly distressed, I would not just leave them once the interview was over. During the interview, I made it a point to repeatedly check on the interviewee and remind them we can stop at any time to ensure they know the power is in their hands. If the interviewee was alone, I would make attempts to stay with them in order to help them transition from the intensity of the interview back to their typical day. For instance, one of my interviewees showed me her new video game when we were finished, so I stayed to talk to her until her roommate came back. Or, if my interview was in public, I would offer to take them out to eat if there were places nearby. Most times, I was also hungry, but I always would make the offer if the person was alone. Additionally, some of my participants needed a ride to where they had to be next and I would offer to take them. Most times, I did if the interviewee was comfortable. While interviewees would thank me for listening to their story, through my actions and my words, I tried to express how utterly grateful I was for them sitting down with me.

Self-Care After Interviews

I knew that interviewing my participants held the risk that I might be traumatized by their stories in a phenomenon described as vicarious traumatization. According to McCann & Pearlman (1990), vicarious traumatization is when “persons who work with victims may experience profound psychological effects, effects that can be disruptive and painful for the helper and can persist for months or years after work with traumatized persons” (p. 133). Even with this knowledge about the personal effect it could have on me, I was not ready for the narratives that I heard. Karen, my first interviewee, was the victim of sex trafficking as a child

(from ages 10-13), and she was seen as a commodity for her trans identity. Her pimps would convince her to stay because this is how she could transition into a little girl, by having sex with adult men for money. After our interview, I stayed behind to help her and calm her down. At one point during the interview, she was so upset while answering my questions she lost her voice and had to use her computer to transcribe for some of the interview. In fact, some parts of the tape consist of me reading aloud my question, Karen typing her answer, and me reading her answer. On my transcript, you cannot tell this happened and I did not make a special note because I wanted to treat Karen's interview like any of my other participants. However, upon reflection, I realize that this is indeed a testament to her strength.

I stayed behind with Karen until her roommate returned and I repeatedly asked her if she was alright, but she said it felt good to talk about it with someone she trusted. She told me she believed that I was going to make a difference with my research. Somehow, I managed to get home before I broke down crying on my bed. For the next three days, I hardly ate, and could only sleep for a couple hours at a time because every time I closed my eyes, I imagined the things she disclosed to me. It broke my heart, and after being unable to sleep, I immediately called my therapist and told her that I needed to meet with her more frequently. This was a smart decision, since the next four interviews consisted some of the most horrifying accounts throughout my study. My third participant was kidnapped by police officers and sexually assaulted, my fourth participant escaped human sex trafficking, and my fifth participant was taken to jail in female clothes and placed in the men's section.

Therapy was not only an outlet for me, but also became necessary, as I was struggling to cope with the realities of those who I had interviewed, as well as those who I met through TAPVA. I knew that the society I lived in was an unfair place where marginalized people had to

fight for equity, but I had no idea the depth of what was actually happening. While in therapy, I was developing healthier coping mechanisms, but in the beginning, I was experiencing what I refer to as whiplash. Whiplash describes the feeling of being caught between two worlds (academia and the reality of trans folx), with only one world (trans folx) knowing that the other (academia) existed. This caused a lot of stress and frustration, as there was a point in time when I would have my Ph.D. class and then immediately leave to visit Daisy in the hospital a couple of miles down the road.

Oftentimes, when I should have been concentrating on coursework, I was fixated on what we (TAPVA) were going to do about clients' housing situations, which made superficial conversations about minor complaints and class time almost unbearable. On campus, I had to act as if I was not being deeply affected by my participants, and instead had to pretend it was business as usual. As previously mentioned, the participants in my study and the community activism I have engaged in has led me to change the way I look at everything, including society and myself. During this transitional phase, it was hard to relate to my peers on campus, as complaints about reading assignments were so tedious compared to real fears, I knew from trans folx who could not eat, find a job, or have a place to sleep. However, sometimes I lost my grip on my feelings and they spilled out into the classroom. During an interviewing and ethnography course, where we heavily discussed our dissertation projects, a classmate wanted to check in and asked about my project and the people I knew in the community. I burst into heavy sobs because of all the sorrow, frustration, and tension right beneath the surface.

Despite these initial struggles, I stuck with therapy and cultivated healthier coping skills that included exercise, getting a dog, and having honest conversations with people around me about being overwhelmed and what I needed for support. These coping skills allowed me to be a

better interviewer and focus my entire energy on the interviewee. I was able to successfully hide the emotions from my face during disclosures, but then work them out later in a healthy way. Having people stop an interview because I was starting to cry was sweet and kind, but I felt it was selfish since it drew attention to me as opposed to my respondent. Thus, I developed a calm, clear interviewer face, which laser focused all my attention on my participants to make the interview only about their experiences. Further, if something traumatic was disclosed, I ensured that I would pause before asking any follow-up questions, taking care to not fetishize or tokenize my participants. One of my participants, Tobias, actually thanked me for this after he told me about his horrific experience of being sex trafficked as a child. He appreciated that I did not have a large reaction besides nodding and keeping relevant information to the interview. Admittedly, it was hard to keep it together after he rolled up his sleeves to show me the permanent scars on his arms left by shackles. While sharing a pizza and a drink after the interview, he thanked me for not having a large reaction to his disclosure because he finds it offensive that others have a larger emotional attachment to what happened to him than he does. I told him the interview was about him and was not about my feelings, and who was I to fixate on *my* feelings about *his* experience.

During interviews, I actively expressed my emotions and feelings, but not in a way to position myself as the one who required care. I was there to make a safe space for my participants and to ensure they could disclose to me. Putting a marginalized community in the position to be the comforter and not the comforted is selfish and colonial because it suggests that *my* needs are greater than *theirs*. My participants taking time to check in with me after I start to have an emotional reaction to their experiences alters the purpose of the interview. While it is generous and shows the strength of my participants to set aside their own trauma to help

someone else, I realized that if I really cared about trans folx, I needed to ensure the interview, and subsequently, my research, was trans focused.

Method of Analysis

Considering the queer praxis that I utilized by going to the community first to become culturally competent and doing independent research before the start of my study, my method of analysis will more closely reflect an abductive method rather than a purely inductive method. As per Timmermans and Tavory (2012), an abduction method of analysis describes when a researcher is informed by their own thoughts and positionality, but then thoughtfully analyzes their data in an effort to strengthen their position. Further, while researchers using the abduction method will expect certain narratives to be present, the combination with surprising observations coalesces to present facts that have developed organically (Timmermans & Tavory, 2012). Thus, the academic rigor from utilizing the abduction method stems from a thoughtful epistemological focus formed from what the researcher already knows, their expected observations, and surprising data points which situates abduction as “a situational fit between observed facts and rules” (Timmermans & Tavory, 2012, p. 171).

My study design was also consistent with an abductive method. For example, interacting with trans folx before my study taught me that their gender modality was not influenced by outside forces or the result of joining a so-called fad. It is a deep, inherent sense of self that develops as the person ages, but when presentation does not match their identity, it can cause innumerable amounts of stress. Thus, knowing this beforehand, I crafted questions concerning gender modality that were meant to highlight these experiences in order to reveal this to those who are not as culturally competent with trans issues. However, while these experiences have been presented in my initial data analysis, a specific point that surprised me is that a majority of

the participants knew before the age of 10 that they were trans, they just did not have words for it. Hence, I believe using the abduction method not only helped me craft questions that were relevant, but also aided in ensuring that my interviews were respectful and anti-colonial in nature to not fetishize or tokenize my participants. Part of centering their experiences and honoring their words included transcribing the interviews verbatim, as the quotes will not be sanitized and will instead have glosses or additions for clarification. As a small note related to data presentation: I did not drastically change phrasing of participants and some participants say “a transgender” or “two transgenders,” but as cisgender people, the word “transgender” should be used as an adjective and not a noun.

My analysis focused primarily on the experiences of trans folx and the criminal legal system, but also their personal journey concerning their identity formation, how they navigate the world, opinions about the criminal legal system, as well as attempting to capture their strength. This method of analysis was completed using the data analysis program Dedoose, which allowed for the better organization of coded themes and domains that will present themselves in the data. After transcribing the interviews, I reviewed and then coded themes that emerged from the interviews. Then I took initially discovered themes and recombined through all the interviews a second time to search for more examples to reinforce my findings. This is an effective method because while my focus is on experiences with the criminal legal system, I have also obtained numerous data points about identity formation in early life and other unique experiences about trans folx. In order to outline my coding scheme, I reviewed 18 transcribed interviews for emergent themes. I then refined the subcodes as coding continued. My final coding scheme included 10 broad domains which stem from the content of the interview guide. Some of these themes were unexpected, as analytic abduction still allows relevant themes to

emerge during analyses conducted by an informed coder, similar to analytic induction. The following are the descriptors of the domains: *Identity Formation (Early Life)*, *Adaption*, *Transphobic Violence*, *Institutional Discrimination*, *Perceptions of the Criminal Legal System*, *Targeted Transphobic Violence in the Criminal Legal System*, *Lack of Criminal Legal System Cultural Competency*, *Policy Implications*, *Resiliency*, and *Just Human*. Below is my final coding scheme with further detail on codes within each domain.

- Identity Formation
 - Coming out
 - Not having words for trans identity
 - Knowing about gender modality at a young age
 - Visibility of other trans folx
 - Making community
 - Generational differences
- Adaption
 - Passing
 - Communal living
 - Learning from other trans folx
 - Self-reliance
- Transphobic Violence
 - Public response to identity
 - Violence as an expected outcome
 - Self-defense
- Institutional Discrimination
 - Medical
 - Housing
 - Employment
 - Adaptions to discrimination
- Perceptions of the Criminal Legal System.
 - Distrust of the criminal legal system
 - Secondhand trauma
 - Awareness of intersectional issues
- Targeted Transphobic Violence in the Criminal Legal System
 - Police
 - Courts
 - Corrections
- Lack of Criminal Legal Cultural Competency
 - Police

- Courts
- Corrections
- Policy Implications
 - Police
 - Courts
 - Corrections
- Resiliency
 - Losing family, friends, jobs
 - Community ties
 - Courageous endurance
 - What keeps you going?
- Just Human
 - Treat us like humans
 - What should everyone know about trans people?
 - Dreams and goals

All of the themes are rooted in my research questions of: What are trans people experiencing in their daily lives? What are the experiences of a diverse group of trans people with the criminal legal system? While most of the themes are self-explanatory, I feel that it is necessary to highlight a select number that are significant and/or need additional clarification. The most significant are *Adaption, Transphobic Violence, Perceptions of the Criminal Legal System, Targeted Transphobic Violence in the Criminal Legal System, Lack of Criminal Legal Cultural Competency, Policy Implications, and Resiliency*. These themes highlight the experiences of trans people throughout their regular lives, but also their experiences and perceptions of the criminal legal system. Specifically, domains in the interview guide pertained to experiences of daily lives, life history, and experiences with the criminal legal system which are filled with specific questions that are only applicable to certain aspects of the criminal legal system. For instance, in the law enforcement section of the interview guide, participants are asked about occasions when they were stopped by police, if they saw police in other situations (in their neighborhood, filing a report, etc.), if they called police, and if they ever had a negative interaction with the police due to their gender modality or expression.

As noted in my literature review, the criminal legal system is ill equipped to handle trans issues and often responds in a negative, damaging way even without the presence of bad actors. Hence, even when removing transphobic criminal legal practitioners, problems with cultural competency still persist because there is a lack of knowledge, training, and policy to affirm and support trans folx. The themes of *Perceptions of the Criminal Legal System*, *Targeted Transphobic Violence in the Criminal legal System*, *Lack of Criminal Legal Cultural Competency*, *Policy Implications* all highlight these issues, and the narratives presented by participants will be instrumental in discussions of policy formation and future directions for the criminal legal system. Further, the themes of *Adaption*, *Transphobic Violence*, and *Resiliency* are significant to the research questions as these themes aim to reveal the everyday experiences of trans folx. Specifically, how they have had to adapt themselves into a society that is typically ignorant of their unique needs and experiences, but these crafted skills translate well into how trans folx have learned to deal with the criminal legal system. Focusing on these experiences and understanding the sheer amount of labor trans people have to accomplish so they can navigate everyday life reveals the difficulties they face *before* even interacting with the criminal legal system.

I also want to expand on the themes *Identity Formation*, *Institutional Discrimination*, and *Just Human* since they are related to my research questions, but not as directly as the themes previously listed. Discussing the experiences of trans folx as they form their own identities is important because while policies and the criminal legal system's functionality do matter, it is also imperative that criminal legal practitioners see trans people as people first. Forming a trans identity is a distinctive experience, yet parallel to cisgender identity formation in some aspects. Showcasing these narratives from participants will hopefully bridge present gaps or hesitations

about trans folx and is as imperative as the theme of *Just Human*. When asking my participants about something they would like people to know about trans folx, a large amount of them said they wished people knew that trans folx are just human—just people with dreams and goals, who put on their clothes each day and have a cup of coffee before leaving for work. This resounding request to just be seen as human was so striking since as a cisgender person to not be seen as human is a foreign concept. Additionally, while I do mention *Institutional Discrimination* in my literature review, I feel it is still important to highlight these experiences that my participants had, even when they are not criminal legal related. Understanding the reality that many trans folx cannot just be in public creates a striking comparison between their treatment at the doctor's office, the coffee shop, or the bowling alley to their interactions with police officers, judges, and correctional staff.

CHAPTER VI

“I CAN’T DIE A WOMAN:” TRANS IDENTITY FORMATION, UNIQUE CHALLENGES,
AND COMMUNITY FORMATION

The title of this chapter is a quote from Wolf, who was describing his experience while in the hospital after an accidental drug overdose. Wolf assumed the joint he was passed was solely marijuana, but it was actually laced with a far more illicit drug, unbeknownst to him. His heart raced and he passed out, waking up at the hospital to beeping machines and medical staff frantically moving about, asking him various questions. His stress started to rise as he realized the seriousness of the situation combined with feelings of dysphoria²³ since he was unable to articulate his gender to medical staff. The crescendo of stress and the accidental overdose caused Wolf to enter into cardiac arrest while he was still conscious.

Well, the first time, they didn’t do paddles. They gave me some oxygen and they waited, like ‘cause it came back [heartbeat]. I guess they wait, ok it stopped, [pauses] and they do this wait thing. Oh ok, it came back. You know because sometimes it can, the first time it did. And I felt it [heartbeat] go, too, and it’s creepy. I did not want to close my eyes. I was fighting. I did not want to close my eyes. I felt it go for a second time and that one was different. It got black, and I dunno if I closed my eyes or it made me black out. But that is when they used the, I call them the burn plates [the defibrillator machine]. They suck. The second time was basically the pivotal moment of, you have not lived your life the way you should, and I kept hearing in my head [a voice] screaming, “I can’t die a woman. My life has been wasted. I haven’t been living my truth.”

²³ “Gender dysphoria describes a sense of unease that a person may have because of a mismatch between their biological sex and their gender identity” (NHS, 2020, para.1).

To be clear, Wolf's potential dying moments were saturated with the idea that he was not living his truth, the truth that *he is a man*. Thus, while this dissertation seeks to address the inequities and injustice faced by trans folx in the criminal legal system, it is vital to have at least a basic understanding of certain aspects of the trans experience. Further, because being trans places a person at a higher risk for violence, discrimination, and interactions with the criminal legal system because of systemic cisgenderism, engagement with their lives and narratives is crucial.

The participants of this study are the experts on the trans experience—their experiences—thus this chapter is focused on their knowledge. However, this chapter is not meant to validate or “give” legitimacy to the lives of trans folx, since this indicates their own knowledge is not enough. Thus, these narratives of the participants in this study are utilized to show that we, as criminology scholars, should unequivocally believe trans people. This chapter will engage in topics surrounding identity formation, making community, and facing challenges, in an attempt to connect with the first research question, “What are trans people experiencing in their daily lives?”

Identity Formation

Early Gender Development

During the interviews, many participants had a specific memory attached to their identity formation. This would often be prompted after I would ask, “How did you come to understand yourself as trans?” While the responses would vary from meeting other trans folx as a teen, to researching their feelings as adults, a large number of participants pointed to specific moments in their early childhood where there was a dissonance between their assigned gender and their

gender identity. For instance, Ember described an incident when she wore a floral bonnet that she won after a contest at a church picnic:

I was very, very happy with how it looked, with how I felt when I was wearing it. My family was concerned, and I didn't really understand why my father was acting aloof and frustrated, but we ended up leaving that picnic early. My mother, my father, and my sister were with me. And my sister apparently had a very good idea of why my father was frustrated and she took me aside after we got home. And in so many words, [she] said to me, "You should never have to feel ashamed of feeling proud of who you are, of feeling proud of what you enjoy." And I didn't. I still didn't really connect the dots at the time about the joy I had felt, the euphoria I had felt with that floral bonnet, Dad's frustration, and what my sister had said to me.

Ember realized that this instance with the floral bonnet held a significance to her identity formation, particularly concerning the opposite reactions of her father and sister relating to Ember violating traditional gender norms by enjoying a floral bonnet.

However, Ember is one of many of the participants who experienced this dissonance at such an early age, and even without words, was still able to understand that there was something different about them. One of the most notable (and unexpected) findings in this study was that a large portion of participants knew about their gender modality while they were minors. Thirty-four participants (77%) knew before age 18 that their gender did not match the gender they had been assigned at birth.²⁴ Other studies have argued against this, stating that trans youth are shaped by their environment rather than their individual perceptions of their own gender. In a recent study that has been highly refuted, Littman (2018) created the phrase "rapid-onset gender

²⁴ Further breakdown reveals that a majority of those participants knew at age 11 or below (n = 25; 57%).

dysphoria” from the narratives of parents of trans youth to describe gender dysphoria as a “social contagion” that spreads the “virus of being trans.” Littman’s (2018) conclusion is illogical because open access to the internet and communication with other trans people were likely the reasons why trans youth knew others like them (Craig & McNroy, 2014; Fedders, 2005), but is not the basis for their trans identity. That is, increasing visibility of trans people helped them realize they are trans and gave them language to describe their gender, it did not “make them” trans. Thus, this conclusion also ignores the increasing visibility and simultaneous acceptance of trans folx in society (Greenberg, Najle, Jackson, Bola, & Jones, 2019). Littman (2018) takes the position that young people are infecting each other with trans identity, but widely ignores a more open and accepting society, where youth today are more likely to find support networks, friend groups, and information readily available to them concerning their gender modality. Thus, Littman’s (2018) argument does not hold up when there is growing recognition for trans identity because the emphasis is placed from youth to youth only instead of acknowledging these interactions are one event in a person’s journey to self-discovery.

Nonetheless, my data supports previous findings that gender is formed at a young age, as early as 3 to 4 (Halim & Ruble, 2010), and that children are receptive to messaging about gender roles from adults, society, and their peers (Egan & Perry, 2001). Thus, the possibility for trans youth to understand the dissonance between their assigned gender and their internalized awareness of their own gender is present at a young age. Like many trans folx, Patrick was aware that his body was not aligned with his internal sense of gender as a child. Patrick said, “Yeah, I remember when I was like 9 or 10, I was praying [that] I would wake up and be different, with a male body.” Patrick knew that his body was not aligned with his gender, and was so distressed by this difference he prayed to have this resolved by having different anatomy. At an age where

most children would be praying for certain toys at Christmas or for their family's health and wellbeing, Patrick asked for a reflection in the mirror that matched how he felt.

Patrick's innate awareness concerning gender before having the accurate vocabulary was also reflected by Louise. Louise had a specific memory as a young child between 3 and 4 about being confused whether to join the boys or the girls in a gymnastics class.

Maybe I was 4. I don't know...like 3 or 4 in a tumbling class. So, all these boys and girls, [and] parents are there, but they're all standing in a huddle to the side. They have the mats laid out and you're tumbling or whatever you do. And then there's a moment we're all in a huddle standing together. And she [the teacher] said, "Okay, boys on this side of the room and girls on this side of the room." And everybody just parted like the Red Sea. And I stood there, afraid of what to do. Not really knowing what to do, because I knew [my true self]. It's amazing how much you already know about the culture and expectation. And I know they're probably expecting me to go over in this one with the boys, but I feel like I should be going over with the girls [because I knew I was a girl].

Through this memory, Louise is expressing the stress of being confused because as a toddler, she was unsure of where to go in her class. She was trapped between the expectations of her teacher and her internal sense of her own gender. Ultimately though, it was the pressure to conform to societal expectations that resulted in Louise making her way to the boys' side of the class, despite the fact that she already knew where she belonged, on the girls' side.

Distinct memories of other participants centered around specific items that they desired to use in their own individual gender expressions. During early childhood development, clothing is a way to express one's identified gender (Halim & Ruble, 2010), and is exemplified in the

narratives of Krys and Tobias. Krys had a distinct memory at 5 years old of wanting a special dress from her favorite Disney movie, *The Little Mermaid*:

I was 5 years old and I asked my mother, [and] my grandparents. I wanted the outfit that Ariel wore in “Kiss the Girl.” She had the blue dress on with the bow in her hair, and I wanted that outfit so, fucking, bad. And I just knew they, I knew somebody had made that outfit. *The Little Mermaid* had just come out around that time. Somebody had to have made that outfit in the Halloween store. I knew KB Toys must have had it. I knew it. My grandparents lied to me [saying it didn’t exist].²⁵

Although Krys’ family engaged in gatekeeping²⁶ to stop her from getting the dress, she wanted it to help her express herself. She knew that the dress was instrumental, and having the details of it still fresh after all these years revealed that she had not forgotten that denial of her gender expression.

Tobias is another participant who remembered being deprived of items that would align with his gender. Tobias described shopping with his mother at 6 years old as an emotionally charged experience since he and his mother disagreed about what he should be wearing:

I didn’t feel like there was something wrong until we go to like dressing rooms [in] department stores. She would force me to be in dresses. She would force me to, and I remember just crying. And it got to the point where I was just bawling [while] dressing. She was forcing me into dressing rooms, and I would just put all my weight [down] to sit on the floor and she would drag me in. She would put me in pink and everything. And, I

²⁵ While I could not find pictures of this dress, *The Little Mermaid* was the start of Disney’s Renaissance and rise to its relevance today (Corliss, 2014). The push to promote *The Little Mermaid* included toys, clothing items, etc., and it probably included the dress (Smith, 1989).

²⁶ To gatekeep is “the act of barring or attempting to bar certain individuals from spaces, communities, or resources” (Queerundefined, 2020).

used to get into fights all the time with my mom when I was 6 because I wanted dragon t-shirts and I wanted cargo shorts, and I wanted places to store my bullets for my gun.

That's when I knew something wasn't different or wrong or anything. It was just me.

Tobias knew that he wanted the dragon t-shirt despite his mother's disagreement, and this memory led him to express all the other things he wanted. At 6 years old, Tobias was crying, fighting to be dressed in a dragon t-shirt, describing his mother as dragging him to the dressing room to force him to wear something that made him uncomfortable. Further, while "bullets for my gun" does not explicitly tie to expressing gender with clothing (though clothing for boys and men is usually more likely to have functional pockets), it is another important aspect to Tobias in aligning with how he should express himself as a man. The connotation here being that having a gun is something that a man does, something that he should do, that he needs to do. And although having a dragon t-shirt or bullets for a gun does not make a man, at that young of an age, Tobias would have already been exposed to certain ideas of what being a man means, even if those are notions stemmed from the gender binary. He tied all these instances together by saying that imitating the Yellow Power Ranger made him feel like a man in that he wanted to be with and protect the Pink Power Ranger in a way he described as not sexually.

Tobias and Krys' stories parallel as they both demonstrate that despite any outside influence, some participants were well aware of how they felt in terms of their internal sense of gender and expression. These narratives further suggest that trans folx, without having the vocabulary as young as 3 or 4, just knew that their gender did not match the gender they had been assigned at birth. As they grow up, these small incidents and moments start to evolve, becoming bigger, undeniable parts of themselves, yearning to be recognized. The time period

before taking steps to transition²⁷ can be rife with intense moments where participants grapple with their identities because the person who others see externally does not match the person who is screaming internally. This can be distressing and cause significant stress in their everyday life while they take the journey to become themselves.

Experiences with Transitioning and Dysphoria

Before beginning this section, I again want to emphasize that this research does not represent the entirety of the trans experience, and highlighting these narratives is not meant to be sensationalizing. As previously stated, this work is meant to address the inequities of how the criminal legal system treats trans folx as well as discuss the subsequent policy implications. While targeted transphobic violence from criminal legal practitioners (which will be covered in Chapter 8) should not be tolerated, it is important to understand that most of the narratives in this study reveal that many people—practitioners included—overwhelmingly do not understand the existence of trans folx and do not know how to interact with them. Thus, opening the door to some of the most deeply personal narratives concerning identity formation serves this purpose: to reveal that being trans is not a choice. Trans people are treated poorly by the public and by social institutions because of archaic notions of binary gender and a general refusal to learn about or accept that differing gender identities and experiences exist. These are real folx faced with challenges unique to them, but complicated by the sheer ignorance of everyday people, institutional actors, and society at large.

As previously mentioned, some of the participants talked about how they had grappled with their internal sense of identity, feeling the pull between their internal identity and how they were treated based on their external appearance. For some, this dissonance did not make sense,

²⁷ Transitioning is “the process of changing the way you look and how people see and treat you so that you become the gender you feel on the inside” (Planned Parenthood, 2020, para. 2).

as they may not have had words yet for their gender, but they were aware of their gender modality. However, many described specific moments where something would click and suddenly everything would make sense. For instance, Cassandra describes the first time she saw herself in a wig in the mirror:

My world just, it shattered completely. . .I got introduced to me. I remember putting on the wig and seeing myself in there [the mirror] and seeing the first genuine smile I'd ever seen. I avoided taking pictures; I hated seeing my reflection. I have memories of trying to alter my pics because I was so freaking ugly. I couldn't stand myself. And instead, I broke into a smile, and it was the first legitimate smile I had ever seen myself give. I used to tell people I don't smile because I have a goofy smile. I smile all the time now. I still don't like my teeth. But I like who I am now. But that was my first glimpse of a scared girl first coming out of the closet to understand herself.

Just the appearance of herself in the mirror with a wig was life-altering, and aligned so many moments Cassandra had in her childhood and young adulthood: her comfort in dressing up as Elvira as a young theater kid, playing women characters in online video games, and feeling like she could not get into anything, as she put it, “traditionally masculine.”

Like Cassandra, Elvis and Aquaria started to make sense of their feelings of dissonance by exploring themselves using clothing items. However, the instances that Elvis and Aquaria described were items explicitly chosen because of their association with their gender. For instance, Elvis had a moment of epiphany when he felt more comfortable wearing a strap-on²⁸ for extended periods of time:

²⁸ “A strap-on is a two-piece sex toy that includes a dildo, which is a typically non-vibrating toy that is generally penis-shaped. The dildo is held in place by a harness, which attaches to the hips of the person wearing it” (Surnow, 2016, para 1).

I would wear the strap-on for the weekend, like, and we [my partner and I] didn't think [about it] at first. We were just like, "Oh, easy access," you know? But then later on, she [partner] was like, "You wear it because you liked it, didn't you?" And I was like, "Well, yeah, I mean I liked looking down and seeing it."

Elvis described how his comfort with wearing a strap-on dildo, outside of sexual encounters with his then partner, was one of the moments where he began reflecting on his own internal sense of gender and how he perceived himself.

Parallel to him, Aquaria noted that while in graduate school, she decided to start wearing panties, an undergarment typically worn by women:

I don't remember why, but as I entered early adulthood, when I was working on my Master's, somehow, I got ahold of a pair of panties. So, I started wearing them more, and started a cycle that would go for about 30 years, 30 plus years of wearing the lady's undergarments. And when I went on travel for business or whatever, you know, I'm in a hotel by myself. I would actually go out and buy some things, wear them by myself in the hotel room, and then throw them away before I went home.

Aquaria described that during these hotel stays, she would be heavily drinking, riddled with shame and guilt while she was coming to terms with her gender. In these moments she made it a point to be away from her job, her marriage, and her children while she was expressing how she felt internally. Cassandra, Elvis, and Aquaria had these moments of clarity while engaging with clothing items that would alter their appearance or create an experience outside of their assigned genders.

However, for other participants, these moments would come when they would actually learn about the existence of trans folx, meet trans people, or even see them in popular media. For

instance, Donatello recalled an instance in a psychology class in his senior year in high school when he filled out a worksheet during the gender and sexuality unit which outlined specific terms relevant to the LGBTQ+ community. He suddenly realized that all the discomfort he had been feeling since the age of 6 had a name, and there were others like him:

So, I knew that I was trans, like, the first time I learned about what it meant. This was in high school, [I was] filling out this worksheet was like, “Oh my god, that's me.” It was the one or two days we did [about] gender and sexuality. . . For some reason, it never hit me, the concept of trans men. But once I heard about trans men, too, I had like an existential crisis in the back of the psychology classroom.

This introduction to new information put other aspects of Donatello’s childhood in a different perspective, as this worksheet showed him that his feelings at such a young age were rooted in his acute awareness of his gender and presentation not being aligned with each other:

A lot of physical dysphoria once puberty hit, ‘cause wow. You know, you hear about, teenage girls hating their bodies, it's a thing ‘cause it's a really big change. But then, when it's like a change that, for some reason, you know logically what's going to happen, but your brain is still somehow holding onto the ‘whoa, that's still not in fact [what] happened.’ It really, really fucked me up. Then I was doing my best to pretend to be the best girl I could.

Thus, the seemingly innocuous worksheet from his psychology class was the catalyst for Donatello’s realization. Not because the worksheet itself was somehow life-altering in that sense, but for the simple reason that Donatello was introduced to this information, which helped him understand his own experiences.

Jack also had a similar situation where at the hospital, they were in a program and were first introduced to the existence of non-binary folx:

I was in a partial hospitalization program where I would go to the hospital during the day and at one point I decided to like start the program presenting as male. I started the program presenting masculine but then it turned into me just being like let's just try to be a dude. So, I was like okay let's just see if this is me and you know I didn't want to go back, I can't keep doing this this woman thing, it's not working out.

Jack expressed that once they were given the chance to be seen as more masculine, they realized that being seen as a woman was not reflective of who they really were. Ultimately, Jack discovered that they were non-binary, but when they were able to utilize this new vocabulary and act on it, they could grow into themselves. Again, this harkens back to the discussion surrounding coming out as a trans person after having the vocabulary for it and the knowledge to figure out who you are.

Visibility of Trans Folx

While Donatello and Jack were given the necessary vocabulary in educational settings, Kate Kaine, Nicholas Cage,²⁹ and Emily were actually introduced to trans folx in their everyday life. The instance of meeting another trans person for the first time can be revolutionary, as seeing someone else like them modeling day-to-day living is essential for personal growth. For Kate they described how seeing non-binary folx in real life (and in media) revealed that people could live as non-binary:

I think a lot of it was like seeing other people living their lives that way, and I can't really think of any specific people necessarily. But just in the media or randomly meeting

²⁹ From here on, Nicholas Cage will be referred to as Nicholas and Kate Kaine will be referred to as Kate in order to not distract from their narratives.

somebody who was trans out and about really kind of opened my eyes. I think our paths or our situations were very similar and [I saw] that it was an option for me. That I wouldn't have to settle and learn to love my flaws or whatever. That this was valid. It was real. It was an option. Yeah, I think it was probably like 18. Just, just seeing people really helped me.

Along a similar experience, Emily, another non-binary person, described how they knew their gender did not fit in the binary, but they did not know other people like them existed:

I think I always knew kind of, like, a little bit that I wasn't a girl, but I also knew that I wasn't a guy. And so [it] was kind of like I didn't know that identity [non-binary] existed until I met somebody who is non-binary, and then I was like, "I didn't know you could do that." (laughs)

This visibility of non-binary folx to Kate and Emily was instrumental for both of them to understand their feelings and how they can live as their authentic selves. Further, it is vital to note that while the true number of the amount of trans people in the United States is unknown, there is virtually no information or estimates on the amount of non-binary folx. The only main statistic being from the 2015 U.S. Transgender Survey which found of their almost 28,000 participants, 31% (about 8,600 individuals) identified as non-binary (NCTE, 2016). However, non-binary visibility is especially important as "visibility changes the attitudes of society and helps to destigmatize trans identities within people's minds" (Regittko, 2016, para. 3), especially when non-binary existence fundamentally challenges the gender binary. Positive media representations, role models, and LGBTQ+ mentors have consistently been found to play vital roles in LGBTQ+ lives (Bird, Kuhns, & Garofalo, 2012; Gomillion & Giuliano, 2011).

Further, on the importance of visibility, in Chapter 2, I mentioned a brief summation about Christine Jorgensen, who publicly transitioned and used her platform in the 1950s to educate and advocate for trans folx. Interestingly, Grace (age 65) recalled seeing Jorgensen when she was growing up: “I had heard in my youth about this woman called Christine Jorgensen. And I thought, ‘Wow, that could never, ever be a normal person.’ I mean, this is a model, you know, someone who’s famous. I think [she was] the tugging at my heart strings to be who I really needed to be.” Here Grace notes that she did have reservations about being a trans woman since she attributed being trans to a luxury afforded to someone like Christine Jorgensen; however, it was vital for Grace to see Christine Jorgensen live as her authentic self.

Like Grace, Vanessa and Louise explained that seeing trans people and trans narratives on television exposed them to the ideas that what they were feeling was not so strange. Vanessa talked about at the age of 9 how she was able to pinpoint her experiences after seeing trans people on TV, while Louise more explicitly was interested in the narratives about their lives in the following quote:

I remember that, you know, the language of transgender people: “We’re born this way.” And that being part of the narrative, and so, I’m seeing people who are transgender or transsexual, they’re getting sex changes, because that’s what’s happened. That was in the news. Oh, this person got a sex change. And I’m like, very, very interested.

Both Louise and Vanessa described what it was like to see the possibility of not living as their assigned gender for the rest of their life. Other participants who had similar experiences often described seeing trans people on daytime talk shows with salacious headlines like, “A man is trapped in a woman’s body,” but interestingly, they described these experiences as not scarring, but enticing. As Louise described, these TV spotlights showed her that this was in the realm of

possibility, and maybe she could also change her own body one day. This visibility of other trans folx was important, whether through a high school worksheet, meeting a trans person, or seeing them on TV. These interactions allowed participants to see outside of the gender binary, and to see other folx who had broken free from the bounds of a cis-heteronormative existence.

However, there was a marked generational difference, as seen here between Grace (65) versus Vanessa (35) and Louise (31).

Unique Challenges

Generational Differences

Since the median age of this study is 35 and the range is from 19 to 65 years old, this spectrum lends itself to revealing some of the unique aspects only attributed to those who were born at different times. For instance, while younger participants, like Vanessa, Nova, and Kate, described being able to look up information about being trans, the older participants were generally unaware of trans folx as they navigated their formative years. (The exception here being Grace, but she revealed that she thought since Christine Jorgensen was a model, that being trans was not for regular people.) Aquaria and D. both hit on these notions of secret identities, whether trans people were actively hidden or they had to hide it themselves. Both in their 60s, Aquaria noted that, “When I was growing up, you were either straight or gay,” and D. stated that her choice of a military career after growing up in the Baby Boomer generation³⁰ informed her choice to not be out. She stated, “But, growing up in the 50s, 60s, 70s, and if I came out as transgender in the military, it would have been, ‘Hey see ya,’ and right out the door. So, I always had to repress it.” V., another person in the Baby Boomer generation, also noted that her parents were quick to correct her in an instance when they saw her wearing her mother’s clothes, as she

³⁰ The birth years of the Baby Boomer generation are between 1946 and 1964 (History.com, 2019).

was placed in Boy Scouts the next week. The narratives of older participants are important to distinguish here because their experiences are just as effective in highlighting the early development of trans folx. Trans people have always existed and continue to exist, regardless of outside influences on who they should or should not be.

Another interesting generational difference from some of the younger generation was exemplified by Luna, who would be considered Generation X,³¹ the generation after Baby Boomers, but before Millennials (the majority of participants). Luna, who underwent gender confirmation surgery³² in 1992, noted that after transitioning, it was expected that individuals would just live as their binary gender to then assimilate into society and not be proud of being trans:

There were one or two who [were out about their] trans identity back then, and I realized now, you know, based on modern sensibilities actually, they were kind of feeling looked down [upon]. Like God get over [it]; just get your shit done and get on with your life. Don't make it about being trans. That's, that's really weird and freaky. And, you know, there wasn't really the acknowledgement of the spectrum. It was very binary, [so after you transition, hide it] like don't fuck it up for the rest of us.

Luna noted that these instances of gatekeeping internally were enacted through a trans support group she helped run, as well as a trans-based newsletter she edited. That is, at the time of being the editor, she subscribed to this way of thinking and actively promoted it. To be clear, what Luna is describing is an interesting phenomenon of how internalized transphobia and fear of queerness was exacted on those trans folx who were proud of their identity. “Don't fuck it up for

³¹ Members of Generation X were born between 1965 and 1980 (Dimock, 2019, para. 7).

³² Gender Confirmation Surgery (GCS): Refers to doctor-supervised surgical interventions, and is only one small part of transition (GLAAD, 2020, para. 10).

the rest of us” is such a clear distinction between who is considered an acceptable trans person (by other trans folx in these groups) and who is not. To be clear, what Luna is describing is a damaging belief that trans folx expressed to other trans people that being out and proud and open about your gender modality was seen as a negative that could “fuck it up for the rest” of trans people. This idea simply is that these trans folx see themselves as a problem who need to be fixed and then blended back into ‘normal’ society, to the point where they actively police other trans people.

Internalized transphobia describes inner feelings of guilt and shame that a trans person may struggle with due to repeated negative messaging society gives about what it means to be trans (Kaplan, 2011). These thoughts center around being ashamed about their identities and the insecurity of those who do not pass as cisgender (Kaplan, 2011). Luna’s narrative around being annoyed at the very suggestion trans folx could be proud of themselves for who they are is a perfect example of this internalized transphobia. She describes these folx as “freaky,” and was angry at them for maybe messing up opportunities for the trans community because of being too far outside the norm. These attitudes and internal policing Luna described had longstanding rippling effects on her perceptions of self. Luna herself did not publicly come out to her cisgender friends until the 2016 presidential election, when she felt visibility was necessary. However, she is still hesitant to share, as she notes that in 2018, when she started volunteering with a trans organization, she identified herself as such, but does not typically “wear it on her sleeve”:

I don't publicly identify as trans. I just I live my life. And I assume by default, that any of my friends in the LGBTQ anybody who's got exposure to trans. I just assume they know and just haven't said anything. It's because they are being polite. (laughs)

Even after the 2016 election which led to her public activism and being open in LGBTQ+ spaces, these ideologies that pervaded Luna before, combined with internalized transphobia, are still present here. Arguably, if Luna would have been born later, she may not have held to these same ideologies and thus would have been more comfortable with her own sense of gender.

The generational differences between participants are important to highlight, as these are crucial aspects to understanding how being born during separate times influences the lack of access to resources, and how (and when) folx choose to embrace their gender. While younger generations have had larger numbers of LGBTQ+ people who identified publicly than their predecessors, this is likely due to the access to information and the changing attitudes around being LGBTQ+ in the United States.

Negative Religious Experiences

While some of the challenges around identity formation have already been engaged with, one challenge that stands out on its own is how religion was used as a weapon against participants. This concentration could possibly be due to the fact that all participants were sourced from Virginia, which is part of the Bible Belt,³³ or that religion has been found to be highly associated with the belief that gender can only be associated with sex assigned at birth (Smith, 2017), or a mixture of both. Participants reported that even before coming out as trans, their family's religious dynamics affected their patterns of thinking, as well as kept them cognizant of the kind of difficulties they may face. For instance, Cat talked about how their family was controlling, blaming their toxic behaviors on fundamental Christian beliefs:

[My parents] were like, "You can't watch the Smurfs. It's witchcraft and Satanism. You can't do this; you can't do that." So, like no alternative radio station, only Christian. And

³³ The Bible Belt is an area of the U.S. where evangelical Protestantism plays an especially strong role in society and politics (Abadi & Gal, 2018, para. 5).

I said, “What about the oldies station?” They said that’s fine, [because] they were Christian. I lived in California until I was 16. And my parents were super fundamentalists, so when I was 16, they were like, “We’re afraid you’re gonna be a hippie or a lesbian. We’re moving to Georgia and that will straighten you out,” and it didn’t. Here, Cat is noting that while their parents did not explicitly mention not being trans or using they/them pronouns in their teachings, their wrongful assumption that Cat and their siblings would be hippies or lesbians in California is not far from disapproving of Cat’s trans identity. Arguably, they may have included the fear of their children being trans in their reasons to move to Georgia if it would have been in their lexicon at the time.

Louise and Djinni also heard homophobic, religious-charged messages while growing up which in turn informed them that their families would not be soft places to fall when they would come out as trans. Djinni described her Texas upbringing and the opinions she overheard and knew about LGBTQ+ folx in her community:

I grew up in the middle of nowhere, West Texas. Texas, as we know, is conservative. I grew up in a place where conservatives told other conservatives they weren't conservative enough. A lot of Southern Baptists. . . basically, everybody knew everybody. Everybody was in everybody's business, and the homosexual population didn't dare admit that they were homosexual. There were a couple of kids at the school where it's [their sexual orientation] questionable, but if you ask them, they'll say, “I'm not gay.” So, exploring my sexuality, much less my gender, was verboten.

Growing up, Djinni knew that LGBTQ+ folx did not admit that they were LGBTQ+, and there were others who may have instantly denied this upon being confronted, and all this combined with the religious context informed Djinni that she would not be able to explore her own

sexuality and gender freely. Not only that she would be unable to because of the unsavory views of the local community, but in fact, she describes this exploration as being verboten, or forbidden, a specifically chosen word to exemplify that where Djinni lived, despite any of her feelings or who she was, was just simply not allowed. Louise, similarly, just knew how her gender would be perceived by her family, as she noted, “They were Southern Baptist. I was raised Southern Baptist. I never really prescribed to it, but went along with, you know, what was happening, (laughs) what was expected of me.” This reveals that although Louise’s parents or siblings may not have explicitly said anything transphobic or discriminatory against LGBTQ+ folx, Louise picked up on what was expected, which was not aligned with who she was. These narratives of religion and identity formation concerning Cat, Djinni, and Louise reveal how exposure to negative religious views influenced how they interacted with their families and how they later viewed religion itself.

After participants came out to their families, the reactions generally caused a strain or disapproval in their relationships. Asa, Donatello, and Kate described instances where religion was the cause for the strain on their family dynamics after coming out. Asa noted how his mother’s marriage to a pastor prevented her from accepting her son: “So when it came down to it, that was almost like a really difficult thing. Like she, she couldn't be, you know, the preacher's wife with the [trans] kid.” Asa further described how despite the fact that he was raised religious, this rift between him and his mother turned him to spirituality, which he explained as, “I believe that there's something out there I just don't believe that everybody sees the same something.” Here Asa is describing how his relationship with organized religion changed fundamentally because of the poor relationship he had with his mother and stepfather rooted in their issues about his gender. Donatello and Kate described similar familiar attitudes that caused them to

have strained relationships with their families after coming out. Donatello's family were strict Catholics and withdrew their financial support for his education when he came out to them, causing him to drop out of university. Kate described their family as fundamentally religious, and the toxic dynamic drove them to move to another country with people they had met online.

Yet, the more extreme version of disapproval was family exuding some type of control, when parents took barbaric steps against their own children to "correct" the wrong of their gender. Winston grew up in a Catholic household and described how his parents forced him to sign a contract so he would not transition in exchange for their financial support. This contract was created after Winston was a legal adult and was meant to police his behaviors while he was in college:

I had to sign this thing that my parents made that was like a contract. And it was like, I couldn't play sports [for men]. They didn't want me to transition. And I had to get certain grades, or they weren't gonna help me pay for it.

But Winston, because he was a legal adult, realized he could circumvent his parents on his college campus and emailed his teachers in advance about his name and pronouns:

I made a generic email to all my professors that was like, "Hi, this is my legal name. This is my preferred name." And it had a part that said I was trans and that I would appreciate if you would respect that. Almost everyone didn't give a fuck. All the teachers called me my name. They used the right pronouns. They would just ignore the roster that said my other name.

Yet, even after deciding to pursue transition despite his parents' demands, Winston disclosed that although he was not kicked off his parents' insurance, they would not allow him to make appointments for trans-related medical care. Compared to his cisgender siblings, who were fully

insured until they aged out of being qualified for coverage, Winston had to find a job right after college that had insurance coverage so he could access medical care. Even when asked about his relationship with his family today, Winston notes that it is still strained and points to their religion as the root of their rejection:

They accept me, but we have like [the dynamic of], I don't know if they know, but since they're like Republican and Catholic, they kind of like, make it really hard to be myself because my mom doesn't want to know anything [about who I am].

Even though Winston's parents were given ample time to come to terms with their son's transition, they just could not break away from hard lines that were drawn in their church to even get to know him as a person. This can be damaging, especially to folx like Winston, who have grown up in organized religion, to see their community and families turn against them because of who they are.

In another extreme case, Zelda, a trans woman, was sent to a conversion therapy camp³⁴ when she was in high school so she would be molded into an ideal masculine child to her father. Growing up Southern Baptist, Zelda's father wanted to protect Zelda's half siblings from her by sending her away:

It was called Candy Baptist group homes. And it was one of those places where if you mess up here, you go to juvie. And if you do good here, you get to go home without any jail time. And on the down low, they apparently accepted a lot of gay children and put them in the same room with the violent [juvenile] offenders to, and I quote, "Make a man out of them."

³⁴ "Conversion therapy, sometimes referred to as 'reparative therapy,' is any of several dangerous and discredited practices aimed at changing an individual's sexual orientation or gender identity" (Trevor Project, 2020, para. 1). Also, it needs to be noted that while it is called therapy, that is a misnomer, as it not actually therapy.

Although Zelda did not explicitly mention the details of her stay at Candy Baptist, conversion therapy survivors describe common techniques at these places can include exposure to “heterosexual” pornography, interrogation, such as therapy sessions where folx find the “root causes” of their LGBTQ+ identity, exorcisms, physical assault, and electroshock therapy (Conversiontherapysurvivors.org, 2015). Zelda’s father promised her that if she went there for a year, he would pick her up and bring her home. However, after the year passed, Zelda’s father told her he wanted her to stay for another year:

A year came and my dad said he wanted me to stay. And I said no, moved in with my mom, and I lost my dad, my stepmom, two little brothers, two little sisters, my big brother, and my big sister. And I haven’t talked to them in almost a decade now.

Within 6 months of moving in with her mother and stepfather, her mother was in jail and her stepfather had lost his job due to an uncontrolled addiction to the video game World of Warcraft. Within a year of being sent to the conversion camp, at the age of 17, Zelda was couch surfing with friends just to survive.

Overall, while not all of the participants experienced issues with religious affiliations in terms of their gender identity formation, highlighting these narratives allows a glimpse into the unique intersection of gender and religion. While religion does play a much smaller role concerning discrimination in some institutions (discussed in Chapter 7), the negative power of beliefs presented poses real issues for participants and trans folx more broadly, thus, why it is highlighted here. Discussing these experiences of trans folx concerning religion is vital when belief plays such a large role in the area where these participants lived (Virginia).

Making Community

Despite the challenges faced by participants concerning identity formation, one of the most vital aspects where they found relief was making community. While it has been previously mentioned, the importance of visibility of trans folx in these participants' lives in order to understand themselves is immeasurable. Talking to other folx who share life experiences is formative for any person, but especially when you are part of a marginalized group that is historically suppressed and invisible. This took the form of in-person or online interactions, with some participants being activists in the local community, while others even lived with or helped house other trans folx.

The importance of visibility is especially underscored by Louise as she describes how online narratives and experiences answered many of her questions concerning her own gender:

I just get online and I search everything from academic research, to blogs, to Reddit, to YouTube videos. That was crazy. So, it was mostly prose stories and the YouTube videos, and finally, before I even made it through all the content I watched and read that night, I was crying. Because finally, a narrative I could put my shoes on and [it] was like that. That's me. You know?

Louise's description of seeing herself reflected online led her to further engage with other people, paralleling Sasha's experience. Sasha noted, "I never really knew if there were trans people like in this area, and finding that they were, and that there was a community for me here, gave me the strength to start talking it over with my friends and come to that realization." Both Sasha and Louise found their communities and their footing concerning their personal journeys online to find themselves in the outside world. However, other participants who actively used the internet then later were found to support other trans folx. Cassandra discussed how she utilized

online support groups pre-transition, came back to those forums later to share old pictures of herself, and assisted budding trans folx. D. stated why this reciprocity was important because “people need attention. Now in the trans community, I have to [give them attention]. I know transitioning is never easy, especially in society the way it is now. That's why ... people need to support [other trans people].”

In-person, participants found rich experiences with other trans folx in support groups who gave them the necessary vocabulary and understanding while they developed their own identities. These spaces would provide the freedom of talking openly about the unique complexities of being trans and allowing room for growth. Atlas described his awareness of the other issues developing as he came into his own manhood, as well as becoming an adult simultaneously:

So, in my Men in Transition group, once you start [participating], you focus on just your bodies, the only narrative they know. So, I want to look like what the body is supposed to be. Once you do that, you officially take all your girl problems off and leave them at the door. But before you walk through, you got to pick up all your man problems. You got to put those on your back and [then] you go to trans problems. You just change it up, new problems. And that was my realization. I said now I'm transitioning into my trans manhood. I'm becoming an adult, and now, I have to do [that] with adult responsibilities and adult accountabilities, and [realize] how every decision I make affects me and my adult understanding. And that's a big part of my transition that I was never equipped for, [laughs] I was not prepared for. Because I never realized that, like life, which has hit me like a sack of bricks, and then it hit me under the lens. And if you're going to be a man, this is whatcha gonna have to handle. Here's man problems and [you] need some man

solutions and figure it out. So, it's been a couple of different kits. The first one being the body. Once I came through the body, it was a social [thing]. It was realizing how the people are going to socialize me as much as I had to socialize myself. And now, I'm stepping into the actual becoming of adult, becoming an adult, and it's kind of fucking scary because I definitely don't have a story for that. (laughs)

Here, Atlas is revealing that not only does he utilize his support group to discuss issues concerning his gender modality, but also for how he can be a man in his daily life. American society, while being challenged, still clings to archaic views of the gender binary, and under this, Atlas understood that he was socialized in a way that was different from his gender. Thus, the trans men in his Men in Transition support group could provide that assistance with socialization, as well as with his development into an adult.

Other participants like Nicholas also found in-person support groups valuable, as these groups provided him with a needed outlet. While attending the local Pride event, Nicholas was so nervous about approaching the LGBT Life Center table, his friend took the initiative and retrieved a calendar for him that included the meeting times for one of the trans support groups. Once he gained the courage, he went to a meeting at the center: “[I] went down to the center, and a trans woman was the person who opened the door, and I collapsed on the couch and cried my eyes out.” Further, other folx like M. and Zelda noted that their own experiences with support groups gave them necessary tools in their identity formation. Zelda explicitly noted that her support group provided the necessary vocabulary she needed to understand herself:

I always thought I was just an extreme cross dresser, like I had never heard of trans, never heard of hormones, transitioning or anything like that. And so, I joined a support group for cross dressers, that is where I discovered trans was a thing. And once I started

reading about it, I was like it fits, everything clicks. If this was bingo, I would have a blackout card.

M. similarly used a trans support group after she came out later in life at the age of 37, so she needed the support to be happy and to come into her own as a trans woman. The gratitude of participants to their support groups, both on and offline, cultivated a sense of paying it forward to other trans folx who needed help.

Similar to providing reciprocity online, other participants provided direct support to trans folx in their local community, and a couple of participants disclosed that they were involved in the Trans Lifeline, a trans-run crisis lifeline for trans folx. Emily described how a large part of their everyday life centered around “interacting with [other] trans people, and like being around trans people, like it’s a big part of my life,” as it relates to their involvement with LGBTQ+ organizing. Emily worked with several organizations to provide support to trans folx in their local community that includes food, housing, and economic inequity, and they also noted the awareness of their own privilege as a component of their activism:

I’m like pretty cis and straight passing, so I kind of can get away with like normal, everyday activities with[out] being outed as queer/trans, and so I have the privilege to hide behind the way that I look in some ways.

Emily stated that because of their cis- and straight-passing privilege, they were able to gain access to resources in spaces that were necessary to their activism that may have not been open to them otherwise. What is important to note here is that although Emily is a trans person, they chose to be mindful of their perceptions in public and activist spaces in order to provide for other trans folx without that privilege.

This theme of reciprocity is continued in Elvis's narrative, as he found it important to be active in the local LGBTQ+ community, taking a job that centered around service. Through his job, Elvis was able to form additional support groups that accommodate different aspects of the trans experience such as trans masculine, trans feminine, and the full gender spectrum experience:

I have the groups I love. I started a youth group. I started a young adult group and just being able to see those groups blossom has been amazing in itself. So, I'm happy enough to do that. So, it takes up time. But when I took on this job, I knew I was taking it on to do exactly what I'm doing, which is get out the word to help. And if that takes me working 6 to 8 at night versus 6 to 8 in the morning, then so be it, I'll do it. And some weekends, it's all right. You get a little fun in. (laughs)

While this is a part of Elvis' job, he specifically chose a job to help his local trans community, even if that meant long hours, extra responsibilities, and a lack of adequate compensation. Talking about working long hours and weekends illustrates his dedication to bettering the lives of other trans folx and ensuring there are established spaces for LGBTQ+ community formation.

As mentioned before, a couple of the participants, Jack and Luna, described how they are involved in the Trans Lifeline. The Trans Lifeline, established in 2014, is a free peer hotline where trans folx can call for emotional and mental health support, as well as provide financial support (Trans Lifeline, 2020). This organization is for and by trans folx, and Jack and Luna both found their involvement essential to providing support for other trans folx in need. Luna specifically stated why she thought her service with the Trans Lifeline was valuable:

I have decided to, at least for the purposes of [volunteering] to not hide my identity. I volunteer with the Trans Lifeline. This is what I can do to help the world be a better place in the Trump era, and people really need that.

Here, Luna also reveals her own awareness that her activism was especially important, given the political climate in the aftermath of the 2016 presidential election. Likewise, Jack stated how proud they were that the Trans Lifeline existed: “The fact that I work on the hotline because I just love to talk about how awesome it is that we have a hotline for transgender people.” Interestingly, however, in everyday conversation, Jack would choose to refrain from noting that everyone who worked on the lifeline was trans, in an attempt to give the person they were talking to a litmus test about how they viewed trans folx:

If someone does not really respond well, or they try to give me some kind of like, justification for some bigotry. . . I get a really casual justification for why somebody doesn't like the LGBT community all the time. So that kind of like [establishes] a little bit of a warning that it [the conversation] should proceed with caution.

Thus, while it was important to Jack to talk about their involvement with Trans Lifeline, they also protected it at the same time, for their personal wellbeing, but by extension, those involved and needing these services. This instinct to protect themselves and trans folx from potential threats comes up repeatedly and will be elaborated on in Chapter 7, especially in terms of adaption to discrimination and responses to their gender.

Summary

The purpose of this chapter was to provide a glimpse into the experiences of trans folx and their identity formation, along with the accompanying challenges, in order to establish a working understanding of trans identities. While these narratives are a small sample of trans folx,

it is vital to tell their stories in their words to humanize their lives. Oftentimes, trans folx face suppression in historical accounts, erasure in media, and spend years without meeting someone like them. They are more than the trauma they experience and the discrimination they endure. Their stories are unique and need to be recognized by institutional practitioners in the criminal legal system, employers, housing, etc., as their identities will clash with the cisnormative hegemony that is inundated in these systems.

CHAPTER VII

“OUR IDENTITIES ARE CRIMINALIZED”: TRANSPHOBIA, INSTITUTIONAL
DISCRIMINATION, AND NOTABLE ADAPTIONS

“Our identities are criminalized” comes from Sasha, who is specifically referring to the fact that trans people’s interactions with the criminal legal system are more “dangerous for us for so many reasons.” Sasha describes one of these reasons as “a criminal justice system that is designed to protect the interests of a white supremacist capitalist class and seeks to punish people, who deviate from those norms.” Part of this criminalization that Sasha is referring to plays out in the everyday discrimination that trans folx have to face, which is centered on their gender in particular. For instance, Joanie engaged in survival sex work in order to raise money for a headstone for her murdered sister and the phrase, “hustlin for her headstone” stuck with me long after the interview’s conclusion. Joanie, a Black trans woman, had been incarcerated when her sister, Sweetie, another Black trans woman, was brutally murdered by men who were harassing her. Joanie watched the news while serving her sentence and did not realize she watched the coverage of her own sister’s death until her family called. After leaving prison, Joanie already had issues securing housing and employment as a Black trans woman with a felony on her record. However, when she realized that her sister was missing a headstone, Joanie decided to use the money she made hustlin’³⁵ to purchase Sweetie one. Joanie described that her mother had barely any money to bury Sweetie and the lack of life insurance left Joanie and her mother scraping money together.

Unfortunately, Joanie’s case is not out of the ordinary, as many trans folx have to turn to sex work as a form of survival, with trans women involved in sex work at 10 times the rate of

³⁵ Hustlin’ is what Joanie and other participants colloquially referred to sex work as.

cisgender women (Grant et al., 2011). Especially when trans women are women of color, like Joanie, their gender and race place them at higher risk of interacting with the criminal legal system. For instance, in the National Transgender Discrimination Survey by the NCTE, 1 in 6 trans folx have been found to experience incarceration, and trans women were incarcerated at a higher rate of 1 in 5 (Grant et al., 2011). Further issues, especially concerning intersecting identities, can increase the likelihood, since Black trans women make up 47% of the folx who had experienced incarceration (Grant et al., 2011). However, it needs to be noted that their journey to engagement with the underground economy, and in turn, the criminal legal system, is paved with transphobic violence and institutional discrimination. Further analysis from the same study of trans folx who engaged in sex work revealed that these folx experienced substantial issues related to their employment, housing, and obtaining medical care. Out of a sample of over 6,400 trans people, it was found that 69% had been denied a promotion or fired due to their gender modality, 48% had experienced homelessness during their lifetime, and 48% reported being harassed by their doctors, while 29% were denied medical services (Fitzgerald, Patterson, Hickey, Biko, & Tobin, 2015).

However, to restate the statistics from Chapter 2, trans folx do not need to be involved in sex work or underground economies to face institutional discrimination. Trans folx consistently report being fired, not hired, or denied a promotion because of their gender modality (47%), have a total household income of less than \$10,000 (four times less than the general population), and 33% of trans folx have been harassed by their doctors during appointments (Fitzgerald, Patterson, Hickey, Biko, & Tobin, 2015; Grant et al., 2011). Clearly, regardless of participation in sex work or not, trans folx consistently face discrimination that centers around their gender modality. The experiences of participants in this study concerning institutional discrimination

often set the tone for how participants perceived and interacted with the criminal legal system (see Chapter 9).

The often-transphobic experiences faced by participants from their bosses, landlords, and doctors are first modeled most often by friends, family, and the public. Transphobic violence, similar to what Sweetie faced, does not occur in a vacuum, as many trans folx use their experience with public violence to form their expectations of institutions. These discussions are important because although these experiences do not involve criminal legal practitioners, there needs to be an understanding that discrimination occurs across many institutions. These experiences from participants often feed into their perceptions of legitimacy and concerns about the criminal legal system. Thus, this chapter will begin with addressing the transphobic violence faced by participants in public and private settings, segue to institutional discrimination, and then adaptations utilized by participants to navigate violence and discrimination.

Transphobia

When Sweetie was gunned down, she had not done anything to provoke her attackers; she just had the audacity to exist. She had not been involved in a violent altercation, and it was even reported that she was walking away from the murderers who were harassing her.³⁶ While the rampant harassment faced by trans folx is not typically followed by their murder, it cannot be ignored that murder rates of trans folx are on the rise in the United States (albeit with the caveat that the FBI has only been tracking gender hate-based violence since 2014) (HRC, 2020). During the year 2020, 44 trans folx, which include binary and non-binary trans folx, were murdered across the United States in incidents that have the attribute of hate-based violence. As of March 2021, 12 trans folx have already been murdered, which places this year on track for having an

³⁶ There is no reference here to protect Joanie's identity.

even higher rate of violence than 2020 (HRC, 2021). Participants experienced transphobic violence in a myriad of ways from their families and the public, which influenced how they chose to move throughout their lives.

Violence Expected

Participants expressed the expectation of violence in two main ways, through their own personal fear and the fear that had cultivated from hearing the experiences of other trans folx. This expectation of violence is important to understand, as it contextualizes the adaptations and self-defense strategies that trans folx utilize. It is also alarming, but important to understand that trans folx face social penalties in order to exist in public spaces. Participants disclosed that they felt they had to keep in mind that the perceptions of other people can put them in potential danger. These careful calculations are unfortunately necessary, considering what participants faced.

Personal.

From the participants' perspective, there is a real tangible fear of being outed³⁷ in public spaces as trans because of the potential "consequences" of being outside heteronormative boundaries. Nicholas expressed this tangible fear when he described his hesitancy of using restrooms in public:

There are a lot of unknowns. As far as there's been so much assault going on. I am not a trans woman, but they have it a lot, a lot harder. But having been abused for the majority of my life, I am afraid that I'm going to be so anxious in that bathroom. (voice breaking) I don't know, [there are] so many unknowns.

³⁷ Outed: To out someone is to disclose a person's LGBTQ+ identity without their permission (Friedrichs, 2017).

Here, Nicholas is emphasizing that he has to weigh the choice of which restroom to use in order to mitigate any potential violence that may occur. While his previous victimization adds a complex layer to this, Nicholas describes the potential for harassment and violence as the unknown factors. These are the long-lasting effects of a country that actively passes anti-transgender bills and used false, predatory rhetoric about trans folx to garner support. While these laws were only unilaterally passed in one state (North Carolina, HB2), support for these bills is widespread; thus, who is influenced by this rhetoric is relatively unknown. As a result, trans folx, including Nicholas, have to move throughout space, particularly bathrooms, as if there is a real, present danger.

Nicholas further described how he and another trans man made the choice to use the women's restrooms because they felt safer:

It was only a couple months [ago]. Trans guys have this thing where they can wear the unbuttoned shirt with a white shirt underneath and it blends so it hides the curves better. We were both wearing that. You know, in the camo cargo shorts, you know, the random guy outfit...we actually, we [lied] to her [and said we were women]. [Woman had accused them of being in the wrong restroom.] And to this day, I wish I had the guts to correct her, you know, or just like [say], "Oh, gosh, I'm so sorry," and walk out.

So, although Nicholas and his friend had been passing as men, they still chose to go to the women's restroom, even after they were read as men by a woman in the restroom. This strategy where trans folx choose to enter the women's restroom to avoid potential of violence in the men's bathroom—but then are harassed and threatened by cisgender women—has been documented in prior scholarship as well (Bender-Baird, 2016). While Nicholas discusses how he regrets not correcting the woman, he made the deliberate choice to lie about his gender just for

the comfort of using the restroom. Nicholas here is navigating the possibility of being misgendered and accused of “improperly inhabiting a space” (Walker, Sexton, Valcore, Sumner, & Wodda, 2018, p. 222), in this case, the bathroom. Further, this experience is affirmed by auto-ethnographic work by trans scholars in the field of criminology and criminal justice, where one reported apprehension about using public restrooms due to multiple incidents that happened on the campus he worked on and another would even use the restrooms at home to avoid any confrontations (Walker, Valcore, Evans, & Stephens, 2021).

This sentiment of internally completing a risk assessment before entering a bathroom was echoed by Tobias when he described his own choice to use a women’s restroom, even at a Pride-related event, where unfortunately, he was hassled by another person:

I was out, not at Pride...it was the block party and I wasn't comfortable yet using male bathrooms. Not in a big crowd, not like that. But the person I was with, you know. I went into the female bathroom and they [person] was there, male to female. And they kept saying, “Perv, you’re in the wrong bathroom, you’re in the wrong bathroom,” and it made me feel so—I’m not comfortable with the male bathroom yet.

Similar to Nicholas, Tobias, despite presenting as a man and being perceived as a man, made the choice to use the women’s restroom because of the fear of what he perceived could happen.

Tobias later described how he chose to use the men’s restroom at a musical in a theater, but he carefully monitored his own behavior to ensure that he could blend in with the other men there:

I went into the bathroom and there were all urinals. I remember just having a panic attack and I looked up and I saw the stalls. And I said, “Cool, cool, cool.” And so, when there's a urinal open, a guy in line motions and I [thought], ‘Is this even right? What am I

doing?’ But then [the bathroom stall] opened up and of course me, in that mental cage, I was like, “I’m just taking a shit, bro.” I announced that. Guys don’t announce that. But in my fear, I didn’t wanna be called out. But now, I’m doing more to draw attention to myself, you know what I mean? I used the stall. And I was so worried about feet placement and how I walked out, but then the other part of me was [like], I could have done that better. What am I doing? What am I doing? So, I wanna get to a transition where mentally, that doesn’t happen anymore. It’s just a decision I make, but have my decision be 100% masculine [going to the men’s restroom] all the time instead of going, “Oh I went to the female’s bathroom,” because what dude does that?

What needs to be noted here is the amount of emphasis Tobias places on his own behavior and if he was doing the right thing to be seen as a man in such a private, but social setting. He critiques his every move in a way that cisgender people would likely not consider when navigating a restroom. Yet, like Nicholas, Tobias heavily weighs the risk of using the restroom in order to ensure his own safety when completing a normal, human bodily function.

This careful consideration and analysis seen with Nicholas and Tobias in terms of their bathroom use is also reflected in how other participants proceeded with people they met in their personal lives. Maggie noted how she does not frequently out herself as trans, especially if the other person does not know. While she describes herself as passing easily, Maggie does not offer this information immediately: “There’s a trans bumper sticker on my car with a flag. But if I’m in a situation where someone seems less open, I might not say anything. Something [a situation] where I would not be safe or would not want to deal with.” Yet, even knowing that she could be in an unsafe situation prevents her from disclosing being trans openly and being comfortable with just anyone. Jack echoed this sentiment as they expressed their hesitancy at outing themselves

and setting boundaries outside their family and friends, “because I want to be safe and I understand that there are people out there who would not let me be safe, due to their beliefs.” Here, Jack and Maggie both express that the potential for transphobia from people they meet outweighs their likelihood of feeling comfortable to out themselves easily. Further, Patrick conveyed how annoyed and disappointed he is when someone outs him without his knowledge because he accepts that this could present an issue and danger:

You just set me up. Something bad could happen to me, you know? You don't know how they're gonna react or what. I saw that person today and I really, really want to pull them aside and you know, [tell them this is] my personal business. I just try to avoid them. I know who the problem is. I just limit my contact with those [types of] people.

Patrick mitigates his responses and further contact with people after he finds out that they have broken the trust of outing him without his permission. This constant monitoring and safeguarding are essential to these folx in order to watch out for themselves in any present danger. It is not because they have had particular issues with this person, but they are expecting that this situation could result in physical harm and violence.

Further, this expectation also extends to romantic interactions, as both Nova and Minaj expressed how their gender modality could cause issues for them with romantic partners. Nova discussed her hesitancy at disclosing her trans status, especially if she was unsure of their reaction. “Sometimes, I am still scared of like, telling people I’m trans if I have a crush on them because they may or may not be, like totally disgusted, or they might be [like], ‘Holy shit, it is amazing,’ or they might be like, ‘Cool.’” Nova’s cautious mitigation of the risk and potential negative outcomes, especially around intimacy, is also depicted by Minaj and how she describes the reaction of cisgender men to her and how she is ready to defend herself:

I like it how we can have a nice conversation, but then they get aggressive [with their reaction, such as] "Oh, you a tranny. Oh, you a dude, my nigga. I should fuck you up." They want to get all aggressive and, trying to fight. I don't really have time for that. So, I'm kinda like, "Oh, okay, well come outside, I got this .380 in the car," 'cause I've got a license to carry. I carry anywhere, so I'm like, "Come outside. We'll fight that way," 'cause I'm not going to fight a grown ass man cause you're mad at me because you thought I was attractive. That happens a lot.

In Minaj's experiences, she would describe these scenarios playing out at bars and clubs (not LGBTQ+ places), as well as in her social media direct messages (DMs). Men would "slide in her DMs"³⁸ to compliment her and hit her up for intimacy, but many would turn violent when she would disclose she was trans. And, because this had happened so many times, Minaj had already planned ahead for a violent exchange, keeping her registered and licensed gun in her car for safety. While Minaj's gun was necessary for some parts of her work, the choice to utilize it off the clock is more indicative of her awareness of the potential danger that she could face while interacting with cisgender men.

Secondhand Narratives.

While the aforementioned participants described their personal experiences and hesitations about expecting a violent outcome concerning their trans identity personally, others expressed this fear based on the experiences of other folx. The power of the secondhand narrative is essential to understand, especially in Chapter 9, concerning perceptions of the criminal legal system. Even though participants may not be actively involved with the criminal

³⁸ "Slide into the DMs" is slang for sending someone a direct message on Instagram or Twitter, often with romantic intentions in mind. The idea is to come off as cool and slick, in hopes that the other person will write back" (Paget, 2018, para. 1).

legal system, the trust of secondhand knowledge is sacred in this community. Further, it is important to understand that within such a small, marginalized group, the experiences of others (even strangers) who share a commonality (trans experience and identity) can cause long-standing ripple effects in how they interact with others and move throughout space. Kate and Ka-pree both express this knowledge of how transphobic violence happens to people they know who are just existing and living their daily lives.

Kate described their own perception of transphobia/transphobic violence, especially in terms of the trans panic defense:³⁹

I feel like it definitely happens more often to trans women. So, I'm going to use a trans woman as an example. Say you're a trans woman and you meet this cute guy at a bar, and you take him home and you do the do, and he finds out that your genitals are not what he thought that they were. So he doesn't want his friends to think that he's gay because he's touched a penis. So he's gotta murder you; it's the only option. So he does it and then the judge is like, "Well, she didn't say she had a penis, and now his friends think he's gay. So yeah, it's okay. It's cool." And I know, like, from a trans woman living with us and my ex that's something that is always on their mind. People like my ex [who is also trans] says that she only goes on dates with people that she knows that she could overpower.

Kate's ex is a trans woman and their description of the trans panic defense and working knowledge shows the intersectional awareness that many participants have about the world around them and how to function within it as a trans person. Kate's ex-girlfriend has to choose if she wants to go on a date with someone based on their potential for physical violence. The trans

³⁹ "The trans panic defense attempts to argue that he [the defendant] has been deceived, perhaps even 'tricked,' into nonnormative sexual conduct, and his rage and violence upon learning this should be excused because it was justified" (Wodda & Panfil, 2015, p. 936).

panic defense, as described below by Wodda & Panfil (2015), is essential to conceptualize not only as a criminal legal concept, but also how this affects the dating/romantic choices of trans folx in general.

Response to Identity

While the previous section addresses the expectation of violence that trans folx perceive, it is essential to point out that these thoughts are not occurring in a vacuum. Trans folx have real fears about the possibilities of violence that are rooted in personal experiences and seeing what happens to their friends and others like them. Thus, this section will describe the responses to their gender in the public and one in the familial sense. Participants described negative public interactions after cisgender people somehow “figured out” that they were trans, which is sometimes referred to as getting clocked, especially when the trans person does not want to be identified as such (Washington, 2016). After being clocked, trans folx then have to grapple with their identities becoming the focus of these interactions. For instance, Nicholas was going to Planned Parenthood to access his hormones, since it is an informed consent facility, but he was met with a pro-life protestor:

There was a guy out there, and he was only talking about the abortion aspect of Planned Parenthood. Then he realizes that I'm trans and says, “God weeps over the fact that you're trying to change your sex.” I honestly wish he only saw me as a woman.

In this moment, it is heartbreaking to see Nicholas accessing necessary medical care for his transition, but simultaneously wanting to be seen as a woman in order to escape the transphobia of the protestor.

Being visibly trans in public spaces can garner unwanted attention that can result in violent outcomes, especially for trans women. Ka-pree and Jasmine described their intersections

of being trans and a woman can leave them in situations with unwanted, negative attention. Ka-pree described how she made the choice to be at LGBTQ+ clubs so she will be respected since the reactions to her wanting to dance at a predominately straight club can be the complete opposite:

Ka-Pree: Like, if I'm going to the club to shake a tail feather in this ratchet ass club, you don't think nobody's gonna want to say something silly to me, and then I'll probably do something or [they'll] set me up.

April: When you say like, "say something silly" to you, what do you mean?

Ka-pree: "Look at that faggot. Man, look at that punk ass nigga. He's over there with that chick with a dick." Anything. It's sad. "He might as well, he might as well get bent over and fucked in his ass because he probably getting fucked in his ass by the bitch, too. By the nigga, too."

The verbal harassment Ka-pree describes is a mitigating factor to influence where she can freely enjoy public spaces without being called homophobic and transphobic slurs, which shows that these are direct decisions being made in order to avoid violence and escalation.

On the other hand, Jasmine, while describing her frustration with police not taking her seriously, disclosed that she had been assaulted twice by strangers in the two years before our interview:

I've been assaulted twice, and the first-time, special victims [unit] did come out. And they didn't do the report stuff right, but nobody ever followed up with me. My probation officer was aware, she helped me try to search, to find out what was going on. But they never helped me. In the first assault, they knew who did it. The man was there when the police came and took my report. He broke my hand. And there's like three, four

witnesses. He hit my hand with a pole because he was trying to hit my head but I put it up to block it. He shattered my hand.

Despite her hand being shattered from the attack and witnesses being present to the first attack, the perpetrator was not arrested. After the second attack, police told Jasmine to get camera footage from the grocery store where it happened. When asked about why she thought these attacks were hate motivated offenses, she revealed that the perpetrators outright disclosed their motives:

They said it out of their mouth, [one said] “Oh, you're a man, you're a transsexual, dah dah dah, get that man out of here.” And then the second one, I was walking into the store and this guy was coming out the store and was like, “Ah, nah, I’m about to hit you in the face. You’re [a] man.” And he did.

Thus, while the inaction of the police is for the next chapter, the important thing to note here is that Jasmine was attacked *because* she was perceived as trans by her attackers. She was targeted because her attackers assumed that she was trans and utilized physical violence to shame Jasmine back into ‘her place.’ Further, Ka-pree’s description of being shamed at the club serves a similar purpose, as transphobes want to remind trans people of “their place,” and that if it were up to them, trans folx would not belong anywhere.

Trans folx also face negative responses from their own families and significant others that are rooted in transphobia. Nova, the youngest of all the participants at 19, was still raw during her interview about the transphobia she faced from her family and the constant toying they would engage in whether they would be accepting or not. Nova described how she came out at age 12 and her family waned between being supportive and withdrawing that support through the years. However, this conflict between her and her family came to a head a couple times, once

when her mother told her to leave, and then reported her for being a runaway, with the other being much more extreme:

I was like fully out at the time. My mom was trying to say, "Hey, we're not doing the transition shit anymore." And they were trying to take away everything, [It should be noted at this point Nova was already on hormones] that was like, female to me and they're saying, "You're wearing gender neutral clothes, right?" And I said, "No, I'm, I," basically what happened was I pushed her out of my room. And you know put them, locking her out. I know I didn't like push her out like this, (motions a shove) but I slowly pushed her out of my room. Then I ran the hell back into my room, locked it. My stepdad eventually kicked down [the] fucking door. And basically at that point, I think the cops were already called. But they kicked on the door; they broke the hinge. They went in and tried to take the clothes while my stepdad tried to force me to stay on my bed by pinning me down. That's how he got the concussion. I somehow threw him off to get away from him because of the adrenaline and ran onto on top of everything on the pile of girly things so my mom couldn't take it away. I was, like on my hands and my knees. I'm just crying and cops eventually came. They are like, "Hey, we are taking you to [the] hospital. You know, that [what you did] kind of hurt someone." I didn't actually know that my stepdad got a concussion.

Prior to this incident, Nova's mother decided because of the conflicts between them that she would stop supporting Nova's transition. After Nova started having a breakdown in response to this devastating news, she threw her mother out of her room, but then her stepfather kicked down the door and held her down while her mother gathered Nova's items in the center of the room (presumably to throw them away). The sight of this upset Nova so much she threw a grown man,

giving him a concussion, and crawled on top of the pile, while crying, to protect it from her mother. This decision by her parents to take away her things was more than that; to Nova, it was their attempt to take her away from *herself*. As seen in her narrative, Nova experienced this as incredibly stressful and upsetting. As previously stated, understanding the trans experience through social interaction and other established institutions outside the criminal legal system allows for a richer understanding of why these issues perpetuate themselves cyclically. The damaging and dangerous effects of transphobia exist far beyond the criminal legal system, thus, why understanding it must be achieved.

Institutional Discrimination

While the previous section discussed instances of prejudice in everyday life, this portion will highlight institutional discrimination in three areas: employment, housing, and medical care. Previous studies have consistently found that trans folx face higher rates of discrimination in these fields, and the participants of this study are no exception (Fletcher, Kisler, & Reback, 2014; Grant et al., 2011; Kattari, Whitfield, Walls, Langenderfer-Magruder, & Ramos 2016; NCTE, 2016). What is also important about highlighting these particular narratives is that it reveals the policy implications that will be addressed in Chapter 9 have long-lasting ramifications beyond the gaps and failures found in the criminal legal system.

Employment Discrimination

Trans folx face a disproportionately high rate of the likelihood that they will be unable to access employment or will be fired because of their gender modality (NCTE, 2016). Participants in this study were not the exception. While the majority of the sample were employed at the time of the interview (n = 31; 71%), they were not protected from facing discrimination. Minaj, who

had three jobs at the time of the interview, had to leave one security job to go to another because she was told she was “too flamboyant” for her bosses:

Well, I mean, I’ve had some discriminatory issues with it, with my security job. The first time it happened, I got relocated. My second time, I pretty much quit. But I was working at a location in Newport News. And my captain stop [me], telling me, he was like, “Well, you need to figure yourself out before you come to work. You too flamboyant for me.” I had [to] excuse myself outside to go sit in my car to calm myself down. [Trying] not to be that ratchet girl anymore, like I don’t do [that]. I’m not about to sit there and argue with you if you talk to me like that. Usually, the old me, I would have hit him. I was being nice. [When I came back,] I rolled my neck, and I said, “Anything else?” And he said, “That’s all.” I said, “Ok, well mind your business.” And he left and I had to report him.

What Minaj’s boss said to her could be seen as homophobic since he emphasized her so-called “flamboyancy,” in an effort to describe Minaj as a gay man, not a woman. Despite Minaj appearing what many would consider presentable, i.e. hair, makeup, well-manicured appearance, she was still singled out by her employer because she was outside of a heteronormative standard that had no bearing on her actual ability to complete her job. Minaj further described how she was relocated after this incident, with the company taking the stance of separating her and the boss rather than reprimand the boss or fire him for his actions. A second incident followed, where other employees realized that Minaj was trans and she was effectually outed to the company. However, after the first situation with her boss, she had been looking for other employment and already had a job lined up. So, after being outed to the company, she left.

Kylie described while she was seeking employment as a lawyer, potential employers would evade interacting with her and would even refuse to shake her hand after they realized that she was trans. Kylie wondered if her unisex name may have thrown off employers who would initially call her into interviews, but then deny her once they actually met her:

Yes, being transgender can be a significant issue. I had several employers express surprise at my name. I had at least a few interviews that I felt went well, that suddenly went cold after a background check was done. Some had difficulty completing the checks due to the name change; others simply went silent. One [person] explicitly refused to shake my hand after learning I was transgender, and another revoked a job offer upon learning I was transgender.

So, while potential employers could have the plausible deniability for not knowing that Kylie was trans on her application, it is clear that upon meeting her, her gender expression was not well received. Further, findings from a Washington, DC study reveal that despite trans folx meeting qualifications, they're typically not hired over their cisgender counterparts (Rainey, Imse, & Pomerantz, 2015).

Asa and Karen also experienced violence and harassment in the workplace as a result of their gender. Asa, while describing the worst boss he ever had, talked about while he worked at a food joint, everyone would use his correct name and pronouns, except his boss:

Everyone around called me he, everyone. But she [my boss] would not do [it], she would absolutely not do it. The only reason I knew her underlying thoughts behind it, was because she would discuss it with my coworkers. And she would tell them, "I will never call her that. I would never say that. She's a girl; she was born a girl. She needs to stop

doing stuff like that.” And it's kind of one of those things that I would just grit my teeth at and just keep working. I needed the job.

Notably, despite the constant disrespect that could have put him in danger, as his boss was publicly outing him, Asa stayed because he needed the job, choosing employment over his physical comfort and safety. Karen, however, was fired after an incident where a coworker found out she was trans. After hurling a homophobic slur at her, the coworker physically attacked her, but while both were fired since this happened during working hours, the person who attacked Karen was hired back:

He called me a faggot before hitting me in the face. I didn't fight back out of an attempt to keep my job. He did this shit in front of customers. He was having a bad day and took it out on me.

Karen informed me that she was not out at work, and this coworker had found out from someone else about her gender. Also, noting the specific homophobic slur that was used against her is specific to gay men, it is still a slur meant to target gender presentation because she is feminine. In this coworker's eyes, he saw Karen as a gay man, rather than a trans woman and thus, responded with a homophobic slur, rather than a trans specific epithet.

Participants who were unemployed perceived there to be barriers to accessing gainful employment. Kate and Jasmine both expressed their own perceptions of their inability to access employment, as well as seeing other trans folx face employment discrimination. Kate, who also faced physical barriers in terms of employment, noted that this compounding of their gender expression prevented them from accessing work:

Then I feel like being just gender nonconforming, kind of as a barrier to it just depending on (pause). I guess the place you're going or the people that like, the, the consumers that

you might be around are the people that you're going to deal with....Like even my ex ended up quitting her job at like a grocery store, because she kept getting physically harassed by people for being trans. And so I definitely see barriers in getting employment when it comes to being different, whether you're disabled or trans or gay or whatever. Further, in Kate's case, seeing that a trans person they knew was harassed at their job alters their perception of their future experiences in potential jobs. Additionally, Jasmine noted issues with paperwork and attempting to show up as your authentic self, while balancing the fact that on paper, you would look different:

Even when I have tried to get a job, I don't know if it's in the back of my mind. I think because I'm transgender. Not everybody's open to it. And my legal name still being what it is. It makes a difference when they look at you on paperwork and you show up as a woman.

Here, Jasmine is acknowledging these barriers and how they affect her chances of employment, effectually placing her in a no-win situation, noting before April 2020, the state of VA did not have these protections that are now guaranteed by the Virginia Values Act (Yarmosky, 2020). Thus, consistent with previous findings, participants in this study show that trans folx not only recognize barriers in gaining employment, but also experience employment discrimination while they are working based on their gender presentation or expression. Oftentimes, they adapt to the transphobic work environment and are left in situations where they have to choose their livelihood over their personal comfort and happiness.

Housing Discrimination

Almost half of the trans folx in this study (n = 21; 48%) experienced homelessness during their lifetime, and this aligns with previous studies that revealed 1 in 5 trans folx will experience

homelessness during their lifetime (Grant et al., 2011). This is an alarming statistic, even worse that almost half of participants faced this dilemma in their personal life, but the reality is that only 22 states protect against housing discrimination based on gender modality (MAP, 2018). Further, while under the Obama Administration, the Department of Housing and Urban Development (HUD) extended anti-discrimination protections to trans folx (NCTE, 2009), but the Trump Administration quickly repealed it. Ben Carson, former Secretary of HUD during the Trump Administration, was quoted as referring to trans women as “big, hairy men” (Jan & Stein, 2019, para. 1) who he was afraid would “infiltrate” women’s shelters. Instances of exclusion were not only experienced in homeless shelters within this study, but participants also expressed their concerns about navigating housing and obtaining and securing long-term arrangements.

Navigating Housing.

Several participants experienced housing discrimination based on their gender modality. While some of these cases were not blatant examples of transphobia, it needs to be noted that in a lot of cases of discrimination, the perpetrator usually does not outright say that the reason why they are discriminating is because of someone’s marginalized identity, but rather use other excuses such as “communication errors” or “misinterpreted communications.” Thus, participants were concerned about their public appearance and perception especially before they gained housing in order to curtail any possible instances of discrimination. This can be best emphasized by Hera’s concern about her appearance when she paid rent:

But I didn't even think about that considering where we are. And I know like, I went to go pay rent, and I was like full nails and dressed in whatever, and as soon as I went there and like met the people, I'm like, “Oh my gosh, I'm like, I'm being myself right now.”

And my renewal period is next month, and I was kind of scared after that. It was like, “Why did I go like that? Why didn't I butch up?”

Here, Hera is expressing the fear that she would elicit some kind of negative reaction from the rental office staff because of how they might perceive her. The phrase “butch it up” also speaks to how she has trepidation over the fact that her appearance was too feminine, in line with her gender, but not with her assigned sex at birth. While wearing masculine clothes and not having nails and hair would be harmful to Hera’s perception of self, she considered it when she went to pay the rent because she thought it might protect her from the discrimination she may face from being her authentic self.

Joanie also expressed frustration about gaining housing, especially after leaving prison: When it comes to getting housing, it’s an umbrella, I must say when it comes to getting housing. It’s like— how can I say it? If you’re not HIV+, let’s say in this area, you can’t get a house. If you even, if you’re homeless and you’re transgender, and you go to try get help, they’re not going to give you housing. And it’s so sad and I pulled teeth with another person that works at the LGBT Life Center about trans people being homeless and why don’t we have housing assistance. Why do we have [to have] HIV to get housing, but that’s just the way it is. And like that’s why I always tell my trans sisters to keep some type of employment because we don’t get the same treatment as others. That is so unfair because it’s like if you don’t get HIV, we [they] can’t help you.

After she needed housing, Joanie realized that there were no resources for her as a trans woman who did not have HIV. Unfortunately, the reality is that there are few homeless shelters who will take in trans folx (or at the very least place them based on their gender rather than their genitalia) and even fewer resources on the outside (Mottet & Ohle, 2006). In the second half of her quote,

Joanie is talking about her work with a local organization that helps LGBTQ+ folx of color manage HIV, STD testing, as well as provide support. She used this standing to try and investigate why this was still an issue, and the reality is that grant money from the federal government or non-profits to help trans folx usually only comes in tandem with HIV support. To be clear, it is important for HIV-affected persons to be able to obtain housing, but trans people would also benefit from greater access to quality housing.

However, beyond the frustrations and the fears of obtaining housing, participants experienced discrimination based on their gender from landlords, roommates, and employers who promised housing. Winston, Atlas and Krys, as well as Patrick, all experienced these difficulties of navigating housing, especially when transphobia and homophobia were obvious factors in their treatment. For instance, Winston discussed how when he and his husband (who is also trans) moved into an apartment, their property manager would refuse to refer to them as husbands, but instead would call Winston's husband his "friend," or other non-romantic synonyms for him. After moving in, Winston suspected because they were gay, they were unwelcome. This suspicion solidified itself after the property manager evicted them, claiming that someone had called corporate on them, and coupled with a previous complaint, they had to leave. The property manager had claimed that Winston and his husband's dog was peeing so much in the apartment that it was seeping through the walls, which resulted in their neighbor moving. It is unlikely that dog urine soaked through apartment walls in order to affect the neighbor. This claim by the manager was not substantiated but was cited as the previous "bad behavior" they had engaged in and, thus, after a mystery call to corporate, Winston and his husband's lease was terminated:

They didn't really disclose the complaint. I think they tried to link it to like dog pee again. But in that apartment, we only had one dog and he didn't really use the bathroom like that. So, we think that they were just trying to like, the people didn't like us. They were just kind of trying to get us out.

Thus, the manager obviously had an issue with Winston and his husband, which left them to find housing elsewhere because they did not fit into the box of "ideal," heteronormative tenants.

For other participants, housing could be trickier to navigate, especially when they are facing little to no alternatives. For instance, Atlas & Krys (both Black trans folx) were dating at the time of the interview and were living at a hotel after their last housing accommodations fell through. Although Atlas noted that his paychecks would cover a month's stay and little else, he was willing to stay at the hotel to retain independence after being asked to leave by people who had initially helped him and Krys:

Essentially, what happened, which got me into this situation was very simple arguments, very simple things that happen to people who live in the same living arrangement, things that could have been addressed in a simple conversation until they got to be out of control. Then, the angry Black narrative got into this, which is how [my partner Krys] got into an argument with that [person] we were staying with, and it wasn't really like an argument because it wasn't with that person [who threw them out] [the argument] was with someone else [who Krys was on the phone with]. But instead of anybody sitting down and talking about it with us, it turned directly into "you'd be out of my house in 14 days." And now you're trying to charge me money for all the things you offered to do for me. So, now I'm like, I really need you to understand that you are a person who I considered an ally. You are a person who, you're actually a community figure, you and

your partner. You guys are in the community, you do these events, you do all of this stuff, and you're not understanding your own privilege. And as a person of color, I cannot call that out in you because you're not going to get it. Because of that, I can't even express to you how backwards this is because you won't understand it and you're immediately going to get defensive. So, now that I'm in this situation, honestly, like I know by the time I pay this check and I have barely enough money to survive for the next two weeks anyway. But I'd rather sit here and struggle to make it to the next goal and be motivated than keep relying on other people.

Here, Atlas is specifically pointing out that his positionality as a Black trans man produces a unique vulnerability. The situation that led him and his partner to get asked to leave the house where they were staying was actually a miscommunication between Krys and the person who owned the house. The people who owned the house were unaware of cultural differences concerning communication, such as raised voices and cutting hand gestures. They mistook Krys' communication as aggression and felt threatened to the point where they decided they should throw Atlas and Krys out. Further compounding this complication, Atlas and Krys did not have a car at the time of the interview, so Atlas had to look for employment along a bus line or relied on others for transportation. While he and Krys were making the best of it, living at a hotel is a form of homelessness and has its own issues concerning long-term mental stability, wellness, and achieving goals.

Notably, I interviewed Atlas and Krys while they were in the hotel, and they were chipper throughout my interaction, making room for me, but you could tell that their room was filled with all the possessions they had. I wondered how many they had to let go, how many they had to leave behind because they would not fit in the car they were picked up in, or they would

not fit in the hotel room. Or maybe they had to sell them in order to get access to food or other necessary resources. Atlas and Krys were two of many trans folx who ended up in hotels without other support systems or resources, who made something out of nothing because sadly, without familial, friend, or other kinds of support, society consistently fails people who need help. As seen in Dum's (2016) *Exiled in America*, long term residents in a motel found difficulties with stability, retaining social capital, and access to stable housing options. Dum (2016) points to the failures of policy to address issues that lead folx to homelessness as well as the idea of social sanitization or "the action or desired goal to remove an unwanted socio-spatial presence" (p. 166), which of course encompasses marginalized folx like Atlas and Krys.

The most blatant account of housing discrimination was from Patrick, who experienced housing and employer discrimination simultaneously. Patrick worked at a dog daycare, boarding, and training facility, where he lived in the upstairs apartment, since he would watch the dogs being boarded at night. He ensured that the dogs were safe throughout the night, fed, comforted, and administered medicine as a general caretaker. However, it was while he lived here that he started to transition, and although he had a couple friends who were supportive, the other people at the facility started making derogatory comments toward him. One in particular referred to his voice changing pitches as he used testosterone, and Patrick referred to an account with the coworker when he had difficulty with some of the dogs: "Oh, if he [Patrick] didn't squeak so much, maybe the dogs wouldn't think you're a toy." The comments escalated to arguments and the owner decided to fire Patrick from all the other day-to-day operations, only allowing him to watch the dogs at night. After that, the owner changed his mind again, and one winter day, locked Patrick out in the snow. Luckily, he was able to afford a couple of days in a hotel to get

away from the environment, but all of his things were still in the upstairs apartment. However, upon his return, the door was wide open, and they attempted to keep him from his apartment:

When I came back, they said, "Oh, you can't stay here no more. They don't want you in the building." I said, "One, you can't throw me out. This is my legal residence." And I called the police. And the police told them, "No, you cannot throw this person out," and everything and all of it. They told them the law. And so later on, they progressively got to harass me.

This further escalated as after the police informed the owners that they were unable to throw Patrick out since he was a legal tenant, the owner decided to take this as a challenge and force him out by other means.

The owner started by blasting music in the building during the day, since Patrick would sleep during that time after taking care of the dogs at night. Patrick made a point to avoid everyone during the day and would only emerge at night to see if there was a dog that needed to be taken care of, but then, the owner decided he would start spending his nights in the building as well:

He would spend the night in the in the building and trying to force me to not be able to use the bathroom facilities. And kept me out of the kitchen. They took the locks off my door. They broke in somehow and changed them, but that was the final straw when they broke in and change the locks and they [removed the] locked door. I put the locks on myself. So I had my own key to get in and they switched it when I was out. I said, "Why is my door open," and they told me what they did. So I switched the lock back, so like it's supposed to be, and then, they took the lock totally.

After breaking in his apartment and removing the door, making him feel unsafe, and removing any locks that Patrick installed, he decided that for his own safety, he needed to move out. He attempted to file a complaint through the courts and have the judge intervene, but was informed that unless he could get an attorney down to the facility to witness the occurrences, the courts would not intervene on Patrick's behalf.

While Patrick did not disclose any violence occurring in these unwanted overnight visits, the actions of the owner reveal the lengths that this owner was willing to go in order to force Patrick out. Losing sleep, constantly harassing him, spending time and money to remove doors and install locks was all a concerted effort that the owner made the choice to do all after Patrick came out as trans. Patrick's description of the owner's actions implies his belief that the owner took various escalating steps to force Patrick out. Without Patrick's transition, I doubt that these events would have taken place, since he reported that customers enjoyed Patrick and he was fairly good at his job. Like Patrick, Winston, Atlas, and Krys were forced to deal with, quite frankly, ridiculous situations that probably would not have happened if they were cisgender.

Homeless Shelter.

Some of the participants of this study had experiences staying in a homeless shelter, but unfortunately, most homeless shelters house people along gender binary lines. Even if participants explicitly asked to be placed with those who reflected their gender identity, in each of the narratives in this study, they were placed with folx who aligned with their biological sex. For instance, Jasmine's probation officer called ahead to the Union Mission, a religious-based shelter to inform them to place Jasmine with women:

I was at the Union Mission back in January. And I went there with my boyfriend. And they put me with the men. They made us go to church every week. It was not a very

welcoming place. So I didn't enjoy it at all. I left within a week. My probation officer actually called there for me ahead of time, and she was trying to encourage them to put me with the women and they refused. It wasn't welcoming. I'm surrounded by 200 men, half of them hate me, and the other half of them are trying to hit on me.

As a trans woman in the shelter placed with men, the consequences could have been disastrous. Now, it should be emphasized that Jasmine did everything possible to address these issues before she entered the shelter. Despite Jasmine and her probation office informing the Union Mission she needed to be placed with the women, she was placed with men, which could have been dangerous. Further, Jasmine had come to the shelter because she and her partner did not have housing, so effectively, because she was forced out by her placement, Jasmine and her boyfriend had to forfeit the food and shelter they desperately needed.

Unfortunately, another participant in the study, Karen, was also placed with men at the Union Mission, but Karen did not evade harm. Like Jasmine, Karen had entered the shelter with complete transparency and disclosed that she was trans and should not be placed with cisgender men. "I explained that I'm a survivor of sexual assault, that I am transgender, and I don't have the same physical strength a cisgender man has. The response was, 'Oh well.'" After being placed with men, Karen attempted to hide herself and her body in an effort to curtail any violence, but she was ultimately raped when a man barged into her shower. She recounted that since she was unable to see the face of her rapist, she was unable to identify her attacker of a completely preventable assault. Thankfully, from the hospital, Karen got into contact with local support groups who ultimately helped her get back on her feet. However, the blatant disregard and criminal negligence shown by the Union Mission is reprehensible, and sadly, this poor treatment was seen in other homeless shelters.

Wolf and Patrick, at different times, had to stay at homeless shelters, and from their accounts, it was apparent that these places were just as clueless about handling trans men as much as the Union Mission was inept in treating trans women. Patrick had entered a shelter in 2016 that was religious-based, connected to a church, but at intake, despite the fact that he was clearly a man, was instantly told that he would be with the women. Patrick was fine with this arrangement and established a good relationship with the women in the shelter to where he had been given a fresh pair of boxers in his living space. The women he roomed with watched out for him, even though he was placed with them; however, communication around the shelter had not reached the staff as Patrick was accosted for heading to the women's dorms:

One day, the girls would laugh because I came in one night and we would have the sign-in and they were like, laughing because they're like, "Yo, sir, sir, you need to go back. You can't check in," you know? "Oh, yeah, I can check in." All the girls start laughing because of what they already knew. And the staff member didn't know.

While Patrick was able to handle this situation, this could have had negative consequences because he would have been outed in front of many other folx staying at the shelter, as well as the staff who maintain power. Taking the additional steps to ensure Patrick's safety should have been considered by staff. Placing Patrick based on genitalia undermines his autonomy as a man, but also effectually outs him to the entire staff and clients, because why else would a man with tattoos, facial hair, a flat chest, and men's clothes be placed on the women's side of the shelter? However, Patrick did note that he volunteered at the shelter two years later and other trans men after him were actually placed with the men, *where they belonged*.

Wolf also had similar issues with shelters accepting him as a man, but also experienced extreme discomfort when placed with women. While he needed the roof over his head, Wolf had

a deep concern for the women he was around. “So I didn’t feel comfortable around them like in general, but especially around moms who were battered by men. Like I just. Even though they might have seen me as a female, I didn’t feel comfortable internally.” Despite the fact that he knew the women at the shelter did not see him as a threat, he still felt invasive to them and their space. His awareness of their potential victimization and the impact his presence could have had on their well-being demonstrates how Wolf had more intersectional consideration than the folks at the shelter. In another shelter that was specifically for men, Wolf was let in, but any consideration he was given by the shelter was rescinded in favor of cisgender men:

They took me in at first, they got that idea that I’m male and like, they were trying to help. Most of the people were helpful with pronouns, not everybody, but most of them were respectful. It was just not the best place, and it wasn’t good even for the guys there, too. It was just, it was, there was not the best facilities of things. It’s not the cleanest. It’s not the quietest. It was rough and we weren’t treated that well. And, when another guy came in, they had no more space and they basically said you [I] have to go because a born male is coming, like a few born males are coming, so you have to go. I’m like, I’ve been here this whole time. I’m calling them that [born males] because they would say um, some of them were like, some more guys are coming in and some were like “real guy” or “actual guy” or something like that.

Thus, even though the shelter initially took Wolf in based on believing that he is a man, when the choice came between him and cisgender men, they chose the latter. The shelter even referred to cisgender men as “real” or “actual” men implying that Wolf was fake or inauthentic in his gender expression because of his trans identity. This belief went so far that they made decisions based on who to give their resources to based on this authenticity, knowing that kicking out Wolf left

him homeless, effectually showing him that he was not ‘good enough’ to be treated equally in a men’s shelter. Again, withdrawing their support from Wolf was discriminatory, ignorant, and transphobic, despite the fact that they might have been supportive in the beginning.

Like Wolf, Patrick, Jasmine, and Karen all faced discrimination at the hands of organizations that are designed to help folx who are dealing with homelessness. However, this shows that despite this overarching mission, trans folx still face these barriers to entry, especially when they are in vulnerable situations. Even though these are only some of the highlighted narratives of participants, others expressed their hesitancy at utilizing homeless shelters, which is completely understandable. This is best stated by Joanie, who discussed how she would rather live in motel rooms than subject herself to homeless shelters:

No, I don’t trust homeless shelters. I have a fear of homeless shelters. I think of the way of, before I go to homeless shelters because you have some hateful people that does hateful things to people like us. So before I goes down on the shelter, I’ll be homeless. After the accounts in this section and the fact that up to 70% of trans folx who live in homeless shelters face harassment (NCTE, 2016), and up to 21% of homeless shelters refuse to provide necessary services for trans women (Rooney, Durso, & Gruberg, 2016), I am inclined to agree with Joanie.

Medical Discrimination

As previously noted, there are only 22 states that protect trans people from being discriminated against in terms of employment, housing, and health insurance, while 24 states prohibit exclusions of trans health services (MAP, 2018). Yet, even though some medical associations denounce transphobic practices, without legal accountability, these practices will continue and hurt trans folx who are seeking medical care, trans related or otherwise. As

previously mentioned in Chapter 2, the phenomena of trans broken arm syndrome describes when trans folx seek medical care of one issue, and upon realizing their gender identity, doctors and medical staff treat them differently and are uninformed when it comes to specifics of care. But participants found that even just being trans opened them up to harassment.

In terms of the lack of cultural competency, Hera described when she called for an ambulance while experiencing cardiac issues, medical staff disparaged her with ignorant comments and even humiliated her when she arrived at the ER. When Hera was being loaded into the ambulance, the EMT asked her:

“Are you a transsexual? My brother's gay.”

[Hera] I’m like, “What?”

[EMT] was like, “It's okay. I'm a lesbian.”

[Hera] I'm like, “Oh, no, you should know more.”

The EMT appeared to leverage the fact that she herself was a lesbian and thus, it was okay for Hera to disclose her gender identity, although she used a term not commonly used among American trans people and considered antiquated by some. Thus, it did not make Hera feel comfortable making a disclosure, especially being asked directly; it unfortunately had the opposite effect. In this instance, it is unclear if the EMT was attempting to comfort Hera or was trying to figure out how to address her. Hera described that she was getting ready for the local pride festival when she called the ambulance, so she had a full face of makeup, her nails were painted, and she was wearing a long, jersey style dress with a belt in the middle. When she was unloaded from the ambulance to the ER, she was openly mocked and not taken seriously:

I remember them wheeling me into the hospital and like, the people in the back. Like, if there’s like an intake person and then there’s people like, behind the glass. They’re like,

the nurses that help out for the day and they're all at their computers or whatever. And they all like looked at me and like started laughing. And I was just like, oh no.

After being laughed at and asked if she was a “transsexual,” Hera was discharged from the hospital since the staff told her it was probably anxiety. This was after Hera had disclosed a heart infection that she had dealt with barely three months prior. She stated in the interview when she walked through the lobby, she just felt off and took herself to another hospital, where staff did not remark on her appearance, and even one person complimented her nails.

While Hera had issues with medical staff treating her poorly because of her presentation, Julian, Patrick, and Bridgett had to advocate for themselves with medical professionals because they either knew more than their physician or they were better informed. Julian, after using testosterone for months, started having an allergic reaction and was starting to swell because of it. Julian did not know at the time that testosterone (or any) hormone use can result in the sudden allergic reactions, even months after the initial start of the usage (Mayo Clinic, 2020), and went to the ER to seek medical treatment. Julian noted that the teams at the emergency room treated him very differently. Only one of them was welcoming and helpful, while the other was cold and harmful. Julian disclosed how the combination of the poor treatment, the reaction, and his own anxiety caused him to break down. He then called his physician at Planned Parenthood, but instead of answering his concerns with compassion and understanding, the physician cut him off his hormones until he attended therapy from an approved counselor:

So I was just upset, and so they had called the doctor and such, and so she just like, I didn't even see them in person, and so she [physician] just dropped me and blocked me from making the appointments at Planned Parenthood unless I saw a therapist for a while.

And so I'm like you just forced me off testosterone, like really? (laughs) Like I was forced off. Like, done.

Julian told me that after he was denied his hormones, he had to wait 2-3 months before he was reapproved to receive his hormones. Transition reversal includes the diminishment of primary and secondary characteristics, such as redistribution of fat, loss of muscle definition, and hair loss or growth (Kellaway, 2015; Leland, 2019). Further, despite the physical changes, the psychological impact creates further damage, since trans folx who need hormones for their transition can experience heightened gender dysphoria, anxiety, depression, suicide ideation, and suicide attempts without them (APA, 2020). Thus, when being denied hormones and not consenting to the process of de-transitioning, it can cause a whirlwind of mental health issues, which are reinforced by physical changes. Julian had to pay out of pocket for a therapist that was approved by his physician, as well as write an essay in therapy, as a 30-year-old man. Julian said, “My essay’s supposed to say, you know, discuss and list all the effects, basic, but also how you expect transition to affect your family, your lifestyle, uh, your future. Uh, everything basically.” This was all because his physician wanted to “be sure” that Julian can understand the effects of the life-saving medical treatment that he needs, after she had prescribed it for months. While there may have been valid medical and psychological reasons for this treatment plan, Julian felt these steps were punitive and unnecessary.

Bridgett and Patrick had experienced different issues with medical staff, with a nurse giving Patrick the wrong gauge needle for his hormones. For reference, the type of needle recommended for an intramuscular testosterone shot is a 23-gauge needle, but the 25-gauge needle is more appropriate for a buttocks shot, as pointed out by Patrick (Fenway Health, 2021).

Without his knowledge, Patrick could have hurt himself or caused long-term damage because the nurse who submitted the prescription was unaware of what Patrick actually needed:

The next visit with my doctor, I took the bottle in and I took the 25-gauge needle in, one-and-a-half inch and had a little discussion with her [about] had she ever drawn up the stuff before in her life and one-and-a-half-inch needles like, you know. What do you think that's supposed to do. It's a buttocks shot.

The takeaway here is that although there are differing gauges and lengths of needles for varying injection sites (which may be determined by personal preferences and/or type of testosterone), Patrick experienced frustration with his medical providers that he was not given the correct needles for his testosterone injections.

Bridgett, on the other hand, experienced gatekeeping before the process was even started with her hormones. Bridgett was well informed before her first therapy session about what she wanted to do moving forward with getting trans-affirming care, but her therapist immediately told her a timeline the therapist approved of:

Towards the end of the first session, she says to me, "Do you have like a timeline in your head for like when you'd like things to happen, you know, hormones, surgeries, whatever?" And I said, "Honestly, I'd like to be on hormones, if anything, by the end of the month." Um, and she kind of smiles and shakes her head and goes, "Honey, no, you'll maybe be on hormones maybe seven or eight months from now." And in my head, I was like, "Fuck that." So I left kind of upset, you know, because, uh, I had made a pact with myself here before that, um, if I didn't get on hormones before my 30th birthday, I was going to kill myself. I was tired of living in this body and just other things, too. So we started looking at informed-consent clinics.

Bridgett was effectually told that she was unable to start the treatments that she *needed* because the therapist had her own ideas of what Bridgett's trajectory should look like even prior to her starting treatment. Also, notably, Bridgett points out that the possibility of her being unable to access hormones was going to result in her killing herself. Bridgett was very serious and had a plan in her head concerning gaining access to hormones, and the therapist gatekeeping her ability to access medical care made Bridgett question her competency to work with trans folx in a healthy and productive way that centers her patients' best interests. Bridgett then sought treatment from a different provider.

Consistent with previous findings, participants in this study were met with medical gatekeeping in various forms (including discrimination), often having to advocate for themselves against doctors and medical staff who were culturally incompetent about trans issues. adequate medical care is a necessity; anything less is dangerous, irresponsible, and damaging to more than just the folx in this study. Like housing and employment discrimination, trans folx were often placed in situations where they had to find their own way to meet their medical needs because of their gender identity. However, despite the difficulties that participants faced in terms of specific instances of transphobia and institutional barriers to care, participants showed specific adaptations to these issues in order to lessen the burden for themselves and other trans folx.

Notable Adaptions to Discrimination

After all these experiences with varying levels of discrimination at separate institutions, trans folx have found a way to be innovative in the face of unavoidable interactions with various actors. Being outed in public settings can be dangerous, and responding to doctors, landlords, and managers who are culturally incompetent is a different animal than harassing comments from random people on the street, or when someone raises their hands in an attempted act of

violence. While this is a small sample of the many ways that trans folx cope and handle the discrimination that they face in the real world, the ones discussed in this section will be misgendering, going stealth, learning from others, and self-defense.

Misgendering

Handling misgendering in public and private was the most common of these notable adaptations to discrimination. After I would ask the question, “Do you ever correct someone if they misgender you?” I had initially expected that participants would respond with a resounding yes; the actual answer was typically a resounding no. A large number of the participants in this study would not correct someone if they were misgendered because they were either unsure if the person misgendering them had “figured them out,” or it had happened at their workplace, so they elected to stay safe because of that. For instance, Asa described that while he was working, if he is misgendered, he does not correct the person because of where he lives:

Like at work, when I’m at work and people misgendered me or something like that. I don’t want to [correct them] because of the town that I live in. It’s very, very southern. This is Trump town. And it gets to be like when people misgender me or something in this area when I’m at work, I don’t say anything. It’s almost like I just want to leave the situation because I don’t, it’s almost like I don’t want to make them angry. Why I should I be worried if they’re mad or not? Like if they react in a certain way, I don’t want to risk my job.

Many participants, like Asa, balance their personal comfort with the reality that they may be fired for being unprofessional with guests in their workplace. This unique experience that is directly related to their gender presentation, identity, and safety places trans folx in a certain positionality that actually lets them assess, utilize control, and balance whether they want to

correct the person or not. In Asa's case, he elected not to say anything to the customers who misgender him because he needed the money from his work. Arguably, like many marginalized people who have to diminish part of their identity to satiate societal hegemony, the situation of being a trans person in society is just an extension of the literature that already points this out for women and people of color.

Asa's notion of considering safety when someone misgenders them was echoed by Naomi, Ember, and Lucky, who all agreed that they would only correct people if they felt safe enough to. This situational awareness is essential to understand, as making these mistakes can inform participants of possible intent of the person who is misgendering them. Ember only corrects someone if she feels safe, but further elaborated on her thorough process to reveal how much consideration she places on a single act of misgendering:

If the environment is the one where I am typically comfortable presenting who I am, and I sense that there is an implicit desire for everyone at the table [to be] exactly who they are rather than to come to fit a predefined purpose, I will typically say something about the name that I've chosen, the pronouns I use. And generally, I will already be what I consider femme presenting. So I may be wearing a dress; I may be wearing lip gloss, and in that case, I will usually correct them. And I'll usually make it a point to do so gently. But if it's somewhere where I'm less likely to feel that my individuality is welcome to be expressed, then I will not correct them.

It is essential to understand that despite the potential damage misgendering could cause Ember, she has to place the feelings and reactions of the person misgendering her *above herself* to avoid a potential conflict. Lucky also mentioned how she if she corrects being misgendered, it is situational:

Like, if I walk down the street and there's some Black guys⁴⁰ calling me, oh hell naw, I'm not going to say no. I'm going to keep on walking right past them. But so, when someone is sitting in my presence where I'm sitting in there with them, and if they misquote and say him, I would correct and say, "No, her."

Lucky's awareness of the potential danger of being misgendered on the street, but correcting in private continues the thought of ensuring that proper control is established for her to feel comfortable to fully express herself. Naomi also noted that just to "avoid confrontation," she would not correct people because she had experiences while incarcerated where she was attacked for her gender identity, thus, she did not want to have that play out while she was in public.

While intentional misgendering is arguably a form of violence,⁴¹ it seems to elicit a different response than what is typically intended by the person who is hurling incorrect pronouns, as trans folx must identify what kind of situation is in front of them, and then plan accordingly. Some participants, especially non-binary folx, would hide their pronouns selectively because they did not want to be repeatedly misgendered, and would rather let it go in those moments instead of constantly correcting. Kate hits on the emotional labor of this as they said in terms of misgendering, they will not correct "because I'm an anxious little bean, and I don't have the energy to do that." While they delivered this concept with a sense of humor, that is exactly what Emily and Meow hit on as well when I asked them about correcting folx when they are misgendered.

Meow noted that while they would like to disclose their gender identity, they did not want any additional difficulties that would come along since they use they/them pronouns:

⁴⁰ In case it is relevant, Lucky is also Black.

⁴¹ In this understanding, violence does not just depict the physical harm that can be enacted on someone, but the long-lasting damage of not being able to trust people, spaces, and institutions that ripple through communities and lifetimes.

I wish I could tell people at work. But if I told my bosses at work and like everybody would just [keep] calling me she anyway, [it's already] a hard thing to explain to a group, but then [I get misgendered anyway so it] isn't worth it. Because people don't get it, they're like, "They/them. That doesn't sound like anything." Like I'd rather just like let them be [with] whatever does work, and sometimes from the outside of work, I can tell them, but work is work and everybody, it's just [depending on] the way they talk to me.

The myth that they/them pronouns are not singular, even though they/them as singular pronouns have been utilized by Chaucer, Shakespeare, and the King James Bible (Okrent, 2017), has emerged as a counter to discussions of non-binary identities. Meow describes these instances of people discounting their pronouns as just another example of behavior that Meow has come to expect from people around them in terms of their gender identity. Non-binary folx often have two-fold challenges in this way, to argue their legitimacy as trans people, and their identity as valid outside the gender binary.

Emily disclosed in their interview a similar choice when they were at their job at the time. Since their job was not their career, but rather a way to make ends meet, they decided to not disclose their pronouns:

I'm not gonna make it, like, [a] big thing at work because I don't wanna make it that big of [a deal]. Not make it a big deal because that, like, sounds bad, but I just don't want to have to explain to everybody, and I feel like it would hurt me more when they misgender me. Because now, whenever they misgender me, it's like, oh they don't know. Oh, then like yeah. I feel like it would add more stress than just like dealing with the misgendering, if that makes sense.

Again, this harkens back to the same sentiments presented by Lucky, Naomi, and Asa. Emily would rather minimize their pronouns in work settings and not have to worry about being misgendered since they did not tell their co-workers their proper pronouns. In these instances, these choices are prioritizing their safety and their comfort. If that means accepting being misgendered to avoid awkward discussions and blatant disrespect, that is completely up to the person.

Further, by the time Emily started at this particular job, they had come to expect the disrespect because of their experience with local community leaders who had misgendered them publicly, despite the fact these folx claimed to be LGBTQ+ allies. Emily had volunteered with their various events and organizations, but had to cut ties after their repeated disrespect and denial that they had misgendered Emily in the first place:

They never get my pronouns right. They've never gotten them right, I swear to God.

When I called them to correct them [after being publicly misgendered] on it, they were like a lot better than this time, but they were only, like, fixed the first time. They [community leaders] said, "Neither [name] nor myself have purposefully misgendered or slandered you publicly," so I guess they said purposefully. But they have literally like gone up on stage for events and misgendered me the entire time.

Being misgendered and disrespected by LGBTQ+ community leaders is an unfortunate reality for Emily and many other trans people who seek legitimacy, even in their own safe places.

Especially folx like Emily who uses they/them pronouns, fighting for their place at the table is a cycle that will replicate itself both inside and outside LGBTQ+ spaces. Emily's account is one example of a broader issue that has pervaded the mainstream gay rights movement in that it has

been led by white, gay, cisgender, middle-class men who have failed to include voices of trans people and people of color in the LGBTQ+ community (Spade, 2015; Stryker, 2008).

This careful consideration of the implications of misgendering and even hiding pronouns are counter narratives to rhetoric which insists that trans folx are strong-arming others into using their pronouns even though it is ‘undermining language’ (Moody, 2016). Trans people deserve basic respect of being properly identified as who they are, and they should not have to fear violence for asking. In fact, it is more of a testament to their strength that they adapt a fundamental part of themselves for the comfort of others because they understand that being misgendered in a moment may prevent something catastrophic from occurring, in a phenomenon known as identity concealment (Rood, Maroney, Puckett, Berman, Reisner, & Pantalone, 2017).

Going Stealth

Another adaption that trans folx used in order to combat discrimination revolved around going stealth, which is another way to describe “passing,” or when a trans person is perceived as cisgender while they are out in public space. Going stealth is described by Elvis:

So going stealth can mean in the regards of when transitioning, or even in the extent of being LGBT. Your lifestyle is stealth, where you live exactly what people would think stereotypically. Think if you are a male, you are living the heterosexual male life. There's no gay tendencies. There's no color. There's no I'm, I'm fabulous. If anything, you change your, you change everything. You changed the way you walk, you change your talk, you think about every move you make before making three.

This act of going stealth is a deliberate choice that some trans people feel they have to make to ensure their own safety in the hopes that they will not be outed as trans. Being cisgender or being perceived as cisgender affords folx with certain privileges that they would not be afforded if they

were perceived as trans. For instance, being perceived as cisgender can prevent the harassment that can come with being seen as trans in public. But, beyond that, going stealth can actually be a safety precaution for the person who does not wish to be seen as trans, as Elvis further elaborated:

Um, it's like a chess game. But you also never tell anybody of your identity. You're not out there to any person that you're a trans man or a, uh, a gay man at that extent. But it is stealth; you still have a history. You still got through that to that point by going through all of these transitional steps, by going through all that questioning, by going through all the things that everybody else has to, but you're choosing that you've got that far and you don't want to hurt or do anything to hurt yourself, which is [to] each thy own. Some people have the ability where nobody else was involved and they can just be like, "Okay, I can move states and that's it. Nobody has to know me ever again." And some people can do that. Other people can't. They have family and friends and connections that they're not willing to give up [in order] to go stealth.

Ultimately, what Elvis is describing is that trans folx inherently understand that because society is typically unwelcoming to them, they can sometimes make the choice to not be perceived as trans, to pass, to fly under the radar, or be stealthy, because them moving freely about space may pose a risk to them physically or otherwise. However, this can be complicated depending upon their ability to achieve societal expectations of one of the two binary genders. The medical aspects of transition for trans women (if desired) are more complex in order to achieve being unlockable. Hence, the choice to remain stealth also has the implications that their friends and family, and even future relationships, rely heavily on them being perceived as cisgender.

The hard truth concerning this adaptation is that society, institutions, and the criminal legal system routinely punish trans people for existing, hence, for some trans folx, not even being seen as themselves is the better alternative. Being stealth is protection from outside forces that seek to punish, harm, and prevent trans folx from living healthy, productive, and fulfilling lives. As Vanessa puts it, “Society is easier when you’re passing.” She is referring to the fact that when people do not know you are trans, you are not berated with the same level of ignorance that you would be if you were outwardly, visibly trans. Being visibly trans refers to when people can ascertain one’s gender modality because of either stereotypical trans features, such as a trans woman with strong facial features or facial hair, or the presence of non-stereotypical characteristics, such as a masculine presenting individual with a feminine sounding voice. In her own experience, Vanessa described that while she did not disclose in her public life about her trans identity, on dating apps, she included a line about it, as she has met “a lot of shitty guys” who react poorly to her gender identity.

V. also describes that she chooses to live as stealth, “meaning that if somebody doesn’t need to know that I’m trans, I’m [biologically] female as far as I’m concerned.” She noted that because she does not talk about her gender identity, coupled with her physical appearance, she is treated for the woman she is. M. shared this sentiment when she noted that she described herself as “not hiding it per se, but definitely not extra out, but yeah, I mean I don’t tell [just] anybody.” This careful consideration by V. and M. about how they present themselves and how they are perceived by others is exemplifying the choice to be stealth. It especially needs to be said that going stealth often does not have to do with a trans person’s pride in themselves or shame. It is a personal choice based on their experiences with discrimination, bigotry, and hatred.

Atlas also discusses this engagement with choosing to be stealth in his everyday life:

There's more like, times I just feel like, I have to hide my transness. And it's either: a) it's going to protect me or it's going to cause me an issue in the workplace or b) it's to teach you a lesson. I don't normally tell people like itself because it just causes more problems trying to keep [the] story straight than anything else. When I was in college, I was with a new group in science class, and I realized that nobody knew what a trans person was. So I was like, all right, bet. I didn't say anything. They're going to talk a lot about myself [me], like they knew me because they know I was funny. We do all labs together. We had a great time. It was the last month and a half before school ended. And we're just having casual conversation and I finally told [them] that I was trans. I just let it slip in normal conversation, and they were asking me about myself, and they were like, "Oh my god. This is so cool. Like, I never met a trans person." I said, "Well think about that, you've [known] me the entire semester. You have, you know me the entire semester. So, the only question I have for you is what difference did it really make?" [They said] "I didn't really think about [it]" and I said, "Yeah, so you got to have an entire experience with me. My goal was not to fool you."

Notably, Atlas conceptualizes that his disclosure of his gender modality comes with a price, either a lack of protection in the workplace or being used as an educational tool. With this in mind, Atlas exerts control over these narratives and only "reveals" his gender when he feels like it is safe, or he can be an advocate in that moment. However, he also states that his intention is not to fool anyone, which is a common stereotype or myth that trans people are "tricking" people to sleep with them through deception (Wodda & Panfil, 2015). It is not up to anyone outside of the individual to decide which information to disclose, thus demanding trans people to "reveal" themselves so people can know is ignorant and inherently transphobic. This is known as

“selective visibility” (Dym, Brubaker, Fiesler, & Semaan, 2019). Selective visibility allows LGBTQ+ “people to selectively find and create communities of support for stigmatized issues that they might be unable to safely seek out in other spaces” (Dym, Brubaker, Fiesler, & Semaan, 2019, p. 154). Hence, participants are not being deceptive, they are making the deliberate choice to protect their well-being from harassment, discrimination, and violence.

Learning from Others

The unique experience of being trans often centers community building and obtaining knowledge from other trans folx is essential. Like many LGBTQ+ folx, trans folx typically are born into families composed of heterosexual and cisgender people; thus, the need to learn from each other is paramount to understanding themselves. Sharing life experiences with each other is essential, but in the context of discrimination, it helps trans folx obtain some kind of normal-ish life. Some of these techniques that are later applied are typically learned from other trans folx in the community. Just as in Chapter 6, making community and finding people who share your unique experiences is essential, especially for trans folx who are making their own way in a world that is not built for them, and this world often refuses to make allowances for them. Learning from other trans folx also allowed participants to gain independence and rely on themselves for certain things that they needed. The two main adaptations here are that of learning important information and reaching out to others in the trans community, as well as having “houses” of trans folx they could rely on.

In terms of gaining information, oftentimes, the internet and word of mouth from other trans folx and trans-led organizations were instrumental in participants meeting their needs outside of traditional means. For instance, Asa describes how he attempted to bind his chest with household items, as he felt that his body was developing in puberty in a way that he was alarmed

by. He even calls this “hijacking” to describe how divorced he felt his body was from his internal sense of who he is:

I first knew probably when I was around 16. Because I was like, I knew I was, I was okay. It was like I was feeling okay. But then, when I was developing and things were going completely unlike [what I wanted], I thought they were going to go [away], I guess. So it's kind of like when my body started to become what it was going to become, it was like being hijacked. So I feel like around 16, that's when I started to bind, but I did it really badly for a long time. I used duct tape, which was the worst. I used plastic wrap, which was really dumb because I was sweating like a pig. I got like, I feel like around the [age of] 18, that's when I was like, “Okay, that is it for sure.” And I got my first binder from this organization called In a Bind. I'd written in like, why, why I needed a binder and they sent me a used binder. And I wore that thing up until probably until last year when it was almost in shreds. So worn out.

Like many trans men, Asa did not know that options were available for him to bind his chest in a safe, healthy way that would not cause irritating physical side effects or long-term damage. Being able to have the necessary information readily available helped him counter the negative effects of a society that is not open to his journey and medical practices that are unwilling to contribute.

Information from Naomi's gay mother Felicity⁴² was instrumental in ensuring that she would be aware of what to do during her transition:

⁴² Felicity being her gay mother is Naomi describing Felicity as chosen family, a phenomenon in LGBTQ+ communities where these are families of “their own making” (Weston, 1997, p. xviii) in response to a lack of biological family support due to their identity.

When I was 32, I met a transgender girl, which became my gay mother, which Lord rest her soul, she's dead, you know, pass[ed] away now. But, she's the one [who] really told me about, "well, if you really feel this way, you want to do this, you can take hormones" and you know, she explained to me about the hormones and she explained to me about the operation, and as a matter of fact, she had the operation, and we watched a film about how it's done together.

Here, Naomi specifically noted that she learned about transitioning from another trans person, which is valuable information to know what she needed and what order to go in through her transition. Having an advocate who also shares your journey can provide much needed context.

Luna also noted that during her transition, which was during pre-internet times, the word of mouth about a specific doctor in the area was instrumental in her gaining access to her hormones as well as coming out to her mom in a supportive way. Luna described how she knew that according to the time she was transitioning, she would have to elicit the medical consultation of an entire medical team that would include a psychiatrist, an endocrinologist, etc. However, she found out through another trans friend that there was a psychiatrist who was practicing with informed consent because he did not believe in gatekeeping. So, right after Luna's 18th birthday, "I went and got an appointment with him and walked out with a prescription for hormones." The choice in her doctor on the recommendation turned out to be even better in the long-term because when her mother saw the insurance charges, she began to ask around and track down why her daughter was using these services. However, the psychiatrist, kindly rooting his practice in informed consent, told her the following:

[Doctor to Luna's mother:] "Well, if your child did come to see me as a patient, I can't say because of doctor confidentiality." [When Luna's mother called] he knew who I

[Luna] was and he knew exactly what was going on. [Doctor to Luna's mother:] If your child was, I would say to you that it is [being trans] a perfectly normal thing. And I would say if you find out that your child is and you want to set up a group meet up with me and, and, and talk about it, great, but you know, hypothetically.

Luna disclosed that she and her mother had that meeting, and from there, her mother became one of her biggest advocates. But without learning from her friend of this person, Luna might not have been able to move forward in such a positive way with herself or her mother. While these are just two examples, as previously stated in Chapter 6, making community is essential to trans identity formation and development as well as adapting and moving throughout space.

The other main way that participants learned from other trans folx on how to combat discrimination came in the form of “houses,” which have culturally and historically helped “establish community, instill knowledge, shed tears, evoke laughter and at times go into their own pockets to help out those who are less fortunate” (Brock, 2012, para. 3). While typically houses are associated with ballroom culture,⁴³ they have their roots in Black and Brown LGBTQ+ communities, establishing themselves as places where particularly LGBTQ+ youth of color could come after they were kicked out by their families. Naomi and Joanie, both trans Black women, were a part of these houses and discussed how they found safety, solace, and unity within them. Naomi, after coming out as gay to her parents, was thrown out because her dad was a member of a disapproving religious community. She left her home and joined a house with a group of LGBTQ+ people who had banded together for safety and an alternative family:

I came out when I was like 16, and decided to tell my parents, and they didn't understand because I come from [a] very religious background. My daddy was a priest, and my mom

⁴³ The “ballroom scene usually consists of performers who are larger than life, who boast great costumes and enter into a series of choreographed hand and body gesticulations, namely 'voguing'” (Brock, 2012, para. 4).

was dedicated to the church. So, there was no understanding. So, I just left and, um, I wasn't transgender or anything at the time. I was just gay, and I ran off to the community that was out in Ocean View at this time and stayed with them for almost a year and then decided to go back home to try to graduate from high school. But that also caused me a lot of grief because I was, like, really fell into the woman that was within me. Like I wore tights to school, big shirts. And, um, I always got picked with. Finally, I had just left again and went back out to Ocean View.

However, while Naomi found her people, there was a tradeoff because even though she was united with her community, they were united by their shared experiences with discrimination both by their own families and general society.

Thus, despite the fact that this group allowed Naomi to be her true self, in order to make it, the people in the house all had to contribute to daily expenses in whatever way that could, which would include illegal activity:

Just the community, girls who would look out for you. A lot of [us], we had to do things that, you really didn't want to, but you felt like you had to do it because it's just your haven. You know, it was more like a family that pulled together for each other. You really hated to say no because there's been a time when they've done something for you that you really needed done, you know, so. Well, I got involved with prostitution for a little while. I've gotten into drugs and meeting basically to run on people [take their money]. Because whatever money we had, we'd all put it together and that would like take care [of] rent, care of bills, take care of anything we needed. We would wear each other's clothing (laughs) you know, stuff like that.

Despite this, Naomi felt that she clung to them because it was the only place she felt where she could be herself. In a time in her life where her housing was revoked for being who she is and she was unable to gain employment (again at 16), let alone to be able to afford rent/bills on her own without family support, Naomi made her own way by learning how to survive with the other people in the house.

Joanie had a similar experience to Naomi, as both her and her sister were trans women. As teenagers, they found the local LGBTQ+ community after facing rejection from their family:

And moving to North Virginia, I say me and my [sister], we started seeing things and it was the community, and we got comfortable with the community and that's how we came out. It's safe to say that was our safe place to escape all the pain that we was in, enduring as kids and as teenagers. We found a safe place within the LGBT community, which back then wasn't common or anything that I can remember. As just, we was just dealing with people that was different I could say. It's safe to say. So we're growing up under the LGBTQ+ community. It was this, um, transgender woman that was taking care of us. She was like our mother and she kept us. She had us going to shows to make money. She took our money. She jumped on us. She really did us wrong, and I just couldn't take it and I just went home and out of the lifestyle.

As a teenager, Naomi and her sister, Sweetie, found solace in this community, but then realized the price of staying with the house was too much and they left to return to their family. While it is unacceptable that her trans mother in this case mistreated her and prioritized money over the well-being of some of her children, the experience itself is rooted in discrimination, from the mistreatment to why Joanie and her sister were there in the first place. Hence, if there were more protections and allowances for trans folx in general society, there would not be a need for

teenagers to be taken care of by strangers and for their trans mother to exploit them to make ends meet.

Self-Defense

While most of the adaptations thus far help trans folx navigate space and prevent discrimination, it needs to be stated that trans folx, despite their flexibility in public, sometimes *do fight back*. I have already discussed how trans folx will work to pass in public, hide their identity, and learn from others in order to circumvent institutional gatekeeping. In fact, when discussing how they deal with transphobia and discrimination, the most common way that participants would fight back would be in the form of dressing people down with their words. Trans folx in general have to deal with bigotry and violence on a frequent basis.

Vanessa describes how she will give a person a chance after they misgender her, but if they respond to her rudely, she will proceed to be snarky back to them in accordance with their behavior. Vanessa discussed how she will use her words in the face of this type of situation:

Depends on how irritated they are about it, in this situation I mean, the first time, it's not that big of a deal. I just focus on presenting [as a woman] a little bit more obviously. If they start to get irritated about it, I'll give it back to them in return. I'm a bit of a smartass. Ok, I mean, even if they don't get it, I'm fine. Sometimes, I'll get a little upset. I know [if they get] a little more vocal, but if you're trying to use it as a slur, trying to slip up, I don't stand for that. But if I need to give that vibe, I'll give them a little bit afterwards, but the person, I don't think there was anything malicious, but they don't care or don't consider you a threat, their brain can't deal with that. I like to take advantage, especially with some of my ability, and now they won't give anybody else shit for that. I didn't have to hide for them. I didn't have to yell at them. I don't have to argue with

[them], though, what was some implied threat because they understood that I could hurt them.

Vanessa underscores here that she does not tolerate malicious misgendering from folx and will defend herself verbally and physically, if need be. Nicholas shares this sentiment in how he defends other trans people in his life. He describes that although he is hesitant to stand up for himself, if someone misgenders his fiancée or his friends, he will instantly correct them and make sure the offender knows that they have wronged someone:

So I think I, I handled people too gently [when it was me], you know, but if a trans person, that is, a friend or my fiancée, I will get up in people's face and correct them.

Because I know how taxing it is to correct people and how much you are worried about correcting [people].

Both Vanessa and Nicholas have made the point that they will not tolerate misgendering, especially if the person repeats the mistake or has not taken accountability for their actions. As a result, they will take action and defend themselves.

Some of the most cutting ways that participants exemplified how they defended themselves are best shown by Krys and Minaj, two Black trans women who have to navigate their unique intersections of race and gender modality, which can pose additional problems. Krys describes how while she was in a Walmart, a couple in front of her was staring at her and laughing:

I was in Walmart the other day, and a girl kept, her and her boyfriend kept staring at me.

Looking up at me, laugh. Look down, look up, and laughed. I politely said, "Excuse me."

They turned around. They heard me. I politely turned around. I said, "Bitch, if you got something to say, say it now before I jump across this crowd and beat your ass. So, I

don't have time for this, and you and your little dirty ass looking butt boyfriend will get y'all's asses beat. So, you and your gutter butt boyfriend, you can go somewhere and get the fuck out of my fucking face now." They looked at me not looking around. I want to know what the fuck is so fucking funny. And when I said that, she looked at me and laughed. "Bitch, what are you fucking laughing at? I don't do that funny shit. I don't do that. Don't, don't do that. And that's why your boyfriend over here wearing these ugly ass, dingy ass sweatpants. Do you want to laugh at me? I bet he probably don't wash his ass with yo' nasty ass, bitch. Why don't you go ahead and continue to shop in Walmart like you doing." And they politely walked away. I don't do that. Don't do that.

While on a first read, a glance and laughter do not seem to match the level of seriousness that Kryss responded with, what she experienced in Walmart has a name, the "cisgender gaze" or "cis gaze."⁴⁴ This states that trans folx are under the scrutiny and judgement of cisgender people in public, with passing being praised as "normal," and being seen as trans as deserving of punishment. Hence, this couple gave Kryss the impression that they were targeting her by laughing and making rude comments in what they seemed to deem as acceptable behavior. But here, rather than ignoring them, Kryss decided to engage with them and shame them publicly.

Additionally, Minaj also discussed grappling with the "cis gaze" and "male gaze,"⁴⁵ when she would engage with cisgender men who were angry about being attracted to her because she is a trans woman. Minaj made it a point that she felt it was necessary to disclose her gender modality at some point for her physical safety and to weed out people she did not want to waste time with. She discussed how in public if a man would not leave her alone or keeps harassing

⁴⁴ "'Cis gaze' refers to the ways in which the world and trans people are presented in such a way as to make them appear as if they exist for scrutiny by, and the entertainment of, cis people" (Mitchell, 2017, para. 15).

⁴⁵ "The 'male gaze' refers to the ways in which the world and women are presented in such a way as to make them appear as if they exist for consumption by, and the pleasure of, men" (Mitchell, 2017, para. 2).

her, she would call them out and make a scene where she was. “I get loud, I get loud with them, because I mean, you’re not saying anything. That’s it. I’m with all of that. So know what [you are] saying. You know, some of them back off, some of them don’t.” However, when people would not leave her alone after she would get loud to scare them off, she relied on the technique of what she called “throwing her voice” to prevent physical violence, as well as show herself as a threat to the other person. When I asked her about an example of throwing her voice, she talked about a night when she was returning to her car after a drag show and a man followed her to hit on her:

So he followed me to my car and he said, “Where your boyfriend at?” I said, “I don’t have a boyfriend. I don’t date.” “Well you’re beautiful, I’d love to get to know you.” Dah dah dah dah. I took my heels off, put my sneakers on. I went “Okay, you have no idea.” So, I flash my hands [a] little bit. I have big hands, [you can] look at my hands so you can leave me alone. Little stuff that like, it kind of escalated like that. I said, “You know, I’m not your kind of girl. I’m a special kind of girl.” He’s like, “What kind of girl is that?” “You know, somewhat of a boy/girl,” cause at the time I wasn’t trans, I was a boy girl.⁴⁶ He’s like, “Well I should fuck you up, my nigga, walking around that like trying to deceive—” I said, “Calm down now.” He took two steps [forward] and I said, “Calm down now, my nigga. You getting too close,” and he said, “For real, I should beat your ass right now.” I said (coughs, deepens voice), “My nigga, I’mma beat your motha fucking ass if you don’t back the fuck up.” (regular voice) You know, I be doing little shit like that sometimes. And I haven’t done that [in] so long, but I have to throw my voice sometimes to keep the niggas away from me because they be doing the most. When

⁴⁶ Minaj was referring to how she was experimenting with gender presentation before she identified as trans.

I went (coughs, deepens voice), “My nigga, Imma beat your motha fucking ass if you don’t back the fuck up. You don’t want none of this motha fucking problems my nigga, you feel me? Cause I’m not with all that shit,” he backed up and walked off and I was like, “Yeah, I don’t go like that, but bitch I’ll go like that. You’re not ‘bout to be all in my goddamn face.” Yeah. Why do you feel like you’re gonna fight me because you wanted me and you hit on me? And you didn’t know. I did everything [to disclose].

The act of throwing her voice was when she dropped her voice down to deeper tone. It should be noted that the deep voice Minaj was using was traditionally more masculine in nature, and when she showed me what she did to get in the other person’s face, she moved her arms and her body in a more masculine fashion as well. This defense tactic shows that Minaj had to rely on her height, her ability to be perceived as a threat, and this person’s perception that she “is a man” (even though she is not) in order to deescalate the situation. She told me that since she was near her car, she had her gun that she could use, but was trying everything else before the situation escalated to that level of defense. This person was willing to hurt Minaj for his attraction to her, and this is an unfortunate reality that many trans people face, especially trans women of color. The effects of the cisgender, male gaze on trans women of color makes them especially vulnerable since they are framed as objects for the enjoyment of cisgender men. Minaj’s experience is also an example of transmisogynoir, which is a term to describe the misogyny, racism, and transphobia targeted explicitly towards Black trans women (Wodda & Panfil, 2015). This is further exemplified by the man accusing Minaj of deception, a prime example of the myth that trans women are not women and the explanation for violence perpetrated against trans women (Wodda & Panfil, 2015). Overall, this sample of self-defense tactics not only shows that

trans people are more than willing to stand up for themselves, but they're willing to stand up for others like them.

Summary

In summation, this chapter presents a sample of the lived realities of trans folx concerning transphobic violence and institutional discrimination, as well as how they adapt to these adverse circumstances that repeat themselves over their lifetimes. Again, it cannot be understated that although these experiences are not directly related to the criminal legal system, the distrust that grows from these experiences with institutions carries over to the criminal legal system. Also, understanding that trans people have a fundamental lack of access to basic needs and must rely on other means in order to have a house, a job, and adequate medical care bridges the gap between lack of access and interactions with the criminal legal system. Interactions, adaptations, and future directions concerning trans folx and the criminal legal system will be discussed in the following chapters.

CHAPTER VIII

“HE TOOK MY PONYTAIL OUT, PUT IT ON HIS ANTENNA, AND DROVE OFF”:
 CRIMINAL LEGAL PRACTITIONER FAILINGS FROM INSTITUTIONAL HARM TO
 CULTURAL INCOMPETENCY

The quote that starts this chapter is from Lucky, a Black trans woman who (at the time) was engaging in survival sex work in a part of Norfolk, VA called Ocean View Avenue. Lucky recounted how as an openly trans adult woman in the 80s and 90s, there were few opportunities for her to work a regular, legitimate job. Thus, for Lucky, paying the price for being herself was lack of access to a stable income, and she relied heavily on sex work. One hot summer day, Lucky was out on the sidewalk, “looking sexy” as she put it, when an officer pulled over. Across the street, another sex worker was getting into someone’s car, but this officer’s attention was on her instead:

And he just pulled right to me. And said, “Put your hands on the car,” and I put my hands on the car. He said, “What are you out here doing? I know what you’re out here doing. Ah, don’t move your hands from the car.” Okay, the car was hot as hell, I mean it was hot. He said, “If you move your hands from the car, I’m going to take it as a personal threat to me.” Like he was going to do something to me if I did move my hands from the car. And then, he was running his little check on me to make sure I wasn’t warranted. I wasn’t warranted, and then when he [came back] all the sudden, he just, he said something like, “You out here, you out here making these men think that you’re a woman. Come here.” And he snatched my ponytail off my head. Snatched it, just took it right off my head, and put it on the antenna of his car. And drove down Ocean View

Avenue with it. And I just laughed at him ‘cause I had so much hair. You did not hurt me.

[laughs] You didn’t hurt me.

While Lucky laughed off this incident and noted that she was not hurt in this exchange, regarding hair extensions, they have to be clipped, sewn, or glued in. So, potentially, this officer could have ripped out parts of her hair, or even sections of her scalp, by forcibly removing it.

Lucky’s response to the officer speaks volumes to her strength and her resilience to transphobic violence. She further categorized this violence as the officer having “hang-ups” and dismissed as almost expected behavior from police. This reveals quite a few things about her perception of officers based on her experiences with them, as well as how she categorized and digested institutional harm. However, different from Chapter 7—which discussed discrimination in general society—the consequences from institutional harm, lack of cultural competency, and failure to enact current policies by criminal legal practitioners have more severe and long-lasting consequences. These practitioners are equipped with power bestowed upon them by local, state, and federal governments, paired with the existence of policies or doctrines that do not hold them accountable, such as qualified immunity. These two issues are a dangerous combination for marginalized people of all kinds. The failure to hold these actors accountable and address the inequity produces the narratives that are included in this chapter. What is more damning about the lack of accountability is that Lucky is regularly reminded of this incident. The officer who did this to her, she sees on television and whose name I recognized while conducting the interview.

Institutional Harm

Law Enforcement

The start of this chapter included Lucky's account of the violence she faced at the hands of a police officer who accused her of "tricking" cisgender men into thinking she is a cisgender woman, a transphobic idea that trans women are not women. His anger led him to rip out her hair and target her over another sex worker getting into a car. Yet, it was an active choice to target, harass, and assault Lucky because she is trans, and it is very obvious to me upon reflection that what mattered to the officer was not that Lucky could be committing crimes, but that she had the audacity to exist in public space. Her existence is seen as an act of defiance by an officer who could care less about the "crime" being committed, but rather maintaining public order, which, in his mind, did not include trans people. As previously discussed, criminal legal practitioners are not immune from the transphobia that permeates our society, and cisgenderism is in fact encouraged by the lack of legal safeguards and acknowledgement of trans validity. Repeatedly in this study, participants revealed that law enforcement officials were beyond lacking cultural competency or failing to enact established policy and in too many cases were targeting trans people because of their gender modality. This manifested as accusations of wrongdoing and assumptions of guilt based on their gender modality through unlawful questioning, sexual abuse, and even attempted murder.

Interestingly, Jasmine had a similar experience to Lucky in terms of being in the Ocean View area and receiving unwanted police attention. While Jasmine had previously engaged in sex work before as a survival measure and had gotten sober, she was still harassed by police years later. Her father lived near Ocean View Avenue, and although Jasmine would visit him, she would have to be prepared to face police since it happened so frequently:

So, if you are seen walking up and down the street, they stop you for soliciting. Now, whether they can prove you're jumping in on the cars or not [in terms of] prostitution, but they could charge with soliciting. There have been many times where I've just been walking down the street and been stopped, because I was [a] known prostitute in the past. I still can't walk down the streets in my neighborhood I grew up in without being stopped. 8/10 times, even now. And then, they always think just because you're a transgender [woman], they always think you're prostituting, that you're only dressing up for money. You're only trying to trick people out of their money. Well, most of the officers know me by name, officers that really know me, they can tell that I'm clean now and I'm not on drugs. So they will stop and check and see how I'm doing. That might be a like, 20% of the time of officers. If they think I'm trans, they will stop, ask, "What am I doing?" [I say,] "My father lives down the road. I have an address one block away from here." You can't just stop me for no reason and try to run my record, and it shows prostitution and drugs. So they will tell you, "Okay, if I see you walk in one more time, you know, I'm going to charge you with soliciting or frequenting the street."

In fact, these officers would go so far as to even search Jasmine while she was waiting at the bus stop in order to corroborate her claim that she was waiting for the bus:

[Officer] "You gotta have a bus pass." I've been searched. I said, "I'm having to wait on the bus." [The officer said,] "Do you got a bus pass in your pocket?" The guy searching me [was] looking for a bus pass. Luckily, I had one. Even when I was doing dirt [crime], I'd always take the bus pass on [out of] my pocket. Just use that as an excuse. [Or if I would say,] "Oh, I'm going to the store," [they would ask,] "Do you got a credit card on you?" Gotta make sure you got it [money for store] in cash. A lot of times, you are

turning tricks because you don't have cash on you, so that's why you're out there walking.

Of course, this is simply ridiculous, the accusation that Jasmine could not possibly be waiting for the bus, despite the fact that the bus takes cash on board for a ride, or that she must have a credit card to buy items from a store. Because of her gender modality and past with law enforcement, Jasmine cannot just exist in the area she lived in and where her father lives. She readied herself for the accusation that she was committing sex work, subjected to unlawful searches, and threatened with possible arrest. Other participants also experienced accusations by law enforcement officers and subsequent harassment due to the transphobic association with crime and being trans. Luna, Maggie, and Patrick all had to deal with transphobic violence concerning this undue association, and their only crime really was that they existed in public space under the gaze of law enforcement, who felt entitled to their bodies and freedom.

Luna, while walking in a mall with a friend who was also trans, thought they had been clocked as trans by a cashier in another store, who then called police. An officer approached Luna and her friend, accusing them of stealing a single pair of earrings from a store and demanded to search them:

So we got stopped by the mall cops, or whatever, and they're going through my bag and they're going through her bag, and it was just a very, very bad experience, actually very demeaning and whatever. But one of the things was, is that it is very clear that she felt that I was, something about [being trans] gender, because at one point, she was like, "Well, if, you know, if, if we don't settle this out, I'm gonna take you back in strip search. Would you like that?" And it was like, she threatened to strip search and [it's] very, very clear a couple of times, and I was pre-op at the time. And I was really not thrilled with

that [threatening the strip search] though the timeframe would have been...very much the opinion of, you know, we're gonna go this way [being strip searched]. [The officer's opinion was] I want to scare the shit out of these guys. That's bullshit, I mean plain and simple. So basically, I guess you could say it was very clear from the way she focused in on strip searching. You know, she was trying to intimidate me in that respect.

If it is not clear, Luna and her friend were accused of stealing a cheap pair of earrings and were threatened by the responding officer with being strip searched, since this officer evidently knew this would elicit some sort of reaction. This officer forced compliance, using a threat of a humiliating procedure in a public place for a pair of earrings. As Luna asserted the fixation on strip searching, I am inclined to believe that the officer was intentional with her words, knowing that Luna and her friend would be more inclined to cooperate, since they would want to avoid being strip searched because they are trans and would not want to reveal their "secret."

Clothing seemed to be a reoccurring theme in these cases, as Maggie and Patrick were both profiled because of the combination of their clothing and their gender modality. Maggie, while walking around outside of her friend's apartment, was dressed for a night out. She paced, scrolling through her phone, a practice that she had picked up while living in a bigger city. However, at some point, she realized that a trans woman dressed sexy, walking around texting may have looked suspicious, so she went back to her car. But by that time, police were arriving with a cruiser and a larger van, meant for multiple people being arrested:

So I don't know how many clients they thought I was seeing. Or how many clients I could fit in my four-seater car. I realized that I did not really have a choice because that they could get a warrant for it [car] and they could take me for questioning. I did not want to get in a situation. I did not want to be presenting as female and still not passing in a

police station. I don't even know what that situation would have been, and my understanding is they can hold you for 10 hours, and I did not want that, so I said I hypothetically gave consent. But I didn't have a choice, and they didn't find any indication that I had been doing any type of sex worker [stuff]. Also, I had just moved down, so my car was so full of my stuff, but not everything could fit in there, and additionally during that search, they found my badge that indicating that I'm a federal officer, so I think that helped. What would I say about that? When I was in, I would say, "Mine's [my position is] bigger than yours" when I tell that story. [Maggie has a federal position.] Because mine is bigger than theirs. I also believe that white privilege probably saved me, so. I was referred to as sir, which might have been that [because] my driver's license had been male at the time. Towards the end, they said, "Well, there wasn't another person here, so I guess the only thing you might have been doing was masturbating," and there was no indication of that, so I thought that was excessive.

So, while Maggie was waiting for her friend so they could go out for the evening, officers receive a call and decide to answer a pacing trans woman in "sexy" clothes with a cruiser and a van that would hold multiple arrestees. Then, they proceeded to misgender (and probably deadname) her, and when their assumption that she was a sex worker didn't pan out, they accused her of masturbating in her car. This, of course, being the only "rational" explanation for Maggie being dressed that way at night as the police felt it was reasonable to oversexualize her presence. Effectually, this is an example of walking while trans, literally because Maggie was walking in public, on her phone, dressed for a night out, so she must be committing sex work. However, after being proven wrong, the police still doubled down on their assumptions that

Maggie was a sexual deviant, illustrating the responding officers' transphobic perceptions that her identity revolves around a fetish or sexual nature.

Maggie does make a note that she believes her whiteness and her badge saved her from being detained that night, but it did not protect her from the harassment and fear of facing the real possibility that she may have been arrested for looking cute as a trans woman. The assumption by law enforcement that Maggie must have been engaging in illegal activity because of how she was described on the phone is so compelling in that she must be there for no other reason besides committing sex work. And, they were so bold in their assumption that they brought a van without confirming beforehand whether they would have multiple arrests. Again, Maggie was another participant targeted for having the audacity to be “sexy” in public space because she must be up to “no good.”

Suspicion was not confined to the trans women I interviewed, but also trans men. For example, binders, which are used by some trans men and non-binary folx, were met with suspicion by law enforcement officers. Patrick, who had been found by a jogger after he experienced a seizure, was being loaded in an ambulance when a Sheriff's officer arrived on the scene. As Patrick regained consciousness, he was met with a barrage of questions from the officer, which included the insistence that he take off his shirt since the officer could see the outline of Patrick's binder:

They gonna give me an older gentleman, Sheriff's Department. I'm on the ambulance and he's demanding that I pull my shirt off. [Officer says,] “I need to know what's under your shirt; I need to know what's under your shirt.”⁴⁷ I says, “Sir, you do not, and you have no right to know what's under my shirt.” [Officer says,] “Yes, I do.” I said, “You do not

⁴⁷ Notably in places like New York City, they have rewritten the patrol guide as “prohibiting police officers from conducting any search for the purpose of determining a person's gender” (NYCLU, 2012, para. 6).

because I'm on the ambulance and you don't need to know." He [said], "Well, it's for the safety of them." I said, "I'm on the ambulance, getting ready to go to the hospital. Do you really want to know?" And then I pulled my shirt up [revealing his binder] ... He just got up and left. And then, his supervisor ended up coming to the scene because they were getting upset with the [situation in the] ambulance. His supervisor did come and they apologized, apologized, and on and on. I said, "I can have your job today. You cannot do this." . . . (laughs) Don't know what happened to him. I told him, I said, he had, he had my ID. But my ID is different, and I told him, this is the deal. It was an older gentleman, but he was demanding I might have this [something threatening] under my shirt or something. Really? Could be a tank top. You know?

So, after Patrick has a seizure where he loses consciousness, he is told by a Sheriff's officer to remove his shirt, since the officer is making an assumption about there being something under Patrick's shirt. Patrick noted that at this time being treated by medical staff, so whatever danger he could have posed to them had more than likely passed. After arguing with the Sheriff's officer, Patrick then lifted his shirt up (when he did not have to), and after showing the officer he posed no threat, the officer left the scene. Effectually, Patrick and Sean's accounts revealed the officers' perception that their bodies are dangerous (or at the very least could be perceived as a threat without the knowledge of binders), similar to Luna and Maggie.

Participants also experienced institutional harm from law enforcement after the identification they presented did not match their appearance. Joanie, while traveling in a rural area, was pulled over by an officer who was initially friendly, until she handed him her ID:

It was a routine stop, and one of my lights was out, my brake lights. And when he pulled me [over], it was me and my friend. So of course, I was out of town escorting at the time.

So we was going from city, county, to the next county, and the police caught us. So when I gave him everything, he was saying “ma’am.” He was so nice and everything, so when I handed him my ID, he was like, “You out here workin’, ain’t cha?” [I was] Like, “What are you talking about?” [Officer asks,] “Are you on vacation?” I’m like, “What?” [After giving him the ID] My license was legit. It’s just my F was still an M, and when he seen that, and he probably he had a problem with gay people before transgender people, his whole body language changed on me. [He said,] “Get out of the car.” I said, “Oh my God.” He looked like he was going to kill somebody. Yeah, it was just crazy, yeah, so that’s why it’s very important to change your documentation; [it] is a must. If you know you’re going through transition, that should be the first thing you do. Make sure your appearance goes with your identity— So when he searched the car, they got the dogs to search the car for drugs, which [there] were none in the car. They found my money. He was like, “Where does this money come from?” I said, “I got receipts,” which I had no receipts, but he couldn’t take the money because won’t nothing, won’t no drugs or nothing around. So to cut a long story short, but you know who saved me? A woman officer that was a lesbian. She came up to see the situation, diffused it, told him to step away [and] she was going to take care of everything. She told him, “You’re doing too much.” She’s like, “Well, did you run her name?” He said, “Yes, I ran his [misgendered Joanie] name.” (Joanie chuckles) She’s like, “You’re all okay.” My friend was crying; we were a little distraught because of the way he acted towards us. And she was like, “Well, some people don’t understand the lifestyle” and blah, blah. “They haven’t properly been through the training here.”

Joanie describes the woman as a lesbian because she reportedly looked like Ellen DeGeneres, but regardless, the officer was a sergeant and was able to diffuse the situation and help Joanie and her friend exit safely. What needs to be noted about this instance is that Joanie is a trans Black woman, and the turn of the responding officer from friendly to searching for drugs and illegal items is not an accident. The officer first was charmed by Joanie and her friend, who was also trans, but quickly ‘looked murderous’ when he realized they were trans. Her gender presentation and expression compounded by the fact that she is Black reveals that more sinister intersections were at play here. Yet, overall, this is terrifying for a number of reasons, one of which could be the location of the incident was in a rural area, which could have allowed for a number of things to happen to Joanie and her friend without notice. Further, it is strange that when considering the large number of trans women, especially Black and Brown trans women, who are harassed, assaulted, and arrested by police (NCAVP, 2013; NCTE, 2016; Ritchie, 2017), it was ultimately an officer’s intervention that deescalated the situation.

While the previous narratives deal with recounts of law enforcement policing trans folk due to their appearance and “mismatch” with the identification, in some narratives, participants reported law enforcement took part in gross illegal activity. Again, I must implore a warning before I continue with the narratives of Wolf and Karen. These are some of the cruelest accounts in the scope of the study, but their stories are important in order to come to terms with the long-term ramifications of transphobia and unchecked institutional power at the hands of criminal legal practitioners. Their stories not only reveal these evils, but also participants’ strength and resilience as they recounted them. I asked both Wolf and Karen if they wanted a break, but they pressed on, even when I was devastated by their words. I, a person who did not experience this, was being traumatized due to their experiences, but they took back their power in the interview

and chose to use their trauma for something good, something to make a difference. That being said, these are their stories.

At the age of 8, Karen was overwhelmed with the gender dysphoria she experienced and the denial from her mother; as a result, Karen was hospitalized after a suicide attempt. It was there she met a doctor who sexually assaulted her and told her that, “sleeping with grown men would make me into a girl.” This doctor passed her phone numbers of people he knew, and Karen was picked up by adult men who raped an 8 year old who was being manipulated that this would turn her into a woman, all under the nose of her neglectful parents. Karen then moved a year later and, “When we moved to the Midwest, I carried the habit [the ‘treatment’] with me. One of the things the doctor told me was to seek out people myself. I suspect he liked the idea of me being a slut.” At the age of 9-10, after relocating to another area, her homeroom teacher began to sexually abuse her after Karen had told him what the doctor had said about her treatment and the teacher used her body to make money as her pimp. Karen told me she was labeled as a commodity, since amongst the other young girls she was trafficked beside, her gender modality was special and was exploited. Her pimp used the words of the doctor and showed her she was blossoming into a woman with the makeup and feminine clothes they gave her. Coincidentally, Karen was also on a medication that was causing breast development in her chest, and when she pointed this out, her pimps told her, “See? The treatment was working!”

However, after she noted that she had been to the hospital several times for various injuries, which include bruises, cuts, and tearing of her anal cavity, I asked why police were never called. Nurses and doctors saw her repeatedly during the three years she was trafficked by her teacher, from the ages of 10-13, but yet, not once did a special victims officer ever interview her. It was then Karen told me, “People working on the town hall were clients, police were

clients, and some other teachers were clients.” These police officers, while never in uniform, would bring their guns during their assaults of Karen and went so far as to hold the gun to her head when she told one he was being too rough with her. They would threaten her life and assault her, but would have the audacity to wave to her while in their patrol cars and, “more than once, I was told that if I ever tried to tell anyone, it wouldn’t end well for me. They never clarified what that meant.” In the small town where this trafficking ring was occurring, it was too small to have any outside help, and while Karen noted some girls did leave, the members of the ring were never prosecuted. There are several issues at play here, especially concerning child sexual abuse and the unique intersection of also being trans. In a meta-analysis of studies concerning child sexual abuse survivors as adults and interviews with children for treatment, the researchers found that the “majority of abused children [did] not reveal abuse during childhood” despite “validated histories of sexual abuse” (London, Bruck, Ceci, & Shumna, 2005). These factors can be due to lack of trusted adults to whom they could disclose, negative reactions from peers which increase shame, and that the severity of the abuse decreased the likelihood of disclosure (Arata, 1998; London, Bruck, Ceci, & Shumna, 2005). Pair this with the fact that trans youth consistently struggle with lack of safe spaces, poor mental health resources, lack of supportive family and community, and internalized transphobia (Austin, Craig, D’Souza, & McInroy, 2020; Grossman & D’Augelli, 2006; McDermott, 2015). This paints a bleak picture about the failures of institutions to protect Karen and the other girls, as well as their hesitancy to disclose their victimization. The unique vulnerability of experiencing childhood sexual abuse, especially when they try to disclose, alongside the stigmatization of being a trans youth were clearly capitalized on by those who ran the sex trafficking ring, despite some of them holding positions of being a criminal legal practitioner.

In a further example of the lack of legal protections leaving participants vulnerable, Wolf had problems with a transphobic coworker who repeatedly used incorrect pronouns and generally harassed many people in the office:

In fact, I told them, you know, HR, and they were, they were working on something because he was being ridiculous. He was also an asshole to women in general, so, he probably was gonna get fired, you know? And I told them this, gave them the information to my job, names, numbers, everything. I have nothing to hide (laughs). He clearly was being that way [a predator]; he probably wanted to use me and take me specifically because I talked back.

After this report was filed by HR, Wolf was attending a gathering at work, where he assumes the transphobic coworker spiked his drink. After having a drink at the gathering, Wolf woke up in a van, tied up and confused. It was then he realized that he was kidnapped by the coworker and his friend, who was a police officer, who then proceeded to take Wolf out to the middle of nowhere, and brutally beat and sexually assaulted him. Wolf managed to escape the night with his life, but when he reported the heinous crimes by the police officer, the police department did not believe him.

He accounted every detail, even drew the law enforcement officer with all his tattoos and birthmarks, but the police department outright denied the events occurred:

[Police] Didn't believe me; nobody believed me. They were putting it off; they didn't want to hear it. And even though I have the incriminating case [Wolf became pregnant from the attack], they even, they were like, "Are you sure it's his? It could be someone else's baby," or they felt that we were having an affair and I just wanted to ruin his marriage. So, they put it in a way that it's not and they covered shit up.

Wolf, despite recollecting these details, and being pregnant, was still repeatedly dismissed and even interrogated by police, who did not even bother to investigate the crime or take it seriously.

Wolf would ask for different investigators, but was met with the same questions:

[Then I would] Try a different person. I used like 3-4 different people; they all were just not compliant. Asking things that are stupid, things that had do with, “What is your background with alcohol and drugs?” Like, oh, yeah, you wanna blame it [on that]; of course you do because you’re a white man. Of course. What’s another question you have? What was I wearing? Did I flirt? Come on, get it all out, all of the stupidity. Like, what was he wearing? What was he on? Why was he there? [They said,] “Yeah, you know, well, we’re not discussing him.” Uh-huh, really, we’re not? Cool, so I can go kidnap someone and rape them and you’ll question them? Thanks. It’s just, it was always put on me.

Even though the officers claimed that there was not enough evidence to investigate, during follow-up interrogations, it was revealed to Wolf that they had done a background check on him. When they were surprised by how clean his background was, Wolf responded, “It’s nice, right?” Here the police are clearly engaging in terrible behavior that involve belief in rape myths about victims “asking for it,” revictimizing the survivor by centering them as the perpetrator, and then assuming that Wolf had a record which would justify his victimization. Unsurprisingly, Wolf’s experience is reflected consistently in the literature, where sexual assault survivors describe their poor treatment from law enforcement (Lorenz, Kirkner, & Ullman, 2019) and other findings showing that police utilize rape myths in their case notes to justify the crime (Shaw, Campbell, & Feeney, 2017). Further, looking into Wolf’s background is indicative of findings that prosecutors will actually decline to pursue a sexual assault case if the victim has been found to have

‘criminal connections’ (Frohmann, 1991). Thus, the police could have been actively trying to prevent the case from proceeding because it may not be tried anyway, despite the fact that a serious crime had been committed.

Wolf even noted to police that he was worried about what would happen to him once the officer knew he was alive. They responded by sending an officer for 8 hours, one time, to watch his house. He tried to appeal to other officers to make his case so they would just believe him. He approached another officer, a woman, and she had a picture of her daughter, who shared a similar brown skin tone to Wolf, displayed on her desk, and he argued what made him different than her:

[I asked her,] “Why were you protecting an officer? He did this. He coulda done this to your sister. He coulda done this to your daughter.” I remember speaking to a female officer and I looked at [the picture of] her teen daughter. I said, “He coulda done it to her. That’s your daughter, right?”

The officer was insulted and did not want to bring her daughter into this, but Wolf was attempting to appeal to her humanity, which evidently did not work.

Frustrated by the lack of department action, Wolf retained an attorney, who insisted that they had enough proof with what Wolf had been telling police for weeks now. During this time, Wolf was able to file an order of protection against the officer as a safeguard against any future violence, which would at least have a record. A part of filing orders of protection is that the offender must also be served, and shortly after being served, the officer died by suicide before the first court date. Wolf noted that, “The people are dead that did this to me. There was nothing to be done, but the whole thing was just ridiculous. They didn’t believe shit. I really do believe actually they were just covered up. I don’t know which one.”

Both of these instances from Wolf and Karen were due to officer wrongdoing outside the scope of their job or even off the clock, but this did not stop them from using their badge to protect themselves from prosecution. Further, what is even more sinister, especially in Wolf's case, is that he was not believed because of his gender modality, despite all the evidence he provided, his unchanging story, and the obvious guilt of the officer who took his own life. The badge was used by the individual officers to commit their crimes, but the institution itself insulated itself from being rightfully accused of wrongdoing. In Karen's case, nurses, doctors, and other trusted adults failed to report any trafficking, and law enforcement tightened its already long-reaching power to ensure that Karen and the other sexually abused girls were silent. Yet, while these are extreme cases in particular, the consistent inaction of practitioners and the utilization of the blue wall of silence are common practices. We have seen law enforcement stand by as their colleagues suffocate Black men like Eric Garner and George Floyd, murder sleeping Black women like Breonna Taylor, and sexually assault trans women. Both the action of the perpetrator and the inaction of the bystanders in the instances of Karen and Wolf, like many marginalized people, show there is little to no institutional accountability, and the awful truth that for just being who they are, they face a higher risk of victimization at the hands of criminal legal practitioners.⁴⁸

Courts

Being in a courtroom did not lessen the likelihood that trans folx would face institutional harm in a public setting. There were cases within this study that showed legal practitioners targeting trans people because of their gender modality. Throughout the interviews concerning legal practitioners and transphobic violence, there was a general theme of practitioners outright

⁴⁸ This is also seen in the report by Amnesty International (2005) concerning the ill treatment of criminal legal practitioners towards trans folx.

ignoring proper pronouns, legal names, and even doling out punishment based on gender modality. In these particular cases, trans folx were seen as a threat that needed to be dealt with publicly, with practitioners utilizing their power to override basic decency in the courtroom and the courthouse. Again, while policing trans bodies by the general public has its implications, when members of the public see someone in a position of power discriminating against a trans person, it is an unspoken license that gives free reign to the public for them to discriminate as well. If a judge faces no penalty, why should the public act any differently? It cannot be understated that the ramifications of unchecked transphobic violence are long reaching past these incidents described.

Similar to many narratives that involved discrimination, many of these instances of treated transphobic violence in the courtroom had largely to do with misgendering, which has already been established as damaging since it outs someone in public. In a courtroom, which is typically packed with many folx, this callout can be a threat to the person when they leave, but overall, like most violence, is unnecessary. Grace, who was in court for legal proceedings with her ex-wife concerning an increase for support allocation, noted that she was specifically misgendered despite her legal name change and gender presentation as herself, a woman:

The ex and the lawyer kept referring to me as him, him, him, him. And I was under oath and I says, "Look, I am a woman." My driver's license was correct. My anatomy was correct, my mind was correct, everything says woman, but because I used to be the husband, [they] kept saying him, him, him, him, and I said under oath to the judge, "I am a woman, and I said that twice."

Despite her assertion that she is a woman, her ex's lawyer, the judge, and her own lawyer allowed this behavior to continue. On the record, the words of Grace, a military veteran and

respected member of her religious community, fell on people who decided that she would not be acknowledged as the person she is:

[The Judge] Could care less, he didn't care. He didn't, he didn't chastise the lawyer, didn't chastise my ex, didn't say a word one way or the other. He just let it go, just water under the bridge. My lawyer talked a good talk, but when he got in the courtroom, [he] was totally impotent. My lawyer didn't say a word. Nobody defended me. The only person defending me when they were using the wrong gender in addressing me was me.

While recalling this to me again in the interview, Grace looked out the window, her chin resting on her hand, eyes watering, and voice breaking. A silence fell between us, but in that moment, the devastation that she had felt during that day in court became tangible. Being repeatedly misgendered in front of court professionals could have altered the outcome of her case and completely hindered the ability for Grace to have a fair trial. As already noted by Lambda Legal (2015), courtroom actors have been seen to weaponize LGBTQ+ identity of those being scrutinized in order to capitalize on negatives views held by those present. The careless, targeted neglect that these legal practitioners showed had long-reaching effects on Grace, and thus, I have chosen to categorize misgendering as institutional harm in this setting.

Djinni and Nicholas also faced misgendering in the courtroom. As partners who are both trans, they were in court concerning proceedings similar to Grace's. Djinni's ex-wife filed motions for more financial support following their divorce, and Djinni and Nicholas were called to make statements in open court. Djinni noted that while the judge was acknowledging her as Djinni, with her correct name and pronouns, as well as her own attorney doing so, her ex-wife's lawyer went out of his way to misgender her and openly humiliate her in the paperwork and during the proceedings:

The judge was good; her lawyer on the other hand went out of his way to be corrected in order to misgender me. My name was changed before the divorce was final. And they went out of their way to put my name, my deadname, now known as [my deadname], and the new paperwork deadnamed me.

In spite of the fact that Djinni had already changed her name, her ex's lawyer decided that it needed to be known that Djinni is trans. Further, this lawyer also weaponized Djinni's transition as not only the reason for the divorce, but also the reason why the ex-wife needed more support was because "the mental stress of taking care of me during my suicidal moments [as a result of dysphoria] basically caused her to lose her job." Effectually, the lawyer was trying to convince the court that if Djinni was not trans, not only would the divorce not happen, but the ex-wife would not be without income, since the stress is too much.

Nicholas also noted that while coming to court with Djinni, no pronouns were used to refer to him when he was addressed:

But I mean, also, that lawyer was using the wrong pronouns for my fiancé. So, maybe he was only doing it because the ex-wife was using [the wrong] pronouns. And then, he wasn't sure about mine. So he said, let me just steer clear and not use them. I was referred to as "you." He said, "Do you know anything?" And then, like he was talking to the lawyer, my fiancé's lawyer, and he was pointing [at] me and then, "Your witness." Like, they knew my name and [I] introduced myself. How did you forget my name? I'd rather go with gender neutral pronouns than the wrong ones.

Thus, in the same courtroom where Djinni was openly misgendered, Nicholas was also misgendered in a failure to acknowledge him as a man or even using his name. This outright refusal to correctly gender Nicholas as well as Djinni reveals that consistently, the lawyer upheld

his dedication to be transphobic in order to peddle his narrative that being trans is not only invalid, but also the cause of the divorce proceedings. From Nicholas' point of view, because of these proceedings with Djinni, he observed that "No one wants to use pronouns whenever they're like high up, in the judicial system," which seems astute, since the common decency to acknowledge their identity is valid.

In other cases of institutional harm, participants found themselves in the hands of ignorant practitioners who openly saw them as threats and used their power to 'put these folx back in their place'. For instance, Lucky, and Jasmine all had specific instances with a solo practitioner who took it upon themselves to weaponize the powers of their position. Jasmine described how specific bailiffs treated her poorly based on her gender. Jasmine was a part of mental health court and drug court, which require frequent returns for check-ins while someone works the plan that has been established. She described being patted down when she entered the courtroom and the difference in treatment between bailiffs who were men and those who were women:

I don't know, some of the women, like a woman bailiff, can be real ignorant, just as ignorant as men are. The men are more [ignorant], because they're so unsure of what to do with a transgender [person]. They are like, very cautious. You know, they ask, they do ask, you know, "Do you feel uncomfortable with me?" Dah dah dah. I'm like, "No, just do your job. I don't care." Now, a woman bailiff, when I do [have] the few times I have had encounters with them, they're just, I don't know if it's just a woman's bailiff's jobs [to] be snotty and rude. But they seem more rude. I don't know why. They make it feel like you're not a real woman, so I shouldn't have to deal with you. It's how they make you feel.

Jasmine described the disrespect she faced either from men bailiffs, who are overly cautious to the point of being uncomfortable, and women bailiffs, who outwardly show their disdain towards her. Again, it cannot be overemphasized that the difference in treatment perceived and experienced by participants reinforces their expectations of ignorant criminal legal practitioners, but also that they just come to expect this behavior from cisgender folx.

Lucky, who was attacked by a former partner (who attacked her after he had an order of protection against her), came to court to argue her case because what her ex claimed never happened. However, despite the fact the complainant did not have proof, no pictures, medical reports, witness statements, etc., Lucky was sentenced to 30 days in jail, and she firmly believed it had a strong correlation to her gender modality:

And that ended very bad because it was a lie that I had attacked him, which I never did; he attacked me. And for some reason, the judge in Hampton, we went there for a violation of [the] protective order. And, but, I didn't have a lawyer because I didn't think I would need one because he was lying, you know. Yes indeedy, everything [the ex] said happened, he had done to me, he was doing all this. So I don't know if [it] was to save face with his family or I don't know why, but he told me a lie and that I attacked him and the judge found me guilty and gave me 30 days (chuckles). I did 30 days in jail for that, and it was a damn lie. A damn lie. The judge just went on his word. His word was all he had. Other than the fact, I am almost sure that the fact that I was dressed as a female in the courtroom got me found guilty. Really, it did. I am almost sure [of] that because that man had no reason to put me in jail. I mean, actually, I am so sure that, that old judge looked down on me and said, "I'm gonna lock that ass up." (laughs) I could just see it; he was seething, seething. No matter what, whatever I said made him seethe more.

In summary, despite the fact that the ex of Lucky did not have any substantive evidence that he was attacked by her, the judge ruled in his favor and incarcerated Lucky. Her perception that the judge was enraged by her existence, and thus used his gavel to sentence her to incarceration seems the most logical here, since there is little to no basis in reality to ever give a sentence to someone based on nothing. But Lucky, being a trans Black woman, formerly in a relationship with a cisgender man, is a dangerous intersection that elicits disgust and incompetence from members of the public, even when they are wearing black robes.

On the flip side, being a criminal legal practitioner did not protect one participant from being targeted because of their gender modality. Kylie, a lawyer who is also trans, faced targeted discrimination from other legal practitioners:

Yes, being transgender can be a significant issue. I had several employers express surprise at my name. I had at least a few interviews that I felt went well, that suddenly went cold after a background check was done. Some had difficulty completing the checks due to the name change; others simply went silent. One explicitly refused to shake my hand after learning I was transgender, and another revoked a job offer upon learning I was transgender.

When I asked about why the one lawyer would not shake her hand, Kylie noted that the lawyer physically recoiled when she stood after being called, and he told her he was sick and could not shake her hand, despite not exhibiting any signs of illness. Other employers would extend offers, but revoke them once Kylie opened up about her gender, with one going so far as to chide her for her physical appearance, and how it would not be within the confines of the dress code:

Yes, he was ready to hire me; his message explicitly said he was passing on other candidates with more experience because he felt I could be molded. He was discussing

starting salary and clothing allowances. I sent him a message very politely explaining that my hair was a critical part of my expression of my gender identity, and that I hoped he would understand. I never heard from him again.

Thus, Kylie paid a price for being trans, and just having her long hair was such an issue for this attorney, he revoked his job offer and denied her a chance at employment.

Overall, participants facing institutional harm in the court system are often in difficult positions where when they insist to be acknowledged as themselves, it is weaponized against them to either humiliate or penalize them, for no other reason than they are not cisgender. These experiences are alarming and further press that misgendering is damaging and the lack of knowledge concerning courts is even more terrifying.

Corrections

While law enforcement and courts target trans folx in particularly violent ways, these instances repeating in the correctional system have an additional compounding difficulty; for instance, being able to restrict someone's physical freedom and keep them confined in places that systematically dehumanize and degrade people who are imprisoned over lengths of time. Participants in this study had narratives that revealed the kinds of targeted violence they experienced because of their gender modality when they interacted with the correctional system, which ranged in this study from misplacement to outward mistreatment, even when one of the participants was also a practitioner.

Elvis, after being arrested for a DUI, had already requested the LGBT liaison officer, who he knew existed (because he actually knew them), and was asked why by responding officers, and he rightly told them he did not have to disclose. He also noted to me that he realized in that moment, the officers were unaware of him being trans and he did not want to disclose to

them. After being taken into custody, he figured that more people working at the jail would know who he was referring to, but yet again, he was told they were unaware of the LGBT liaison officer. Yet, instead of asking Elvis where he would like to be placed or even placing him in a cell by himself, the officers at the facility had a different idea:

So basically, like I said, [I was] completely denied because I asked for [an] LGBT safety kind of thing, I wasn't put in general population. I wasn't put in a cell by myself. I was handcuffed to the center of the fucking jailhouse, and just put on display in front of everybody, just to sit there for the whole time. I mean, general as in like the other inmates are coming and going from other jailhouses. Like, this is a general walkway, general access for everybody, and that's what was "LGBT safe." So just put the person on display and handcuff them to the chair. Like they have a cement bench with bar. And left [me] in a walkway for six hours.

If it is not clear, Elvis, after cooperating and asserting his rights to an LGBT liaison officer to advocate for his protections, was instead handcuffed to a metal bar in the middle of intake for six hours instead of being processed. He was arrested and incarcerated at around 1 a.m., but was not processed until the morning shift had arrived at 6 a.m., when an officer finally approached Elvis to ask him about why he was handcuffed to the bench:

So they processed me, and that officer asked me if I needed to use the facilities or anything like that. And I said, "Well, I didn't think I would have to because I saw the magistrate like hours ago." Obviously, there's no time in there. So I was like, [that was] hours ago. I was like, and I've just been held, you know, I was like, I'm already free to go. I said my person's here, I know that, like, all these things are in line, and y'all are holding me for what reason? And she, it was a female officer, she said "Well, after I

finished this,” you know, processing and whatnot, she said, “I’ll go look into it myself.”

And she left me in the process room, which was like a holding cell. They know it was like a single cell, but it only had like one electronic thing in it. Nothing you could do, you know, no phones, no nothing, nothing you could do; [it] was still locked from the outside. She left me in there, and then, when she came back, she said that everything’s being pushed through now. But I had to go back to either where I was or a cell, if I needed to use the restroom. And I said, well then, I need to use the restroom, put me in a fucking cell at least, you know, I’m saying like I’ve been handcuffed to a fucking bench, the whole nine. Yeah, I want to go. And I really didn’t have to pee, but I just wanted to go into the [cell], you know what I’m saying? I didn’t want to be sitting in that area anymore. Um, so they ended up putting me in an individual cell far away from everything else. It was a far corner of the area, I don’t even remember seeing that from where I was before, but they put me in that cell and I stayed in that until I was released.

Thus, infuriatingly, Elvis could have been treated with the most minimal amount of respect by being in a holding cell the entire time, but the intake officers did not even have the decency to process him so he could leave. Luckily, the officer in the morning shift got Elvis processed, but this entire disaster hinges on the fact that the officers decided to handle Elvis differently because of his gender modality, which they did not know he was LGBTQ+ until after he asked for the LGBT liaison officer. So, he’s damned if he does not disclose to “surprise” officers, but when he asserts his rights, he was treated harshly. The reaction and subsequent treatment of Elvis by arresting officers and those in the jail show that he was treated as an “asshole” under Van Maanen’s (1978) assessment of how police classify members of the public. Effectually, an “asshole” is someone who “does not accept the police definition of the situation” (Van Maanen,

1978, p. 4) and makes the officer's job 'harder' because they have knowledge of their rights and challenge the officer's authority. Hence, when Elvis asked for the LGBTQ+ liaison officer, he was seen as an "asshole" because he knew of services that the responding officers did not and thus, he was treated poorly since he was being 'difficult.'

While Elvis' experience was during a short time being incarcerated, Patrick, Joanie, and Lucky faced institutional harm and discrimination during their longer incarceration stays. Patrick, a trans man who was wrongly incarcerated in a woman's prison, faced harassment and bullying at the hands of correctional officers who sought to police his gender presentation. Patrick kept his hair buzzed down to 1/8th of an inch, and was told by an officer that it "was too short for him. And he, this was a sergeant actually, I forgot that. He called me out and took me out of the way, man." Thus, Patrick was policed, not because of a safety issue or other violation, but because the sergeant felt the hair was too short for his liking. However, after enduring this harassment, in retaliation, Patrick dressed as a woman (which is dressing in drag since Patrick is a man) in order to look "more feminine" as the complaints from the officers were reflective of that:

Lord, the whole [place] busted up laughing. She [officer] told me, "Don't you ever, ever put that on again. And do that to me again." Oh, that's what I did, I dressed in drag on the compound to make a point to somebody. I put makeup on, I took a scarf and put it around my hand. When the girls switched out, they gave me a pair of really tight, tight jeans. And I went up to, I went up to chow, [singing] "I'm coming out." I went to both chow halls. The officers didn't say anything, the lieutenants didn't, the whole compound was rolling, but I had told people I was going to do this. Ground security [was] trying to give me, write me up and give me charges for dressing as a female. (laughs) Which is null and

void, I'm on a female compound dressed as a female. What am I supposed to be? I'm supposed to be here, right? And I got, my officer heard, she [officer] called and said, "See, I got four referrals in mental health for you."

What is ironic here is that security was trying to write up Patrick for dressing as a woman in a women's prison, when previously, their targeted complaints aimed at him were stating that he was not presenting as a woman. Patrick faced discrimination and targeted harassment, and his way of fighting back could have resulted in loss of privileges, basic necessities, or being unjustly locked in solitary. Also, the officer who took in the referrals in mental health was one of the staff who just treated Patrick as a person, instead of policing his behavior. But the outcome may have been vastly different without staff like this there. Further, Patrick was only facing this level of targeting because of his gender modality, since the officers did not like when he stuck out, and then he tried to "belong." Here, despite whatever Patrick does he is "out of compliance" as exemplified earlier by Girshick (2011), which reveals that trans men face difficulty being accepted as themselves or when they attempt to align with arbitrary standards around gender presentation.

During her only stay in prison, Lucky noted that while most of the officers treated her with respect, correctional officers who were women would not treat her fairly or would be outwardly hostile towards her. Similar to Jasmine with women bailiffs, Lucky experienced repeated negative instances with correctional officers who were women:

I will say this, when I was actually in the penitentiary, most of the female officers for some reason didn't like me. I'm going to say it, they just did not like me because uh, one or two we got along with, but by me being a trans, a true trans, you know all my life. It's like guys from Norfolk were saying, "That's a real girl right there." You know, [for]

some reason, the guys would consider me a real girl. And so it would be so much male attention coming at me that female officers for some reason, you could see it, were like, “Wow, you want her?” You know what I mean? You know what I mean, and some of them guys were like, “That’s the best,” that’s looking me in the face, you know, and even those girls there, you know, they look good to ‘em, they look good to ‘em. But the fact that they would be in my face or try to holla at me right in front of them, well that grated on some of them, [to] tell you the truth. It makes them go “Hmmm,” [disapprovingly] and it gave me, like, uh, they didn’t like me, you know what I mean? It’s the jealousy; it was jealousy.

This jealousy led correctional officers to get in Lucky’s face and yell at her in front of the other folx who were incarcerated, effectually showing the other folx that Lucky can be targeted for humiliation and further violence. Lucky told me while she was not afraid in prison, she was aware of her situation and surroundings and how people could potentially react to her gender. Having correctional officers target you because of your gender is an additional stressor that already compounds on the punitive and brutal nature of being in prison and serving time there.

Joanie, who served 8 years in prison, experienced targeting to a larger degree while incarcerated and had to adapt to survive, finding no relief from the professionals who were supposed to help her:

I remember being in prison, guys looking at me like I am a sex symbol. I had guys try to attack me in prison. They had to put me in solitary. I had a guy who ran up on me, tried to rape me in prison. I was in a relationship for the whole eight years just so I could be protected in prison. The guards treated me like I wasn’t even human. They called me sir. They called me faggot; they called me everything but the child of God. We trans people

don't get the same [treatment as others]. The rules that apply to the other offenders in prison don't apply to trans people. Trans people get bullied the most by officers in prison. Some officers don't want to touch you. Some officers, when you're in solitary, they'll wait to feed you, and when it comes to taking a shower, you have to wait like 2-3 days to take [a] shower. When it comes [to] like giving you bras and giving you the things that you need while you're in prison, it wasn't given to you at the time.

Markedly, what made this scary for Joanie was that she was arrested and convicted during her transition, and not too long after her breast implants were completed, she was sent to serve her time in a men's prison. Further, as previously mentioned by Jenness, Sexton, and Sumner (2019), Joanie entered into a protective pairing during the period she was incarcerated for safety reasons. However, Joanie would not stand for the abuse from the correctional officers and would often fight back, even if she was punished afterwards:

No, they didn't recognize it, until they passed, they didn't recognize it until they passed certain laws [PREA] where they couldn't search us. And still then, they would say stupid stuff. "Sir, come in, sir," and stuff like that. So a lot of times, if they called me sir, I would ignore them. If they called me sir, I called them an asshole (chuckles). So in the end, if they wanted to write me up, I'd say like, "Well, you provoked that." Because 9/10 [times], if we went to trial [for the complaint], they would provoke it.

However, later during her sentence, Joanie by this time had garnered a large amount of respect because she sewed clothes and since she was well liked by the other incarcerated people, the guards also liked her. After a correctional officer called her "it," Joanie verbally dressed her down and was written up, but the write up was laughed off with other officers telling Joanie they would have done the same thing. Thus, Joanie had worked her way to being well liked in order to

be treated with decency, a reality that she should not have had to face because of her gender modality. To reiterate, once Joanie showed that she had some kind of value in terms of helping correctional officers with control of other incarcerated people, she was treated with respect, instead of the officers seeing her as having inherent value because she is a person.

Regarding trans practitioners, like lawyer Kylie, Winston was not protected because of his positionality as a criminal legal practitioner and correctional officer, and in fact, was repeatedly placed in danger as a result of being trans in the prison where he worked. After being hired, Winston had started testosterone and explicitly asked if his gender would be an issue. His workplace assured him it would not be; however, that was not the case:

They forced my hand to switch to the female side [to guard] because they were worried about my safety. So as soon as I started teaming up until I went to the academy, they made me be like a guard in female like housing. Which when you're actually a male, [it] is not allowed. So, like [it] outed me as soon as I got there as trans. Because all [of] the sudden, this new face is coming in and you're on the female side, and then what? My voice was getting deeper, was getting deeper, and all the inmates knew because it's kind of hard to hide. Yeah, like they, they phrased it as "We want you to be safe." But really, they didn't want to do what they were supposed to do, because they put me in a room with two lesbians. The people who told me this were gay. So they were trying to like, make it feel inclusive while telling me they wouldn't do what I wanted all at the same time. . .No, they were two gay officers that were like really high up. But it ended up being worse for me in the end because once like when I was in the academy, I got my birth certificate changed. So then they had to do what I wanted them to do originally, because I was [considered] male [now]. But then it screwed them later because when I

would go to the female pods, I would have to say, like, “Male on the floor,” and they would all laugh because they're like, “Haha, right” (mocking) kind of thing. So it was a terrible situation.

Winston was hired as a correctional officer, but since his birth certificate was not changed, two gay officers told him to go guard the women's side for his safety, but then as testosterone started taking effect, the incarcerated women realized what was happening. Then, after his birth certificate was certified, Winston was then forced to out himself in the women's side of the facility by saying male in the pod, which was met with laughter. But soon, everyone in the facility was talking about Winston:

Apparently, once everyone found out, they would talk about me in front of inmates, too.

When I first got there, someone said that there was a trans guard now, and so they were apparently having conversations about like, had I had any surgery and all that kind of stuff. I only know that because an inmate told me, funny enough. I wasn't there [to hear it].

This can be extremely dangerous for Winston, as outing someone as trans can, similar to discussions in Chapter 7, lead to transphobic treatment. In this case, it could be discrimination from his colleagues or violence from those who were incarcerated. Winston described that word has passed around the facility and while some colleagues supported him, others talked poorly about him within earshot. This gossiping was followed by other officers not answering Winston's calls for backup or support. One of these instances resulted in Winston being doused in milk from a woman who told him that next time it would be urine because Winston did not get her the mattress she had asked for. Winston was subsequently written up and reprimanded for the incident even though the person he repeatedly called ignored him and did not update him about

the mattress. This was one example with Winston noting that after his gender modality was well known around the facility, “[people] in [the] control booth wasn’t getting me what I needed fast enough.” This one example luckily resulted in Winston only being covered in milk, but not answering his calls and requests could have placed him in more precarious situations that would not be resolved with a change in clothes.

However, Winston ultimately left the job after a year, when the academy where he was training refused to acknowledge him as a man:

I talked to the people, like high up people, and I said, “I want to be male here. It's not connected to the jail. All you have to do is say I can use, like, the men's room like we're in class,” you know? No, they wouldn't do it. They would not let me use the men's room because it would make other people uncomfortable [according to them]. Essentially, I ended up telling my whole entire class that I was trans, because I wanted them to call me sir. And not ma'am, [and that] was the whole reason [why] I did it. So they knew that I was trans and it actually wasn't that bad in the academy. Once I changed my birth certificate, they legally had to let me be male, which actually ended up, it was funny because it's like, you know, [they said before] we don't want to make people uncomfortable. So we're gonna just like, you can tell people you're a male, but you're gonna go in the female bathroom. But then I changed my birth certificate, and they had to let me in the male bathroom because you can't let me in the female bathroom at that point. So it's like, your argument of not wanting to make people uncomfortable is invalid because you're just gonna make them uncomfortable anyways. I was pretty much like, I want to be seen as male like, and it was, it was always about other [people's comfort].

They want me to be safe. But at the same time, everything is always about other people's comfort.

Revisiting the line, “other people’s comfort,” was ultimately the rationale used here to discriminate against Winston, place a target on his back, and defend the indefensible, instead of acknowledging him as a man. Winston was honest and upfront, but his existence that may have caused the discomfort to other people at the facility or the academy overrode the reflex for decency on behalf of established correctional staff.

In summation, participants, both as practitioners and as members of the general public, faced institutional harm from all parts of the criminal legal system. It is important to note that because of the nature of these instances, they would not be occurring if they were cisgender. While all participants were able to recount their own experiences, despite the long-lasting ramifications to themselves personally, the horrifying implication is that many more than these 44 stories exist. How many more trans people are assaulted, sent to jail, or degraded because of their gender modality at the hands of criminal legal practitioners? Further, while these instances covered have centered around institutional harm, further narratives describe practitioner incompetency. These accounts of practitioner incompetency towards trans folx show a combination of a lack of cultural competency and failure to enact established policies.

Practitioner Incompetency

While the previous section sought to illuminate and highlight narratives that specifically revealed institutional harm from criminal justice practitioners, there are further narratives where other practitioners were simply unsure of how to deal with trans folx, and ultimately made decisions that violated the rights or needs of the participants. Either that, or they made decisions that directly went against policies that were already in place to protect trans folx. In these cases,

while not as outwardly sinister as that of the previous section, the lack of accountability for practitioner wrongdoing clearly allows these situations to pervade and replicate. Thus, this section will also be divided up by the arms of the criminal legal system to address specific instances where practitioners made decisions based on their lack of cultural competency or their failure to enact existing policies.

Law Enforcement

Previous work has found that while law enforcement officers can be eager to learn about LGBTQ+ folx in order to help with their job as well as to help other people, issues of resistance still remain concerning the processing of the information presented at specific LGBTQ+ training (Israel et al., 2014; Israel et al., 2017). This disconnect between enthusiasm and resistance speaks to broader issues concerning information about LGBTQ+ people in general society, but ignorance and resistance to the potential validity of LGBTQ+ people as a whole is a horrifying implication from law enforcement. Yet, like many cultural aspects of policing, the availability of such trainings is only deemed necessary where the department sees fit, instead of a need that should be fulfilled for the safety of the general public or even officers. Thus, it is no wonder that when on the job, even removing instances of institutional harm, law enforcement is still making snap decisions that have the same flavor of targeted transphobia, all stemming from their lack of cultural competency or knowledge of current policies. Additionally, Miles-Johnson & Death (2020) found that when compared to their straight peers, LGBTQ+ officers were found to be more likely to approve of uses of force by police and had higher positive perceptions of the police, perhaps to meet a desire to fit into hypermasculine ideas of what being an officer means. They also retained lower levels of trust in LGBTQ+ community members when compared to their straight peers (Miles-Johnson & Death, 2020).

Grace, Elvis, and Jasmine were all searched by police officers, with varying experiences based on how they interacted with the police concerning their identities. Grace, when coming home from work, was dressed from neck to ankle in women's clothing, but had removed her wig while entering her home (her ex-wife's request). She was approached by two police officers, a man and woman team who asked her if she was the deadname the ex-wife provided. Grace answered in the affirmative, but instead of explaining to her the next steps (frisking for weapons, and then arrest), they instead started asking her questions about what she was wearing:

This guy, and the woman stared, too, and they go, well, "What are you wearing?" "Uh, clothes?" You know. He goes, "What are those?" [points to her chest]. I said, "Those are mastectomy prostheses." He goes, "And on the bottom?" I says, "I have a skirt and panties and pantyhose." He goes [gestures towards her groin], "Um, genitals?" I says, "I have a penis and testicles." So he looks at his partner and goes, "You've got the top, I've got the bottom." For frisking me, to see if I have any weapons. (pause) And I broke out into absolute hysterical laughter. And they went, "What are you doing? What's wrong, what's wrong?" I says, "Do you realize how ludicrous that sounds? 'You've got the top, I've got the bottom?' Do you realize how stupid that sounds?"

While typical officer procedure dictates that officers only search folx of the same gender (Capers, 2014), these precedents function under the assumption that all folx are cisgender. In a society that largely demands genitalia and sex must align with gender and presentation, a person who is not bound by those categories is an "issue" to responding personnel. While Capers (2014) argues that searches are framed as "sexy," in that it is relatively intimate and invasive in nature, so, theoretically, those who share a "sex or gender" with the person who is searching them should not have an issue with the procedure. This is because the "sexiness" would not be present

in same sex/gender searches, albeit under a heteronormative narrative. Yet, this assertion assumes that people who share gender identities have the same bodies, which is sometimes not the case for trans folx.

In Grace's case, officers responded to a call to find a person with a masculine name and who was presented as a husband, but who they actually found was a woman returning home from work dressed in her business wear. Instead of asking Grace her name and pronouns, explaining to her the next steps, and then asking who she would be comfortable with searching her, officers instantly started to ask questions pertaining to her body in order to "determine" who should search and where they should search. "You get the top, I got the bottom" is not department procedure, but is instead officers utilizing biological determinism⁴⁹ to "figure out" Grace's body and how they should proceed with her. Thus, the male officer choosing to search Grace's bottom half because she had a penis, and telling his partner to search her top half, since she has breasts, reveals how a snap decision that could have been made for Grace's "comfort" is instead even more humiliating and transphobic in nature. However, even if the officer was not transphobic in his rationale, his complete inability to process that gender and sex did not have to be correlated is palpable, and shows that he was not ready for this situation because he did not know what to do. The logical practice here is that Grace should have been searched by the woman since Grace is a woman, but since they already knew she was trans by the clothing, the deadname, the report, etc., they instead treated her the way she was reported.

Similarly, Elvis, after getting pulled over for his DUI and asking for the LGBT Liaison officer, the responding officers, another man and woman officer team, told him that they did not

⁴⁹ Biological determinism refers to the claim that the inequalities between individual human beings at birth are determinative of eventual differences in their status, wealth, and power (Lewontin, 1982, p. 153).

have one. However, before being taken into custody, a similar pat down to Grace's needed to be conducted, but officers were unsure of how to search Elvis:

When I was arrested and then searched -- Virginia law, if you're arrested, it has to be [the] same sex that searches you. Um, and my standard, it would be a male searching me. And then at that point, it's obviously not correct. It's, it's uncomfortable. I don't have chest reconstruction surgery, things like that. Like there's a lot of bylines that are just awkward, so when I was arrested, I semi-outed myself to the, the female officer, who at the time said that she was an LGBT [person] that she was LGBT. So she ended up being the person that did search me and she explained to the officer that I was LGBT and that's why she did so. I never said I was a trans man. I just said, you know, that I was LGBT and that I'm uncomfortable with him searching me. So she could have made her assumptions when she did her search, you know, in that regard. Um, but she never said it and it was never included in any information in passing of why I asked for anything. It was never said anything about [being] transgender or anything like that, so I don't think she put two and two together.

Now, at the time, Elvis' legal name and gender marker were changed, so by policy Elvis would be searched by the policeman. However, his discomfort with the policeman prompted him to be searched by the woman officer because of the fear of the violence he could face. Elvis did not trust that the officer who was a man would search him fairly or treat him with respect because he still had not completed his top surgery, and thus, did not want to put himself in that position. So, while this officer team made the right decision to search Elvis based on his preference, it speaks volumes that Elvis completed an internal risk assessment before allowing them near his body.

Sean also dealt with a situation which he called “flying while trans,” noted that while going through security, he was searched by a TSA agent who inappropriately placed his hands on Sean’s body:

The guy fully, like felt me up. And he said, “What's that?” And I said, “It’s a, it’s a compression shirt,” and he was like, “Oh,” and almost completely took it off of my body. And that's, that was the first time that has ever happened to me. But I can’t imagine what someone would do if they have more power. He felt underneath because my binder comes down and everything, but after a while, I actually adjust it and he fully got like underneath. I guess he was trying to see if there was like something inside of it. But I said this is compression. There's no metal (laughs).

The TSA agent got underneath Sean’s binder to touch Sean’s naked breasts in order to ensure there was not a “security risk.” Objectively, this is reprehensible behavior, as if the flyer had been a woman with breasts, she would not expect to be subjected to her breasts being fondled by a security officer. One simple question would have informed this officer of the binder, but Sean’s garment was met with a potential for being a danger. Yet, the officer’s lack of training and education coupled with the assumption that every person is cisgender resulted in him humiliating Sean and caused Sean’s perception that he was being treated as a threat.

The knowledge of police being uncomfortable with trans bodies is relatively well known amongst participants, but Jasmine in particular used it to her advantage when she was still engaging in illegal activity:

When an officer pats me down, and especially now that I am trans, they don’t know what to do (chuckles). A male officer doesn’t know whether or not [he’s] supposed to pat you down, and they don’t know the legal procedure half the time or what to do. They don’t

know if they're allowed to pat my breasts down or not. They don't know if my breasts are real half the time. Which they are; I was just naturally blessed with curves (chuckles).

Yeah, it's awesome (chuckles). [In a way] it's good because I've been able to hide stuff on my person because of male officers [being] so uncomfortable patting me down. They just touch you like two or three times and it's done. They don't want to touch you no more.

She motioned in the interview two to three gentle, breezy pats from officers and she turned her face away expressing distaste to represent their expressions. But, Jasmine used this to her advantage, which ensured that she would not be arrested due to anything on her since the officers didn't want to touch her body. This again speaks to lack of cultural competency, and ironically, the transphobia here is so evident, it prevented these officers from doing their actual job, to take drugs off the street.

Jasmine also described how she has been searched in different ways, depending on who is searching her. Although these instances are happening in the same scenario, it is very clear that whatever policy has been utilized is not being followed, as there are variations in how she is searched:

But then, a female officer doesn't know what she's allowed to search, so then I have been told a female has to search my top and a male has to search my bottom. But then, I go into jail and they strip search me with the men. So it's [a] really confusing situation. A lot of times, you get some [who are] very respectful and be like, "Are you okay with me searching you?" I don't care, just, I know you're uncomfortable with it, so I know you're not really gonna search me.

Here, the presence of biological determinism reveals itself again as the woman officer searches Jasmine's top and the man officer has to search her bottom, but when drawing this out, what is actually being said here? That only women have breasts? That Jasmine and Grace are only women on part of their bodies because they have breasts? That they only pass on the top half of their bodies? And then, when Jasmine is incarcerated, she is searched with men, as if she is not a woman at all (despite PREA policy, but this will be discussed later on). While Jasmine notes that some practitioners treated her with respect, no amount of apologies, disclaimers, sensitivity, or explanation will ever remove the humiliation, invalidation, and degradation these search policies have on trans people. Further, strip searches and body cavity searches have been referred to as "state penetration" (Swayne, 2020) to encapsulate how practitioners utilize this form of state-sanctioned sexual violence to control and humiliate those who are incarcerated (Kilty, 2018).

The general unease and discomfort that Jasmine described from law enforcement is echoed in other narratives that describe how law enforcement either is outwardly uncomfortable with interactions with trans folx, unable to use the correct name and pronouns, and addressing folx incorrectly, which unnerves participants. For instance, when Minaj's apartment was broken into, police responded and went to her home twice, once with a woman officer taking lead, and the other with an officer who was a man. However, Minaj noticed how they treated her differently between each visit:

[They] were kind of reluctant on asking me. You know, they weren't really calling me ma'am or sir. They were kind of like, they were neutral or they couldn't, they didn't want to say anything. I wasn't ma'am or sir; I was, they spoke with the individual being me, referring to me as the individual. So that was a little questionable. I don't know, you know, I'm just so uneasy with police officers and stuff, like, just legal authority mostly,

just seems to be a lot of confusion when they speak to me, and they don't really know how to address me and how to hold a regular conversation.

In this instance, Minaj noticed that while the first officer referred to her as ma'am, the officer who was a man did not and instead opted to refer to her with gender neutral language that was not applicable to Minaj. It's clear that the officers had different views about whether Minaj was a woman, the first officer believing so, but the second in outright denial that Minaj could be a woman. This distance makes them ineffectual at their job in that their words are simply not consistent to describe Minaj and any other trans people they would meet. It is apparent that the second officer knew that something was different about Minaj, since he did not read her as cisgender. He described her more as an inanimate object than a person standing right in front of him.

This outright denial of her gender or ignoring it completely was similarly shown in Aquaria's narrative, as she dealt with officers who responded to their gender with denial and discomfort. Aquaria, who had passed out at the wheel of her car after being out drinking, talked to police, who realized she was about to drive drunk. After finagling with her blouse, which she had on a bra on as well, police asked her why she was shifting in her seat:

And the vehicle is running. I'm at that point wearing a bra and a blouse and um, the vehicle is running and I'm asleep. So the police come and they a tap on the window, wake me up. It's obvious I've been drinking, but they keep me in the vehicle and bottom line, they're trying to help me. And it happened this time, you know, this is [a] time when nobody's home. My wife's out of town. And my kids are grown. [Officer asks,] "Can you get somebody? Someone to come pick you up, take you home?" Really, I didn't. And so finally, I said, "Well, can I, can I get a cab?" They said, "Well, we'll call you a cab." So

they talked to the manager of the club. It was okay. I left the vehicle; their cab took me home. That was it. But again, because I was wearing the bra and the blouse, um, there's a couple of police cars and, you know. And so I am trying to get the bra off because I don't know if I'm going to jail. And I don't want to go into jail wearing a bra. So I'm trying to get it off and the cop comes up here and he says, "What are you doing?" I told him nothing. So finally I tell him, I said, "Well, I'm wearing a bra, and if you're going to take me to jail, I don't want to be wearing it." And I think strangely enough, that was kind of a turning point where they decided they were gonna let me go home.

Here faced with someone who had a masculine name, but feminine presentation, police decided that they were going to let her go home instead of taking her to jail for attempting to drive drunk. While Aquaria did get a cab, what is interesting is that instead of engaging with her further, they just felt that she needed to go home. While the assumption should not be made that this was a compassionate decision, the revelation of Aquaria being trans and wearing a bra and blouse altered whether law enforcement wanted to deal with her or not. Whether this decision was made out of disgust or another bias, the issue here is that her gender modality was a factor for them to not pursue further action. I am unconvinced it was out of compassion or understanding.

In another case of ID not matching presentation, Zelda, while out, was pulled over, and when her ID did not match her appearance, the responding officer returned with two more police officers and asked her to verify her identity:

I was stopped for what he said was a malfunctioning brake light; he said one of my brake lights were out. And I almost went to jail that night because I [did] not match my ID, and they needed to verify I was who I said I was. That was pretty much it. He just told me to sit tight, and he held on to my driver's license, my registration, and I sat there for about

15 minutes until two more cops showed up. And they were asking me all the information on my ID, trying to get me to prove that it was mine and it was legit. And they just kept saying, “You just don’t match the photo on your ID; just need to verify you are who say you are.” Just over and over and over again. They kept running through all the information I could remember on it; it was terrifying. I was there for about 40 minutes. I was not arrested. I was let go. They never pulled me out of my vehicle. But it was one of those [cops], their hand was always right there on their side. (motions, meaning their gun) And it was just how they – like, I know that’s paranoid, but it was just that feeling that they wanted me to screw up somehow; they wanted me to mess up. They kept asking over and over and over, waiting for a different answer. It was terrifying because I’ve had plenty of interactions with the police before as male presenting, and I’ve never had that issue. I’ve never had anything like that before in my life. So, it was confusing and terrifying as hell.

To reiterate, in an unsanctioned practice, Zelda was asked to recite the information from her driver’s license, including the license number, repeatedly for 40 minutes for the officers to “verify” she was the person on the ID. It should be noted, that as I sit here and write this, I have no idea what my driver’s license number is, and thus, I would have not been able to recite this information on command. Further, not only was Zelda expected to recite this information for the officers, but also, while she was stressed out from being confronted by three officers, one of which had his hand near enough to his gun to make her nervous.

Overall, on top of established institutional harm, law enforcement officers have been found to utilize biological determinism when enacting searches, denying trans people certain rights they are entitled to when interacting with them, and denying the validity of their identity.

This shows that even when officers are not presenting a visible bias or targeting to trans folx, the gaps in understanding are just as damaging to participants. Unfortunately, these instances are also reflected in court and correction practitioners.

Courts

In the confines of the courtroom, trans folx experience different types of appearance policing and validity of their gender in terms of paperwork under the guise of legality reasons. Participants reported that legal practitioners were found to have misgendered them accidentally, but would not ask folx about their name and pronouns, even when some trans folx identified themselves properly. Jasmine underscored the importance of being able to appear as herself in court, especially when she would enter court after being incarcerated. Coming directly from the jail to her court appearance did not allow for her to look like herself to be presentable for court:

I don't know if it has to do [with that]. I can't say that a judge treats me misfair [unfair] because of my going into the courtroom. In custody, it's hard for me, because I only get to shave once a week. I don't get my makeup. So I don't feel the way I think I should. So I don't want to say they treat me [unfair]. I would hate to say any[one] just treat you [unfairly] or do that, but the judges really don't treat you bad, I don't think, but I don't get to look presentable.

Being allowed to only shave once a week leading up to the court date and without makeup does not allow Jasmine to not only feel or look like herself as a woman or presentable for the court. Any misgivings practitioners may have had about trans folx would be exposed, and hopefully, while Jasmine may be treated fairly, her expectation that she would not be treated fairly based on her appearance reveals the fear and defense mechanism trans folx have to place in order to protect themselves from potential discrimination. Jasmine's observation that her disjointed

appearance of being held with men and unable to shave and otherwise groom herself to her liking may lead to her being misgendered or being misrepresented, and impede her ability to be granted a fair trial.

Moreover, Jasmine's concerns were not unwarranted, as she actually experienced misgendering in the courtroom by her own caseworker, who would refer to her as "Mr." in open court. Yet, the judge and the commonwealth attorney would refer to her with she/her pronouns and the correct honorific of Ms. when she asked:

I see the same judge every Tuesday. Okay, so he refers to me as Mrs., although the mental health specialist [caseworker] refers to me as "Mr." because that's what the stenographer has to put on the paperwork. But the judge said, the Commonwealth attorney, she refers to me as Mrs. So I corrected her in court [and] said, "No, miss. The judge told me I could do that;" this is his court room. He can do whatever he wants. But if she says "Mr.," then she's doing it for legal reasons. Well, doesn't she got to uphold the same legal reasons as the Commonwealth attorney? Why does she get to call me her? MY caseworker says "Mr." So she's my caseworker that's supposed to work with me on one on ones and everything.

Interestingly, while Jasmine's caseworker insisted that she use legal honorifics to describe Jasmine, the other members of the court consistently reached out to Jasmine in order to get her paperwork lined up to have the legal means to stop the caseworker. "They are pushing me to change my name quicker and sooner. You know, they asked me every week, 'How is it coming along? Did you do the paperwork? What phase is it in?'"

This exchange and tension between Jasmine, her caseworker, and the other legal practitioners in the courtroom reveal not only lack of cultural competency and ignorance from

her caseworker, but also that she is not utilizing the policies that the other practitioners use to properly address Jasmine. This could be due to the fact that criminal legal practitioners have a great deal of discretion, and therefore are able to set their own precedence in the courtroom. Yet, utilizing this logic, it would stand to reason that the caseworker would engage with this precedent and refer to Jasmine with her correct name and pronouns. Further, instead of the validity of Jasmine's identity within the courtroom and the fact that her peers are using Jasmine's proper name and pronouns, the caseworker insists on not doing that for some unknown reason, so the colleagues are utilizing the available legal paperwork to leverage it against her in order to make her stop. The positive, affirming interactions should become the standard.

Other participants noted that legal practitioners similar to Jasmine's caseworker would either avoid using pronouns entirely or would misgender them and participants would not correct them in an effort to protect themselves. For instance, Nicholas, when in court for legal issues concerning a family matter, noted that the court practitioners went out of their way to not gender him in the courtroom:

So at the beginning of 2019, um, I went to court as a witness to some issues going on with my family. And when I went up to testify, they didn't call me Mr. Cage. They just said my whole name, no pronouns attached when asking questions, okay. And they, and this is years after my first thing [case], and I just, I have no pronouns attached. But I was also wearing a suit and no one ever asked me. And it was the state that was pressing charges, so the prosecutor never asked questions, they just, I guess they just assumed.

They probably didn't want to step on any toes or assume gender.

In this case, while the prosecutor decided to not use any pronouns when referring to Nicholas, they decided not to ask leading up to the proceedings or during either, even though as Nicholas

puts it, he was wearing a suit. At the very least, he was trying to give them stereotypical indicators of his gender, but prosecutors made the decision to not include them as part of the proceedings. Interestingly, both Nicholas and Jasmine were in the same district for their hearings, although the practitioners in their cases (while on different dockets) had vastly different approaches to addressing them properly. This could be because as of 2020, there is not an established commonwealth attorney policy about pronouns, but clearly, some practitioners are taking this more seriously than others.

This disjointed effort by practitioners is observed by participants as being expected and is similar to the notable adaptations to discrimination covered in Chapter 7 concerning not correcting someone when being misgendered. Tobias was misgendered during his court proceedings, but he made the same decision to not correct the person misgendering them:

The cop [talked about the incident] and he did use female pronouns, but in the face of the court system, it's very much, I revert back to [safe mode], 'cause it's scary. I don't want any trouble, you know? The cop gave a different side of the story, and he was like, "Um, well [misgendered Tobias] was very cooperative, wasn't anything, hadn't been drinking."

Despite being misidentified and the practitioners being fairly friendly to Tobias, he was still misgendered and was not even given the opportunity to ask about how to address him in legal proceedings that affected his life. Yet, when participants attempt to correct or provide information about their identification as a trans person in open court, they still were met with resistance, as it was clear that practitioners were unaware of how to handle the information presented to them.

For instance, Louise, when attending a jury summons, waited for her last name to be called out, and then immediately interrupted with her real first name and talked over the person taking the attendance:

You know, that would be my opportunity to say, “So my name’s Louise, you know, it needs to be corrected here, so that that’s how I can be addressed throughout the rest of this process.” If I ever, ever served, serving on the jury. I was like [groans] “Here it comes, here it comes.” I was like, I’m going to wait to hear it and then I’m just gonna speak up really quickly and interrupt her. And I’m going to be, Ms. [last name], Louise [last name], you know, right when she says my last name. I think I was under, I think I had a little bit of benefit. I think she was saying last name and first name, so it worked out. So she was saying last name, first name. So when I heard [last name], I said, “Here,” right when she was saying my birth name. Ms. [last name] here. Of course, people were looking like, “What?” (laughs) This is all right. But I had to like explain that. She looked up and was confused for a moment and then I said, “My name is Louise [last name].” But she needed like, a legal confirmation. I think she, you know, she probably felt like she needed me to say I’m, you know, I’m this person. And I was like, please don’t make me do this and she said, “Okay, but are you—” I can tell, I can like imagine the rest of the sentence— “Are you this person,” you know, so and so on this sheet of paper. And she just got into, “Okay, but are you—” and I just cut her off really bad. I wanted to tell the judge.

Sadly, like most courtrooms throughout the country, there is not a set of paperwork that Louise could have filed to inform the court of her name and pronouns that may differ from her appearance and legal paperwork. Louise’s interruption can be seen as rude, but she effectually

was attempting to avoid the humiliation of being outed in open court, as people in the galley would instantly see the difference between the legal name called and the person responding to it. This has already been established in Chapter 7 of the consequences of being misgendered in such a public forum, and armed with this knowledge, Louise quickly stamped out the chance for this to happen.

However, even when a participant takes necessary steps to try and avoid misgendering and confusion when attending court, these situations still occur. For instance, Julian, before attending court for eviction proceedings, sent an advance, written notice with his name and pronouns, as well as his hearing loss that would require equipment for him to be able to hear during his appearance:

That's what's written down [on the notice]. So obviously, I get a lot of weird looks for that [the notice]. Um, it was not, you know, comfortable. The first judge I, I sent a letter in about my hearing loss, and I made sure to include at the top my legal name as well as in parentheses Julian. Kinda just to give them a heads up. So yeah, like the first time, they seemed to consider that. And they oddly did a roll call for people before court, like was in session. And so they just called everybody's name and ask them to raise their hands. And so I raised my hand when I heard my name [legal name] called. So they just like stared at me for a full minute and I was like (laughs), like this is very awkward.

Julian noted that before court, he saw the clerk hand the letter to the judge that he had written about his hearing loss, and in an unusual practice, the court called roll to ensure everyone was present. However, despite the heads up from the letter, Julian was still called with the wrong name and pronouns in open court, before any proceedings had started. So an unknown amount of people watched Julian, a man, respond to a legal name that might have indicated otherwise, and

despite his request to be addressed as the name he used in his everyday life. The court ignoring Julian's request to be referred to with his name and pronouns could have been due to his legal paperwork not being changed, but if there were folx with similar names they would have to be able to distinguish them with another name or first initial, etc. Hence, while their sidestepping to avoid addressing Julian using his name, there were alternatives that were not utilized by the courtroom practitioners. However, Vanessa, who already had all of her paperwork changed, was still questioned about her genitals during a proceeding that had nothing to do with her gender modality.

Vanessa was arrested after she drove a friend to a hotel, unknowingly being charged as an accomplice to sex work, since she waited in the parking lot for her friend, and police assumed she was an accessory. When she went to court, practitioners treated her with disrespect based on her gender modality, despite the fact that her paperwork was changed and her gender was immaterial to the charges that she faced (even though criminal legal practitioners found it important):

They took pictures of me to keep track of me. Just in case I'm [a] repeat offender and involved in stuff. Yeah, I was kind of annoyed, especially when they misgendered me on the court documents. They asked me if I was pre- or post-op. It shouldn't matter. But that's what they used for the gender marker. And then, it's like, well, here's my license, with my gender marker. And it's supposed to [make a difference], but yeah. Fuck them.

Notably, in the state of Virginia, having a gender marker changed is no longer correlated to any gender confirmation surgery, but instead changed as a result of a doctor's note supporting their transition (which does not require any surgery). Also, the archaic language of pre- and post-op is a huge indicator that not only were these criminal legal professionals ridiculously inept at

speaking with a trans person, but they were so divorced from the actual language used to describe trans folx. It also reveals that even in the best case scenarios where trans folx have all their legal paperwork changed, they still have a chance of facing this type of discrimination.

Even just being in the courthouse itself placed Cat in a situation where she was policed in a public space by court officers. After being arrested for public activism on the Capitol steps in Richmond, Cat was handed a summons for a later date, and was told to return at another time. While leaving the courthouse, Cat headed for the restroom, but was intercepted by an officer serving in the court:

But when I went to the courthouse, you walked through the halls, and there are restrooms; there's a men's, women's, and another one. So I started going for the other one. And they were yelling at me, "Stop! Stop!" I was like, "Excuse me?" They said "You need to use that one." I said, "Why?" They said, "That's the one that's open." And point at the women's restroom. So I didn't understand, why it was there if I couldn't use it. Yeah, they just insisted that I use the women's restroom. There were no signs that it wasn't open. It was just a bathroom.

Here, Cat, who is genderqueer and categorizes themselves as having a gender-neutral presentation, headed toward the restroom they felt more comfortable with, presumably a single stall or a disabled-friendly bathroom. However, before they could enter, they were stopped and explicitly told to use the women's restroom, but this single act on the part of the officer paints a broader picture. For instance, for this person to interject that Cat should not use the restroom of their choice, they would have to watch Cat cross the courthouse and walk towards the other bathroom, unmarked by gender. In that moment, the officer made the decision to not only watch Cat, but also intercept them by shouting and ensuring that Cat should use the "correct restroom."

Which, again, misgendering appears, and here with an additional flavor of public shaming as well. This also reveals that despite the fact arguments against specific bathroom use are unsubstantiated and frankly ridiculous, they are still actively used by members of the criminal legal system.

Corrections

As previously discussed in Chapter 3, since 2012, PREA (Prison Rape Elimination Act) has allowed for certain protections concerning trans folx after they are incarcerated. These include prevention of cross-gender body searches, terms of housing, protective custody, segregated LGBTQ+ pods or units, and being searched in general (NCTE, 2012). However, in the context of this study, these policies have been seen to have been ignored in favor of biological, deterministic views of gender and sex, as well as outward transphobia towards participants. Further, as previously mentioned, while targeted transphobia is covered in these narratives, so are decisions made by practitioners that are rooted in ignorance in either the unique issues of being trans or blatant ignorance of the law. While I am making the purposeful distinction of these instances in order to segue to policy implications by participants in Chapter 9, it needs to be noted that these ignorant actions by practitioners are not just mistakes that have no consequences; they have long-lasting harmful implications. Accountability should not be saved for the worst offenders, when consistent misuse of policy, ignorance of standards, and lack of cultural competency pervade these interactions, and thus, perpetuate the cycle of transphobic violence. This section will flow in a way that builds on the journey of when a person is incarcerated, starting with some experiences in jail, to prison, and then to after incarceration.

After arrest, the order of events then places folx in jail while they await processing. However, despite PREA, even at the first instance of interacting with the carceral system,

participants were found to have already been effectually outed in the jail. For example, after being arrested following the accusation of domestic violence from her ex-wife, Grace was processed and placed on the side with men, clearly something she was not, as she was dressed in feminine business casual since she was arrested after work:

I spent about five hours there. It was [the] generally holding area. They had two, one for men, one for women. I was in the men's. I had to go to the bathroom at one point, so they did take the handcuffs off me. My hands were handcuffed behind my back the entire time. So I could use the restroom, and when I came out, they handcuffed me again, even when I saw the probate judge through the bulletproof glass window and everything. And, uh, (sighs, pauses) probably the worst experience I've ever had in my life. (pauses) The humiliation, being a woman and being treated like a guy. Yes, my driver's license said male, but I'm absolutely presenting female. In fact, I think I had something like this on. (gestures to clothes)

To draw out this point even further, if Grace was being treated as a man and being placed on the men's side, the main issue with that is that she would have been strip searched before being waited for processing. So while wearing her mastectomy prostheses, her dress clothes, and makeup, she was strip searched, with the officers treating her as a man. She already noted how this was humiliating to her, and I did not have to ask how much this affected her since she openly got emotional while recounting. The obvious here is that the lack of cultural competency by arresting officers and correctional officers led to this entire interaction. The unprofessionalism, mistreatment, and neglect exhibited here is unacceptable, even though this was by the book since the 2012 PREA standard had not been created. This lack of acknowledgement and established

standards by the Department of Corrections/Bureau of Prisons was first a bureaucratic failure which resulted in the repeated victimization of trans folx who were treated like Grace.

Yet, even after the PREA ruling that protects trans folx from unfair treatment, the previously described narrative of Elvis of being handcuffed to a metal bar for hours shows that officers are still relatively unaware or purposefully ignorant of the unique issues of being trans and incarcerated. The important issue that centers these instances, as well as the ones that follow, are that policies and lack of knowledge drive these decisions, which have further implications than the moment they are made. Following jail, which is typically a shorter amount of time, prison poses several different issues that participants had to grapple with while being incarcerated. For instance, despite the guarantees that trans folx have access to hormones, affirmative housing, medical care, etc., all participants who were incarcerated for longer periods of time had to advocate for themselves or work their way to receive the care that is supposed to be guaranteed by law.

Joanie, a Black trans woman, had to fight and advocate for herself that she needed. Joanie described that she worked her way to be well liked to be better treated by correctional staff. As earlier described, she started off being targeted with homophobic and transphobic slurs, alongside staff calling her “sir” and “man,” but that started to dissipate after Joanie became important to many incarcerated folx because of her ability to sew clothes:

The inmates was— In the beginning, I had some asshole[s]. As time progressed, I was like, popular in prison because I sewed clothes. I made sweatpants, sweat shorts, head bands. Everybody wanted clothes, and I used to cook and stuff like that, too. So I was like, I got to some place in prison where I was kind of prison rich, yeah. I had two correctional officers there I was close with. So when it came to the correctional officers,

you had some that was assholes, and you had some that was um, so depending on your status in prison, meaning how popular you is. If you're popular, everybody gonna like you, even the officers.

While her rise in popularity and better treatment by correctional officers could be in tandem with the fact that correctional officers wanted to keep the peace with the incarcerated people at the prison, the main issue is that Joanie had to prove herself as valuable before her treatment got better. This is despite the fact that she had protections and allowances that should have been given to her regardless. However, her new positionality as being well liked did not elude her, and Joanie leveraged this to open the doors for the other trans folx who were incarcerated at the same facility:

Everybody even knew who I was. My boyfriend worked for a warden, and being that he worked for the warden, and I was like his girlfriend in prison, like everyone knew who I was. What is Joanie the inmate going to do? Kinda let me move around is something I guess I could say. But, being that I had the authority to do so, I was able to talk to psychiatrists and making moves for trans people when it came to getting bras and hormone therapy. I was able [to open the door] for them to do assessments on me so they could get approved for that to happen [to others]— it's about what you know, it's about who you know when it comes to prison.

“It's about who you know” is a remarkable statement, since Joanie intuitively figured out early on what she needed to do to advocate for herself, and then utilized her relationships to open the door for resources for other trans people behind her. Despite the fact that correctional officers were refusing to follow PREA guidelines and initially were calling her slurs due to their overall lack of cultural competency, Joanie literally played their game and won as best you can in prison.

Despite this story of triumph, however, this should not be what all trans folx, or even just incarcerated folx, should have to do. They should not have to barter for their needs or win a popularity contest to be treated humanely and respectfully.

Some participants also mentioned how they had issues when dealing with probation/parole after they entered those systems. For instance, Grace was placed on probation after the false accusation from her ex-wife, and she ultimately had it reduced from 2 years to 5 months. However, in the meantime, she had to negotiate with her probation officer so she would receive the appropriate care and treatment as a woman:

So I went and checked in with the probation officer, and she goes, “Well, you’re going to have to go to, uh, group counseling.” And the probation officer’s a woman and, [Grace asks,] “That group counseling is with women?” And she goes, “No, men.” I went, “I don’t think that’s appropriate. I’m a woman.” And she goes, “Uh.” I says, “I’m in therapy right now.” And this was pre-operative therapy at the time. And I had a very good therapist, and she goes, “Would she be willing to write a letter to the court?” [Officer said,] “Ok, well, I’ll make an exception for you.” But it was because I stood up for my rights.

What is alarming here is that in order for Joanie to ensure that the rights she is ensured are protected and honored, the weight lies on their shoulders to stand up for herself. In another example, Grace did not want to be in a men’s therapy group, because would have been inappropriate, yet despite her legal paperwork and assigned sex at birth, Grace knew better than her probation officer about getting adequate care. Without her insistence, Grace would have been at the very least humiliated in the wrong therapy group, and at the most, harassed or in danger by being outed in that setting. Further, it should be noted that Grace knowing she had a doctor who

would have written her a note was a leveraging factor in the probation officer "letting" her get the care that she actually needed. The lack of cultural competency here is palpable because only when Grace could argue her case was she allowed to be her authentic self in this setting, which in itself is alarming.

Another issue concerning after incarceration that Joanie raised in her interview was the fact that there are not a lot of resources for trans people after they leave prison:

You have some trans people that is in prison right now, that if they don't have HIV, that's [why they are] in prison. They [organizations] can't link them to no resources when they about to come home because there's a lot of resources, you know, only linkages where you have HIV. And then, when it comes to the halfway houses, you can't go to halfway houses because a lot of the halfway houses are Christian based. So many of trans people that come home now, they go to hotels and if they can't keep [staying] in the hotel, they will be homeless, so 9 out of 10 of them will start escorting.

Joanie's advocacy and awareness of the lack of resources for trans folx in terms of housing, especially if they are not HIV+, was already highlighted in Chapter 7, but her own experiences about the intersection of incarceration deserves its own discussion. After she was incarcerated, Joanie did not have family or a support network to rely on, no one to help her get on her feet after she served time; thus, she turned to survival sex work in order to do just that, survive. As a Black trans woman with a felony on her record and a substantive lengthy prison stay, Joanie found it extremely difficult to secure any services since she was not infected with HIV. She was still on probation for 4 years after her incarceration, but probation violation was the reason why she was serving all 8 years in the first place. "I kept absconding, absconding, absconding, until

when I finally went on the run from my probation officer, they gave me the eight years back and I had to serve all my time.”

Absconding in this case was determined since Joanie had no stable address to live and thus, was penalized because she was effectually homeless. Here, yet again, practitioner cultural incompetence about the unique intersections of being Black and trans, and the lack of legal safeguards led this probation officer to make the decision to keep citing her for absconding, rather than attempt to figure out services or necessities that Joanie needed to have in order to be successful. While here, there is another conversation about caseload and inadequate training, the overarching issue that cannot be ignored is the lack of cultural competency.

Similar to Joanie, Naomi had to advocate for herself in order to receive necessary care related to her gender. While she had been taking hormones for a number of years before being incarcerated, Naomi did not have a medical diagnosis for gender dysphoria or documented paperwork since she had been taking street-based hormones for years. Thus, the facility would not allow her to continue on hormones until she obtained such paperwork, and even though Naomi had visible breasts, they refused to provide her bras. Then, when Naomi inquired about how to start the paperwork process in order to get access to hormones, she was informed that she needed to meet with a psychiatrist. After numerous requests to see the psychiatrist, Naomi was told each time that it would be soon, but days and months started to pass. During this waiting period, Naomi was not allowed access to her hormones, and she would have experienced the aforementioned issues concerning physical and mental changes. So, to take action, Naomi began to file grievances and complaints to draw attention to her situation:

So finally, I wrote it up and told them they had this form called the 1983 form, which you can file, so that DOC would take a look at it, or the courts will start looking into what's

going on, and I kind of based it on discrimination. And, within a month, I was being shipped.

At the second facility where she was housed, Naomi was instantly met with a care team, which included an assistant warden, a psychiatrist, medical staff, and a building supervisor who I will refer to as Ms. Forthright. During her two-year stay at the second facility, Naomi was immediately given proper clothing (including bras) and her own cell, which she sometimes shared with a cellmate; she started meeting with the psychiatrist to get paperwork for her hormones; and was given one of the higher paying jobs in the prison. Ms. Forthright was her biggest advocate and told Naomi to let her know whatever she needed, and she would have it. While this was noticeably distinct from the first facility, the second did come with its challenges. For instance, when Naomi started to meet with the psychiatrist, the psychiatrist admitted that she did not know how to treat Naomi, so the psychiatrist bought a book about another trans person's journey to use for the treatment plan because she herself was unsure how to "treat" Naomi and needed outside input instead of believing her.

However, this second facility still had its issues, since despite the fact that Ms. Forthright was solely responsible for getting Naomi a job taking care of the older incarcerated folk providing access to the psychiatrist, taking care of interpersonal issues between her and other incarcerated people or staff, and ensuring Naomi got what she needed, there were still ignorant staff who treated Naomi poorly:

There was one [correctional officer] that I had to constantly let know, "Look, you kind of disrespect me when you come in a pod and you refer to me as a gentleman or you refer to me as a male." And like I said, [Ms. Forthright] already done briefed these officers before they come in the building that she has two transgenders in here. And they will come in at

count time and they'd be like, "Okay, gentlemen, it's time to get up for count," you know? And then, when we would approach him, and I would be like, "Do you have to use the word gentlemen?" [Officer says,] "Oh, oh, I forgot. I forgot." Which um, a couple of them I will say, yeah it was a thing that they do or was doing. It's hard to go ahead and change right away. But some of them, I just thought that they was being ridiculous with it. But I got to a point where I just brushed it off. And it's nothing that I could really do to change it because I am under them more or less. So it's no need to really get on them about it. I did approach Ms. Forthright about a few of them and she took them out of her building. She wouldn't allow them to work in our building.

Naomi recalled this happened either three or four times, when Ms. Forthright would at the very least move the officers out of the building to where they would be seen in another part of the prison, or they would not be seen again.

Here Ms. Forthright is a "negative case" or "deviant case" (in methodological terms) that stands out from the rest of the data—which consistently demonstrates practitioners' incompetence—by showing the effects of when someone is culturally competent in terms of trans issues. Negative cases describe a case that is against the typical observable findings of the data but are useful when exploring theoretical concepts (Mahoeny & Goertx, 2004). For the purposes of this study the 'theory' is that practitioners are culturally incompetent because most of the interactions reveal that they are not competent regarding trans issues. Thus, the negative case of Ms. Forthright being culturally competent proves the 'theory' that practitioners are incompetent, because she seems to be the only competent one among them. Indeed, practitioners *should* be culturally competent because of the positive outcomes and effect on those who are incarcerated, as illustrated through Naomi's case.

While none of the other participants had a voracious advocate like Ms. Forthright, this deviant case outlined the importance of having practitioner competency. However, Naomi's time in prison was still not seamless. She still dealt with transphobia and disrespect that was based around her identity. Yet, it is important to highlight her experience in order to utilize a deviant case of a practitioner being competent in order to further prove that practitioner competency is needed. Ms. Forthright was a tireless advocate, ensuring that Naomi was able to access her necessary care that is guaranteed by PREA. Nevertheless, Ms. Forthright's actions should be standard and not an outlier.

Summary

Overall, this chapter comprises highlights of the lived realities of participants in this study in terms of their experiences with institutional harm at the hands of practitioners, as well as the practitioners' incompetency and the long-lasting implications on participants. The distrust that evolves from these instances and the policy implications will be covered in Chapter 9. These narratives are tough to read and recount, but this is the reality when many practitioners are not held accountable, and the results of a transphobic society that denies and invalidates these people's lives.

CHAPTER IX

“WE ARE HUMAN BEINGS:” PERCEPTIONS OF THE CRIMINAL LEGAL SYSTEM AND
POLICY RECOMMENDATIONS

The quote that starts this chapter is from Luna, after I asked her, “What can the criminal justice system do to treat trans people fairly and respectfully?” While Luna does elaborate further on specific policy implications, which will be covered later, this quote represents a couple of aspects that are important to flesh out. For one, the fact that Luna felt it necessary to make the distinction of what trans people are not (freaks, broken, mentally ill [in the “deranged” sense]) and what they are (human beings). This was not for my benefit as the interviewer, but rather addressing the criminal legal system as a whole, since Luna felt it necessary that practitioners needed to understand this distinction that trans people *are people*. This assertion of the humanity of trans people shows that Luna, as well as other participants, did not feel as if they were acknowledged as human. In fact, one of the main requests from participants towards the criminal legal system was that trans folx in general are seen as “just human.”

This astute observation from Luna is one of the many perspectives from participants as well as poignant, clear policy recommendations that I believe have practical application to the field now. These recommendations are much needed in order to rectify some of the more horrifying narratives in Chapter 8, while further institutional changes needed to be made over time. Some of these recommendations include proper training on using correct genders and names, and other recommendations that speak to specific nuances that apply to each branch. Thus, this chapter is divided into two sections, perceptions of the criminal legal system by participants, and then their specific policy recommendations that I have articulated into a more cohesive presentation.

Perceptions of the Criminal Legal System

It is vital to understand the perceptions of the criminal legal system by participants, since it informs how they interact with practitioners and is the basis of their policy recommendations. Unfortunately, as can probably be predicted, generally, participants did not view the criminal legal system and practitioners favorably. It is important for practitioners and criminological scholars alike to understand that trans folx generally have a broader knowledge base when it comes to criminological issues, like most marginalized groups, because of repeated interactions and proximity due to over policing. For instance, within this section of discussing perceptions, while distrust and secondhand trauma that informs their perceptions are present, so is a complex awareness of intersectional issues and institutional power. At least in this study, numerous participants were politically active and were aware of the issues and the power of the criminal legal system as a whole. This section will also end with some notable adaptations that participants shared when it came to specifically dealing with the criminal legal system. Many adaptations parallel those in Chapter 7, which dealt with institutional discrimination, but there are some instances that have a unique flavor that have to do with the criminal legal system.

Distrust

Participants showed a general distrust of the criminal legal system based on their perceptions of criminal legal practitioners because of their own knowledge and of secondhand accounts. For instance, Kate perceived practitioners as being generally disrespectful towards trans folx, which informs their later hesitancy with them, thus cultivating the distrust present:

I just kind of feel like there's a general disrespect for trans people and their feelings or their identity. The court system specifically, seeing them as like a trouble or a hassle. I mean, because they're going to deal with them so much more directly or their identity so

much more directly. Defending a person who is trans, and I feel like it's got to come up eventually. Or if you don't bring it up, like you just choose to ignore it. I think that's kind of a problem. But again, I feel like it's seen as a hassle. They have some trans people in prison, can't get hormones or can't dress the way that they want to when they're appearing in court. Just certain expectations of "Can you please just be as normal as possible while we're here?" But then it's also like, but this is normal for me, so what do you want?

Kate describes trans people as being a "hassle" to practitioners, and they formed this opinion from their own experiences and information they knew in the community. They further describe how a trans person advocating for themselves, and being themselves, would be described as a hassle because they are outside of these cisnormative expectations of gender presentation and expression. Further, Kate describes these expressions as normal, as they should be, and saying that, "This is normal for me, so what do you want?" reflects that they reject the shame and the discrimination from the criminal legal system. Their expectation to be "normal" rejects the notions of feeling shame because of who they are, but they also point out that when they do not meet these "standards," they will be treated with disregard.

This general disrespect that is expected from practitioners was also articulated by Minaj, who described practitioners as seeing trans people as "easy targets" who can be preyed upon:

I know definitely they probably see them as an easy target. I feel like [I'm] definitely an easier target. Like it's just a little trans girl, you know. Who cares how she feels or what she thinks, like definitely [it] could feel like that. I don't know — I feel like less of a person as well. It's just some little confused person. . .[They think,] "Oh, this little tranny, I can just pick with this little tranny because nobody really cares."

This expectation that practitioners will treat trans people poorly is exemplified here, especially by the last line of Minaj's quote, where she refers to practitioners using a slur when addressing trans folx. This slur, of course, being the basis of where she believes practitioners are coming from, from a place of bigotry and exuding predatory behavior, and thus, cannot be trusted.

However, there is further implication that she views practitioners as valuing trans folx as lesser, and viewing herself as unable to combat these beliefs because society does not care about trans folx. Seeing practitioners as viewing trans folx as "easier targets" whose feelings do not matter frames her view that practitioners actively view her as a scapegoat whose vulnerability can be exploited. Her perception as well as Kate's extends far beyond this perception, as those who shared these views actually took this into account when making decisions based on whether they should involve criminal legal practitioners or not.

For instance, both Nicholas and Donatello found themselves in situations where practitioner involvement was warranted, but based on their negative perceptions, they made decisions that from the outside could seem counter intuitive. Nicholas, after a fight with his then girlfriend where she brutally injured him, refused to press charges because he was afraid for her safety if she was arrested, since she was also trans:

I actually called the police when my ex kicked in my knee. She had actually gotten on top of me and went into her room and got the gun. She wasn't necessarily waving [it] around me, but I was on the phone with cops at the time. And they came and they actually asked if I wanted to press charges. 'Cause I was afraid of her well-being, I told them no. I did not want her to have to deal with the shit that I knew could happen. She didn't deserve it, no matter how much she fucked me up. I was in physical therapy for months afterwards. Like, her marker was still male. She comes from Texas; it's very hard to change your

birth certificate from there, so they probably would have put her in with the males. I did not want to do that to her. Because despite all the bullshit that just happened, I mean, I had a knot on the side of my head been kicked and there was a...huge bruise on my knee. She actually crushed my vocal cord and my voice changed.

To reiterate, the ex-girlfriend drew a gun on Nicholas after she kicked his knee backwards when he was trying to stand up, and she injured his throat to the point of his voice changing. However, despite his own injuries, he made a split-second decision to not press charges because he was afraid for her safety upon her arrest. In a singular moment when the police asked if he wanted to press charges, his knowledge of how trans folx are treated in the criminal legal system arose, and he was confronted with the ugly realities that he knew about. He knew that she would be treated unfairly, that her gender modality would be seen as central to her actions, and that any sort of incarceration would be dangerous. Hence, his distrust of the system and practitioners informed his decision to not press charges, with the full awareness that it would result in her not being held accountable for the injuries that took months to heal.

Likewise, Donatello found himself in a situation where he was hired to be a nanny to what he thought was a young family, but turned out to be a single father and his two teenage, capable children. Donatello, being whisked away to a rural part of the state, estranged from his family after coming out, and being alone in a truck with the father who hired him, realized very quickly that this situation was not what was advertised. Donatello had checked the father's social media and did basic background checks, but none of that information had warned him that the father was effectually "hiring" him to be repeatedly sexually assaulted. For three months, Donatello endured this brutality and was locked away, purposefully kept from the other members

of the household. Finally, by chance, Donatello heard the father speak to someone on the phone and he realized that the present danger was about to escalate:

So I overheard him say something on his phone. My little space was in the basement and there was a vent that led from the kitchen to my room, and I could like hear extremely clearly through it. And so, like one night, it's like 3:00 a.m.; he had gotten back from something and I heard him talk to someone on the phone pretty much about, like, it wasn't working out. "If you want to take this off my hands, you know, I can drive them down to Florida." And they said them, not it. So that made me like extremely nervous. And so by the end of the week, I had managed to get myself out 'cause I felt like things were about to go extremely south,⁵⁰ and...I knew like if I let that happen, like I'm probably not going to ever surface again.

He gathered information and reached out to various organizations to see if someone could pick him up. He knew that the nearest neighbors were friendly to the father and that other neighbors were approximately seven miles away. Further, Donatello noted that he did not call the police purposefully during this ordeal because he did not trust that the police would make the right decisions and help him in any way:

Initially, I was like, oh, that's good, that the father was friends with several local police officers on social media. He's a well-established citizen, the police are friends with him. He's gotta be like, you know, someone not sketchy, but then, things were as bad. I was like, they might try to, like, I didn't want to test to see if they would help him cover this up. Like, you know, maybe they would have helped me in that point in time, but I realized that involving more white men with guns might've made things worse.

⁵⁰ Although Donatello was already held against his will and was being sexually assaulted, he is referring to the fact that he thought he was about to be sex trafficked or possibly murdered.

While his employer being cop affiliated made Donatello feel secure in the beginning of the job, it quickly reversed itself as he realized that it actually could have put him in danger. It is telling here that he did not trust law enforcement enough to rely on them, but instead took it in his own hands to leave. Donatello did eventually get in touch with an organization that helps trans folx in terms of housing, and he packed his things and was picked up from a neighbor's house, who took him in and allowed him to wait at their residence. Donatello did report the father's information to the National Human Trafficking Hotline.

While perceptions of practitioners drove Nicholas and Donatello to make decisions that ultimately altered the potential outcomes and accountability of wrongdoers, Emily and Sasha formed their broader distrustful views of police from their interactions in the wake of the Charlottesville, VA Unite the Right Riots in August of 2017. Emily and Sasha counter protested the right-wing extremists who held their infamous Unite the Right Riot, which resulted in the death of Heather Heyer and numerous injuries after a white supremacist purposefully drove his car through a crowd of protestors. These interactions were not direct results of transphobic violence or instances of police targeting folx for their gender modality, but in(action) of the police informed them of how they should interact with them in the future.

Emily, a street medic,⁵¹ was at the scene of the crash that killed Heather Heyer, providing aid to another person hit by the car. As Emily stated, street medics are necessary, especially in protest settings because "the cops in Charlottesville wouldn't let EMTs on the scene until it was deemed safe. Which was long after we needed them to show up." Emily also noted that instead of ambulances being the first responders to the scene (besides street medics), police and the

⁵¹ "Street medics, or action medics, are volunteers with a minimum of first aid medical training supplemented by specific protest-related training, who attend protests and demonstrations as support or mutual aid roles to provide medical and wellness care" (Lawrence, 2020, para. 5).

military actually rolled into the scene with tanks and military style trucks with LRADs (Long Range Acoustic Devices), which are noise-making devices designed to disperse crowds. Emily expressed general disgust at the police's actions that day, and that informed their later attitudes and perceptions of police. Emily stated that they were not surprised about the Unite the Right Rally, but instead wrote it off as expected, poor interactions with police. For instance, they were punched in the face at another protest earlier that year:

I got punched in the face, by a Trump supporter, so I told the officer that I wanted his name because I wanted to press charges and [the] officer said, "Well we can't do that right now." And I said, "Well what if he leaves?" and then he said, "If you don't stop talking to me in that tone, I'm going to arrest you for disorderly conduct."

Here, it became clear to Emily that the officer was not interested in pressing charges against someone who punched them, but rather another protestor who took the assaulter's Trump hat. Emily's own previous knowledge of social issues and experiences at protests informed them that police were not to be trusted, with their opinion expressly being "Fuck cops, yes I mean every single cop including your dad or like your grandpa or whatever."

Sasha is another activist who counter protested at the Unite the Right Rally and attended the one-year anniversary of Heather Heyer's death, but she and the others who had arrived were blocked by police:

The second day was August 12th, which was the actual anniversary. There was a demonstration planned in the park, a lot of speeches, and after the speeches were done, a group of activists said we are going to lead a group of survivors and anyone who wants to support to march to like where it happened, the like actual scenes. And so me and the people I was with went along with that. (pauses) Riot cops started following us in mass,

and then when we got to the entrance to the downtown mall, all the entrances were blocked off. They were not going to let us in there. At one point was really scary. I mean, we had to lock arms for fear that we would all going to get arrested. We were daring, like face to face with the cops there and telling them like that we weren't committing any crimes. We were just, it's a fucking public location and we just wanted to go and mourn, and they weren't letting us.

Sasha noted that while she and the others wanted to mourn Heather and her life, police officers instead blocked them from doing so. These instances combined with her previous knowledge deteriorated Sasha's trust in officers to the point that informed her choice to advocate for a stranger in a hospital after Charlottesville happened. She explicitly stated, "I have a lot of mistrust of cops because of my political work." Hence, while hospitalized herself, Sasha watched a Black man being physically escorted by police, he was screaming for them to let him go and she decided to shout to him that he should call a lawyer and that he could not be held against his will. However, a nurse instructed her to stop and when Sasha would not, an officer stepped in her room to question her about shouting:

Police Officer: [Either] "Why are you doing this?" or "Stop doing that."

Sasha: "I'm just trying to advocate for him."

Police Officer: "What do you mean by that?"

Sasha: "I want him to know his rights."

Police Officer: "He knows his rights; we've told him."

Sasha: "I'm reminding him of his rights."

Police Officer: "You need to stop."

Sasha: "I'm allowed to talk. I'm not doing anything wrong."

And I asked him for his name and badge number...he basically like glares at me and like, I felt threatened. I mean, (pauses) I knew that he didn't have grounds to actually do anything, but I don't know if I was more afraid of the cops or, or of the hospital itself. I didn't think they had any grounds to arrest me, but I was terrified that they were going to like have me committed. I felt so threatened and so violated by them sending a cop into my room for treating me as a criminal for trying to advocate for this person.

To be clear, after shouting to the man informing him of his rights, an officer entered her hospital room and attempted to intimidate her to stop helping the stranger, who she could hear screaming. When I asked her why she felt it was important to yell to the man, she said:

Because cops kill people, they definitely kill black people. Even if they don't kill people, very, very bad things happen to people. I could tell that he [the man] wasn't like in the right headspace to advocate for himself and I was worried about him. I wanted him to stay safe and I recognize that the way that the cops were treating him was abusive.

Thus, Sasha, because of her political activism, knowledge of police violence, and distrust of law enforcement, made the decision to ensure that at least someone was advocating for the man she heard interacting with the police.

Some participants also expressed their distrust explicitly in terms of the court and correctional system and the fear that they would be classified in accordance to their assigned sex at birth. Julian astutely noted that because his rights were not protected, he believed that courtroom practitioners were not inclined to protect trans folx since it was not the legal practice:

Well, my experience wasn't ideal. It's not legally protected right now...housing discrimination against LGBT folx isn't protected. So like technically, my landlord could have just blatantly said, "I don't wanna rent to you anymore because you transitioned,"

and they don't technically have to hide that. I wouldn't be surprised if people experience some sort of misjudgment because of that, 'cause it's just easier to get away with.

At the time of the interview, the Virginia Values Act, which protects LGBTQ+ folx against housing discrimination, was not passed; however, this act, while important, does not necessarily protect all LGBTQ+ people from discrimination, and thus, the fear can remain in terms of mistreatment. However, when combining his own experiences with his knowledge about the lack of legal safeguards, Julian figured that without legal repercussions and precedence there would not be a reason for court staff to follow the law.

Asa and Tobias also referred to their fear that the lack of legal acknowledgement of them as men would lead them to mistreatment, and even sexual assault, if they were ever incarcerated for any period of time. In the wake of his five tickets that were given to him after one traffic stop, Asa discussed his fear of the perception of himself as trans and what that would mean if he was ever sentenced to spend a long period of time incarcerated:

One thing that honestly makes me feel nervous...it keeps me on my toes because I really never want to go to prison. Honestly, I never want to go to prison because [I] feel like if I were to go to prison, I would not be safe. If I were to go, if I were to be thrown into like a female prison, I would just feel so uncomfortable there. But in male prison, I feel like the prison officials [would abuse me] and would not care. I feel like the male prisoners would take complete advantage and honestly, one thing I'm afraid of, truthfully, [is] getting raped.

To be clear, this distrust is that officials would not care at any step in the process to either place him in the correct incarceration facility or mistreat him if he were ever incarcerated. The understanding that if he were ever incarcerated, that because of his gender modality, he should

not expect fair treatment—and indeed, abuse—is terrifying and sad for participants and trans folk who understand the system as what it is and for what they can expect from practitioners.

Tobias elaborates on this concept and calls this mental waterboarding, which is the dissonance between the man he knows he is and how he would be perceived when being placed in the incorrect correctional facility:

So let's say if you have 100 inmates. . . male or female, who don't identify as they are or don't identify as what they are perceived to be. They do identify with what they're perceived to be, but because of some birth certificate or whatever thing, they can't, I can't even talk about it clearly because it's so maddening to me. It's just, you know, um, fuck, I like how most [of] the interview, I've been articulate, but this question, it unnerves me to put words to it. It's hard. Um, just because people are criminals [for] whatever they've done, don't dehumanize them in a way that takes away how they see themselves. Oh, you're a female, you're a bitch, it takes away [from the essence of who you are], you know what I mean? Does that make sense? I don't know, that's just so cruel, it's just beyond cruel. In the very same way that I get raped, I get, as a female, as a male, that's very, that's like mental waterboarding. You can't get air in; every time you think you can get air, there's someone just pushing right there.

I left the quote as its whole because I felt that it was necessary to include the visual cues of how upsetting even mentioning and working through these thoughts were for Tobias. He described being torn between the fear that he would experience dysphoria in a women's facility (since he is a man) and the real possibility that in a men's facility he could be sexually assaulted. This caused such acute distress he called it mental waterboarding. This fear is further fueled by his distrust of the criminal legal system to attend to his needs related to his gender and the observable bio-

essentialist view of gender and sex that the criminal legal system utilizes. Further, these opinions formed by Tobias and other participants can also be fueled by secondary trauma, either through direct instances or through outside trusted knowledge that informs participants that they should not trust or should be wary of the criminal legal system.

Secondary Trauma

Secondary trauma of practitioner wrongdoing that was articulated by participants is important to understand because their wariness of practitioners and of the criminal legal system may not come from their firsthand experiences. Within the scope of this study, secondhand trauma took two separate forms, that of either direct accounts of trusted people in their inner circle or hearing from outside sources, such as the news, their jobs, or community advocacy. In terms of hearing accounts from trusted members of their social circle, Kylie, M., Aquaria, and Ka-pree all lent accounts of people they knew who faced unfair treatment from criminal legal practitioners. When asked if she had ever had a negative interaction with police because of her gender modality or expression, Kylie responded, “No. However, it remains a strong concern,” and after questioning, her concern was due to the fact that her wife (who is also trans) had already had bad run-ins with the police. Because of her wife’s experiences, she held an expectation that she would eventually have a negative circumstance.

M. also reiterated Kylie’s concerns, as she noted that although she was not afraid after being in a cell for several hours due to a traffic ticket,⁵² she would be afraid if she was incarcerated for a longer period of time because of the experience of someone she knew:

I call her my daughter, but we know that she’s not, she got locked up in Texas over some bullshit. They shouldn’t have locked her up for anything, but they locked her up with the

⁵² M. was placed in a cell for several hours to “serve” a sentence about her speeding with no other offenses included in the incident. The judge, for whatever reason, was extra punitive when it came to traffic offenses.

men. She was 22 or 23 at the time. So, yeah. And she told me some horror stories about the other inmates, but the prison guards even took advantage [of her]. It was like her boyfriend abused her and she threw a phone at him, and [she] said he was abusing her.

Like, “my boyfriend is physically abusing me” and the cops instead locked her up.

Knowing about another trans woman who she cares about and what she went through, M. had reasons to fear if she was ever incarcerated. The qualifier here for her daughter was that she had not had gender confirmation surgery. Despite the fact that PREA states that housing decisions concerning trans folx “cannot be made solely on the basis of a person’s anatomy or gender assigned at birth” (NCTE, 2012, para. 6), this did not stop M.’s daughter from being placed with men and victimized because of her gender.

Likewise, Ka-pree, when referring to Crystal,⁵³ noted that while Ka-pree did not have any experiences of police violence, Crystal did when she was underage:

You know, some of ‘em are like that. Crystal said they drug her [as in pulling her forcefully]. She wasn’t nothing but 16 years old. They took her out the car, smashed up her hair, and they was mangling her, she said, they was doing her bad. [I said,] “Really? They did that to you as a child?” She was like, “Yeah.” [I asked her,] “Did they know you was a transgender?” She was like, “Yeah, that was right over here up the street.” That don’t even sound right, [Ka-pree] “they did you like that?” She said that they chased her in a car and when they get ‘em, they tackle them down. I’m talking about with they knees and shits pinched her in the jaw and she said that’s how it was. I said, “Well, that was a bit aggressive,” and they knew that she was a young child at that and a transgender. I felt bad for her on that cuz she said they did her like that and the other girl that was with her.

⁵³ Ka-pree helped Crystal (a younger trans woman) when she was kicked out of her family home.

Here, Ka-pree noted that while she has not had an issue with police concerning her gender, she was aware that these instances existed. She recalled this situation when I asked her if she herself had ever had a negative situation with the police due to her gender modality. It is noted that during this instance Ka-pree is recalling, Crystal was underage and was brutalized by the police despite her age, since obviously her being transgender was more of an issue to them than her being a child. This aligns with research that consistently has found police treat youth of color, especially Black youth, similarly to adults rather than behavior more appropriate towards juveniles (Brunson & Pegram, 2018; Brunson & Weitzer, 2009).

While both Ka-pree and M. had heard secondhand stories from trans women, Aquaria's friend, a trans man, also told her of his discrimination from criminal legal practitioners. Aquaria recounted that her friend, who was on probation at the time, was using an STP (stand to pee⁵⁴) device, and the probation officer would not allow him to use it:

I think for the most part they're probably professional. They're receiving training and they're learning how to interact in an acceptable or at worst, tolerable way. I have one friend that is female to male and [he] had a stand to pee device (STP) and [he] had to do a drug test, piss test every once in a while. And [his] probation officer or whoever, his probation officer would not allow him to use the STP device, and so he [my friend] was aggravated about that. He happened to mention that to me.

While Aquaria argued that in her experience, it was not uncommon for cisgender men to use penile devices to pass a drug test so she wondered if that was why it was initially disallowed, but she argued that this should not have been the case here. She posited that since this officer was culturally incompetent in how he dealt with the situation that maybe the lack of training was the

⁵⁴ "STP devices are placed over the urethral opening (the hole you urinate from) and direct the urine forwards so that you can urinate standing, including into a urinal" (Gender Construction Kit, 2021, para. 3).

difference. Aquaria states, “So the stand to pee device is prosthetic and, you know, given by medical authority, but, the probation office [person], that's somebody with a high school education and authority.” Thus, her assumption here is that his lack of education was the reasoning of why he discriminated against her friend. It is notable, however, that like Aquaria, M., Ka-pree, and Kylie all did not have their own negative interactions with practitioners, but took the accounts of people they trusted to inform their perceptions.

Further, other participants formed their perceptions from information they heard secondhand from the community, the news, and other sources. In marginalized communities, knowledge is power, especially in a system that has been found to discriminate against marginalized people. For instance, Luna, who works for the Trans Lifeline, grappled with her own experiences and those she interacted with in the organization:

So, yeah, it's, it's a weird thing, you know, in terms of that because I haven't had a lot of negative experiences, but it's kind of like the you know, “I believe her” kind of stuff for me too. Also, if a trans person says that they're concerned about interaction with law enforcement, I totally understand because there's a lot of bad experiences, and I've heard many bad experiences of people directly through [volunteer work].

Luna disclosed that while she herself did not have negative interactions with police, as well as even being friends with some people in law enforcement, she was aware that that is not the normative experience for her trans siblings. Further, the statement, “I believe her kind of stuff” explicitly refers to the #metoo movement, where it is demanded that survivors be believed when they disclose their trauma. Thus, Luna, despite her own experiences, realizes that the accounts, no matter how far from her own, are valid and make up the broader picture of trans folx and their dealings with criminal legal practitioners.

But even previous experience of being a practitioner did not prevent the hesitation and the perception of being afraid to go to prison or being subject to the criminal legal system. D., who had a former career in law enforcement, noted that she had a fear of going to jail because she held the belief that the system is broken:

There's a lot of sick people in jail. Mentally and physically, but there are few protections for trans people, right? I mean, they are repeatedly in the news and all that. A transgender person put in the jail [in terms of the] biological. Where they are raped repeatedly, and there is this laissez-faire type of attitude. Transgender people are just— One, we are a minority, and minorities in this country are targeted, right? The smaller your minority, the more you're gonna be picked on. Because you'll try to fight back, but it's hard to.

Her own experiences and observations reveal that despite her not possessing any negative experiences herself, her perception that she would be picked on, sexually assaulted, and treated unfairly. This reveals that even with those who formerly participated in the system, it does not ensure that they have any faith in it when it comes to themselves. I would also like to note that despite this belief about the correctional system, D. explicitly said before this statement that she was not inclined to believe trans survivors of police violence. While it is distasteful (to say the least) in not believing survivors of sexual violence, this reveals something much deeper about the nature of perceptions of criminal legal practitioners. That despite the fact that D. trusted police to not victimize her, this faith and positive attitude did not transfer itself to the rest of the system. And further, her faith was diminished because of the evidence she says herself after being on the job, coupled with the news she watched about trans women who were incarcerated. Thus, while she may never have come to terms with the realities of many trans folx and the criminal legal system, her perception shifted after seeing repeated stories.

Atlas, as a Black trans man, revealed that while his encounters with law enforcement have mostly been good, he has to worry that his positionality as a Black man in America will influence how he is treated:

If I call the police, that's one thing; if you call the police, I don't know how this is going to end for me. I don't want that and that's it. And this is the first time in my life I've ever had to fear the police being called. Normally, I'm like, "Right, I'll deal with it now?" It just, it makes me nervous, because I genuinely don't know what happened [for them to call the police], and that bothers me. Because I always thought you should be able to call the police when you need it. Luckily, all my encounters are great, but due to other people's perceptions, it makes me have to constantly be aware of the world. Facts.

(laughs)

With his knowledge of police violence against Black folx in America combined with his knowledge of local trans folx dealing with police violence, Atlas realized that the combination of his race and his gender modality places him at a vulnerable intersection where his life could be in danger and as he put it, "this Black life matters." This awareness shapes his perception in how he deals with criminal legal practitioners as well as white people or people in positions of power. His perceptions of the system, like the others in this section, are not formed by the fact that they themselves have had negative experiences, but simply the fact that seeing others' stories, on the news or in person, gives them a hint of what they should look out for and/or how they should move throughout public space.

This understanding of the criminal legal system, the mistreatment of trans folx, and how that affects perceptions by participants was excellently encapsulated by Nicholas. Nicholas

expressed his frustration with discriminatory policies, the lack of cultural competency in practitioners, and overall, the injustice that plagues marginalized communities:

So there is a lot of poisonous, venomous police officers who have very fucked up views about what a trans person is. And, you know, if they could just see us as human for even a split second, maybe they would put the gun down. You know what I mean? Stop arresting the sex workers because they're trying to make a living...stop judging us on a perceived notion that we are wrong. Because there is nothing wrong with us. I feel like that's how they perceive trans people. Because all trans people must be sex workers or trans people take drugs or whatever. And [that is] not to say that there aren't trans people in need, that [there] are drug abusers and things like that. And they need help. They don't need to be scared out of their fucking mind. You know, especially POC trans women; they're the most marginalized group. They don't deserve the shit the police do to them. And if police cared, the murders that happened would be solved. Because there's that one in Texas. Where she was beaten up like so far ago and then they arrested the one guy who was seen beatin' her up in the video.⁵⁵ Why can't everything be solved like that? You know, I get that it may be a crime of opportunity or like the trans panic defense, which we need to get rid of that shit, that should not exist.

Combined with Nicholas' own relatively positive experiences with police and feeling respected by them, he still viewed them on a broader scale with an analysis that included questioning why trans folx are targeted, why their lives (and deaths) are less valuable than those of cisgender people, and an understanding of intersectional issues. This opinion and perception does not come from his own experiences, but rather is informed by his knowledge of community issues with the

⁵⁵ Nicholas is referring to Muhlaysia Booker, 22, who was brutally beaten on video, survived the assault, but then was murdered a month later (Allen, 2019).

criminal legal system, as well as his knowledge from other people in the trans community who he knew. As an Indigenous, white-passing trans man, Nicholas' opinion and perception of criminal legal practitioners, however, is not an isolated occurrence. His grasp on intersectional analysis of complex understandings of institutional power was seen throughout the interviews and stood out in terms of how participants perceived the criminal legal system and practitioners.

Awareness of Institutional Power and Intersectional Issues

Like Nicholas, many participants were aware of the institutional power possessed by criminal legal practitioners and the institutional aspects of their treatment from the system itself, and how this would have a bearing on their lives. As the author of this dissertation, I am ashamed to say that the complex understanding participants had on the criminal legal system and institutions at large was not something I achieved until completing my coursework for my dissertation. It was not until I came to an institution for higher education and learned about the intricacies of social inequity that I was able to understand the roots of inequality and injustice. However, the participants in this study were so far ahead of me in terms of their understanding, from their own experiences and gaining this knowledge to understand the systems of oppression. Frankly, I am glad that I was decently educated about these issues in order to have enlightening conversations and complex discussions with participants on follow-ups, but I want to note that without my previous knowledge, I would have been lost in some of these conversations. This section is especially important for scholars and practitioners to understand that this population is not just going to go along with the status quo. They not only know why they are being policed and criminalized, but are well aware of their rights and protections. This is important, since a lot of conversations around trans folx and the criminal legal system can be paternalistic and, frankly,

degrading in nature, but these folk are light-years ahead of many of the scholars who seek to “study them.”

Participants expressed their understandings of power in both general and specific senses, with the majority focusing their understanding on the inequality and intersectionality of issues surrounding trans people and incarceration. Ember expressed her understanding of these issues brilliantly and in a way that encapsulated other participants’ attitudes and understandings:

They [criminal legal practitioners] prefer things that are simple, like whether something is dangerous or it is benign. I think the news that there have been LGBT liaisons who have joined the Virginia Beach Police Department recently. I've heard whispers about that being the case in other cities as well, other precincts. I don't have much of an opinion on that, because my position is that the institution of law enforcement is, as it stands now, inevitably going to serve the interests of the powerful. And the powerful rarely have an interest in viewing the world with complexity. I think my use of complexity is inclusive of treating people with dignity and treating people the way they ask to be treated. So I certainly think that there are some judges and court professionals who would want to treat that individual with the dignity that they are warranted. But, I think there are also many instances of people who are frankly confused by the idea that people would want to be treated with dignity. In this part of the country, certainly, there are many judges who would fit that description.

The statement “being uninterested in viewing situations with complexity” is so powerful in that Ember is expressing the expectation and understanding that criminal legal practitioners and the system is negligent in seeing issues as more than just linear correlations, i.e., if you are a trans woman walking on the sidewalk in a populated area, you must be engaging in sex work,

despite the fact that she may be there for other reasons besides “because she is trans.” Ember also perceptively points out that she has little faith that criminal legal practitioners would not only be uninterested in seeing anything intersectional, but also that they would not be willing to treat trans folx with the dignity they deserve. Ember’s words are cutting, slicing the misconceptions that trans folx and other marginalized people are upset at the fact they are over policed for the sake of them being engaged in illegal activity. Rather, they understand that because of their identities, they will be monitored, oppressed, and attempted to be controlled by criminal legal practitioners and the system at large.

Other participants hit on the three branches of the criminal legal system, with specific critiques of how the system treats trans people, especially if they have intersecting identities. For instance, Nova and Djinni were acutely aware that even though they are both trans white women, their Black trans siblings are at more risk when dealing with the criminal legal system. After I asked Nova how she thought police perceived trans people, she noted that although her own experiences were not bad, she was aware of how this would have changed if she was Black and trans:

I’m not going to speak for the whole of them, but I know some of them [police] don’t like us, and it’s kind of like how I learned recently within, like, Black culture, they don’t trust the police. The whole thing is if the law is scary, and it is, so I assume we’re kind of seemed like, Black people, that we’re [white people] scared of them hurting us, and we’re scared that [there’s bad] stuff like happening. So I guess some of them take advantage of them and sad part is that they will, they’re going to do whatever the fuck they can, it seems. (sighs) I’m not going to speak for all the police. I got lucky with the three I met,

well, lucky is not the best words to say. I think I'm lucky and unlucky at the same time. I just happen not to get one that was like totally transphobic...or sexist.

Also, it is unfortunate and a tad shocking that Nova counts herself as lucky not having to experience police violence because of her identity, but again, this speaks to the awareness of the danger that she is in based on her gender modality.

Djinni, another white trans woman, also compared being Black and dealing with the police to how police treat white folx who commit crime:

I think they're more concerned about whether or not a trans person is going to be a threat to their existence, and on the face of it, most of us aren't. Now, a trans Black person, on the other hand, is a threat to their existence simply because, well, they are a Black person. Doesn't matter if they are a trans man, trans woman; they are a Black person. We all know that Black people like to carry guns and knives and attack police officers on site, right? And yes, I say that with all the sarcasm I can muster. Because honestly, I think it's just absolute bullshit how a police officer could say, "I was afraid for my life. So I had to shoot him." When in a similar situation, they can actually get the white guy in the car, and then give him Burger King on the way to the jail cell.

The white guy that Djinni is referring to is Dylann Roof, who killed nine parishioners of the Mother Emmanuel Church in Charleston, South Carolina, a purposeful target since he was motivated by anti-Black, hate-based, white nationalist violence (Blinder & Sack, 2017). Djinni correctly juxtaposes the reality that while Black people, especially Black trans people, are treated as threats to the criminal legal system, a literal terrorist, Dylann Roof, was given Burger King before he was incarcerated. Further, when Djinni notes that she said something with "all the sarcasm I can muster," her voice was laced with a frustration while reckoning with this reality.

In terms of this intersectional understanding, especially in terms of power, both Grace and Vanessa articulated how these complex issues translate to people in the court system. For instance, Grace noted that even decisions made at the highest level reflect back onto society as dangerous and scary:

With the setbacks that we have had in the rights and treatment of transgender people now with current people that have been put on the court, especially on the Supreme Court, their ideologies aren't necessarily compassionate for transgender people and their plight. A lot of times, I think transgender people feel a lot like undocumented immigrants in that they don't really belong, and they're just waiting for somebody to do something about it, i.e., you know, send them into conversion therapy, er— I mean, [there] have been talks that I have heard about in the government having to go back to the name and the gender identity that was on your birth certificate, regardless of what your identity is. And that just scares the living you-know-what outta me.

The comparison here to undocumented immigrants is not unfounded, as they are both populations that exist and have a right to exist, but are constantly policed and under protected, yet represent a large portion of the monitored population. Grace pointing out that the Supreme Court appointments made have a direct effect on not only the perceptions of participants, but also their attitudes concerning what could be around the corner in terms of rights. Here, because of the appointments, Grace is concerned that some of the more transphobic policies that were being discussed would be passed. The trickle-down effect of transphobia here is a real concern for Grace. Pairing that with the awareness of the other participants reveals that they are paying attention to politics and the implications of political appointments because it directly affects them in the long term.

On the subject of punishment, Vanessa explained directly that fees that she had to pay in court over an (arguably bogus) aiding prostitution charge was related to how the criminal legal system is focused on revenue more than justice:

I went to court trying to explain my side, you know, I didn't know what I was gonna be there for. I didn't take money for [sex] and then they found me guilty and I appealed.

They still found me guilty, and costs went up because the criminal justice system is now about revenue then justice. That's another thing, I'm sure you what you focus on, you see enough about prison labor and about how we have created another slave class in the U.S.

Just issues in the criminal justice system, I mean, that will just lead to revolution.

She accurately points out that the criminal legal system has vastly different experiences for those who are able and who are not able to pay fees in the court system, and effectually has created a debtors' prison class of people who are punished for being poor (Harris, 2016). Again, I am thoroughly embarrassed to note that this is something I was not aware of until I started pursuing my PhD, which is largely my mistake, but all in all, this reveals that Vanessa's awareness and dismissal of the court system for legitimate reasons. Here, Vanessa is well aware of the intersection of being poor and being involved in the criminal legal system, aware that poverty and economic inequity are the causes of differing treatment. Thus, because of this, Vanessa determines the system is illegitimate. Many participants were aware of specifics like this throughout the study, similar to the inequity based on race and the disinterest of practitioners to be culturally competent, but this sticks out as something that few folx knew about. However, if participants were going to be aware of institutional power and intersectional issues associated in terms of trans identity, it was going to be in accordance with the correctional system.

In terms of the correctional system, participants had two main aspects to understanding the interactional and institutional aspect, one of which was that of institutional power and control, while the other specifically fixated on the concerns for trans women, who are improperly incarcerated. Sean aptly pointed out in his interview that he viewed the correctional system as the prison industrial complex that was meant to be used to control marginalized people:

That's the whole thing about [the] prison industrial complex. It's all about control and power and money. But I think it's all different when [you] specify [a] trans person's race, or the trans person's actual gender or their social economic status and everything.

Seeing the correctional system in this way allowed Sean to further apply this knowledge to figure out what would happen to him if he was ever incarcerated and what would happen in accordance with his gender, and also thinking about those who are already incarcerated:

The amounts of like, trans people [who] were incarcerated, or what happens if I'm transitioning and I'm on medication, I'm worried about my hormones and then my safety. It's, it's crazy and I don't, I really don't know how these people even make it through a day [going through that].

Sean points out here that upon knowing the correctional system is focused on control, he is worried that if he were ever incarcerated, he would not be treated fairly and would have restricted access to his hormones because of this exertion of control.

Maggie further noted the purpose of the mechanisms of control used by the correctional system, especially in terms of bail and how this centers around being punitive to those who have a low socio-economic status:

We have a highly punitive carceral system where enforcers are given [permission] to act with deadly force whether or not they're justified. I fear the continuation of the use of

cash bail and really, I would call it unconstitutionally accepted bail. If you can talk excessive bail, well excessive bail, if someone is given a bail that you know they can't afford, the person is not a flight risk and is not a threat. So the only reason to give a bail they can't afford anyway is to pay the bail bond industry and to propel them into getting involved fiscally. I fear continued use of prison slavery and of mass incarceration when there are [only] a few people who are downright awful, serial killers, what-have-you, they're like less than 5%. [They're] Probably the only people in prison [who] actually need to be locked up. I'm kind of soapboxing here.

Again, while folx reading this dissertation will likely not be surprised at anything Maggie or Sean is saying about control and the mechanisms to which the carceral system has used them to control marginalized people, it is important to underscore that these folx were well read and well aware of the systems. Arguably, while their knowledge does not stop them from being discriminated against, it does help them organize around working towards a different future, but maybe that is what makes them so dangerous to criminal legal practitioners, the fact that they know there is something different out there they can work towards.

However, other participants like Sasha, Zelda, and Bridgett especially emphasized the idea that trans women in correctional systems was the most pressing issue when it came to trans folx and the criminal legal system. For instance, Sasha noted that:

Jails are a gendered location. So adding that's, [it gives] the right for people to, to abuse transgender people and misgender them. Even if a trans woman gets like the privilege to go to a women's jail or something, I don't, I don't think she would be treated as a woman by like the staff or the correctional officers. I feel like, our safety would be ignored in favor of cis inmates.

Sasha here underscores the idea of jail (and prison) being gendered locations, and as a result, trans people would be treated poorly because they do not fit in the gender binary. Her concern is that a trans woman will never be seen as equal in the eyes of the correctional staff, and her gender modality will prevent her from being treated fairly.

This concern for trans women being incarcerated was also supported by Bridgett and Zelda, who also had opinions about the correctional system as a whole. Bridgett noted that:

I have read multiple stories about um, trans women [put into the men's prison] just because they have the wrong genitals [for the women's prison]. They have to go to the men's prison, which basically is putting a humongous target on their back. And those trans women pretty much never survive. They're lucky if they do. Um, so, you know, the guards of course don't do anything about it. You know, so yeah, I don't, I don't think it matters to them.

Not having faith in the system cultivates distrust, and seeing the system as illegitimate and actively harmful to trans folx at large damages the likelihood for building community trust. In fact, the knowledge that trans women would be brutalized while being incarcerated is so well known throughout the participants, most of them mentioned something about it, even though only 9 of the 44 folx I interviewed were ever incarcerated. Simply stated, this knowledge is so well-known. Zelda notes that, "to put it bluntly, not getting raped. If you put a trans woman in a men's prison, I really don't know why they always act surprised about it happening, like, it's going to happen." Again, here, the attitude of why you would be surprised when you know what will happen to these women is alarming, but also underscores the frequency it happens is passed around the trans community to the point that it is common knowledge.

Overall, participants were well aware and well equipped to discuss and engage in issues surrounding intersectional identities as it related to institutional power. Their ability to articulate system wrongdoings and issues that plague the criminal legal system reveal that not only are they more well equipped to discuss these than most criminology scholars (as queer criminology is relatively new), but that they are aware of the danger, and it shapes their perceptions of the illegitimacy and distrust with the criminal legal system and practitioners. This combined with the already built distrust and theory knowledge through secondary narratives shows that they are more equipped to handle these realities and those created adaptations to the criminal legal system in order to hopefully circumvent some of these occurrences.

Adaptations

Participants in this study also cultivated adaptations in order to survive their encounters with the criminal legal system, and a large part of them being rooted in the previously mentioned issues of distrust, secondary trauma, and awareness of institutional issues and institutional power. Specifically, there were two adaptations that were mentioned that centered around the hesitation to calling 911 emergency services and tweaking presentation in order to not be perceived as trans so they can receive fair, unbiased treatment. In terms of calling 911, as Donatello put it, the situation would have to be “quite dire” for him to call 911, and this was replicated by other participants who noted that they would have to weigh their options before they would consider calling 911. Ember referred to this as a “last resort” because she had little faith in law enforcement not to victimize people, and did not believe in their ability to distinguish and handle an actual crisis:

This is true of some law enforcement officers, but by and large, law enforcement officers do not know how to distinguish someone who is experiencing a mental health crisis from

someone who is a clear and present danger. It's true that sometimes those things can be interpreted as one in the same, but law enforcement typically has a very streamlined solution that results in lots of [bad] things in these circumstances. Or serious injury.

Here, Ember notes that she does not believe that the police will do a good enough job to *not* injure people when they respond. She went on to note that she would prefer a community type force over police. However, this was a year before the racial reckoning we faced in the summer of 2020 and the calls for defunding the police. But Ember, like many participants, was already on the pulse of these issues and realized that the police in their current form are not a viable option for her. The very perception that the police will cause more harm than good spreads through communities, even through people who do not have negative interactions with police personally. This inaccuracy insists that if participants had interacted with a good practitioner, they would not feel this way. However, this is proven to not be the case, as participants with relatively positive personal experiences with police officers still retain overall negative perceptions of police.

Further, other participants like Emily and Meow weighed their likelihood that they would call the police against the crimes being committed, and whether the services were for them or someone else. For instance, Emily described their willingness to call the police as a threshold that was hinged on someone else's life:

I'd probably call the cops if— my threshold would be if somebody else's life was in danger. I don't know if I'd call for my life, I mean, if somebody was attacking me, I'd probably try and call the cops, I guess. I probably would. (pauses) I guess if a life was actually in danger, if I felt a life was in danger, then I would probably, would call the cops. Especially if it was another person's life because I shouldn't get to make that decision for them.

Here, Emily is describing their hesitancy to call the police, especially for themselves, even when they face physical danger. They use “probably” and “I guess” rather than language that would indicate that they are 100% certain that they would call law enforcement. The only threshold they possess is that of another person’s life, so they would call on their behalf, but not their own. Here, Emily reveals much more than their inner process of debating whether to call law enforcement. They are showing that even in dire circumstances, they do not want to turn to police because it would not be in their best interest or safety.

Meow echoed this sentiment as they noted that they would not feel comfortable calling the police because of their expectation that the police would be unable to handle the situation professionally, and in the best interest of the people who were involved:

Oh, it has to be a serious thing. I will call the police, but I’d have to make sure it’s [a] turned [deadly] kind of situation. If I don’t feel 100% comfortable calling the police, ‘cause I know it could go bad. Because not every, not every cop handle shit exactly the way they should, that should be the best for people.

Meow expressed this hesitancy after calling the police at some point to report a domestic assault in the apartment next to them. They were concerned for the party who was facing violence, but upon police arrival, they knocked on the door and did not investigate, with the neighbors claiming that it was loud video games. However, Meow heard a distinct cry for help, and that is why they called. This experience, as well as their awareness about police in capability of handling mental health issues, was the reason why Meow was not keen on calling the police if they ever needed anything. Again, this ties back into the growing distrust and awareness of intersectional issues previously discussed. Trans folx, at least in this study, were well aware of the many issues

that pervade American society and criminal legal practitioners. They are aware, they take note, and they take this into account of their own actions towards the criminal legal system.

Ember, Donatello, Emily, and Meow all express this notion of hesitancy, especially when they are the ones to make the choice to call law enforcement, but this can ultimately manifest in complete distrust. Cat, when asked if they felt comfortable calling 911 if they ever needed help, they noted that they explicitly did not, based on their experiences and beliefs that the police are more of an invasive force than a comforting one:

I don't feel they're gonna make anybody safer. I feel they're just gonna come in with their attitude and their guns and they're gonna try to take control, that they don't even need to have just for their own benefit. Yeah, [I] just don't feel they're gonna do anything for me to make me safer.

However, Cat noted that this belief motivated them to not report several of their own assaults to the police because of their distrust and disbelief that they would do anything in Cat's best interest:

I've been attacked a few times [to the point] that people have told me that it wasn't valid because I didn't choose to report it. Just because of the general distrust of the police. Um, that was sort of a peripheral thing, like people being too trusting in the police for my taste.

Cat disclosed that after their assault, people in their life told them that their assault was not valid because they chose not to report it. This, of course, is disgusting, yet it speaks volumes about perceptions of the legitimacy of when someone is sexually assaulted. Since Cat chose not to report it, they must be lying about their assault, since if they were not lying, they would have reported it to the police. Additionally, there are the implications that maybe there is a reason why

Cat would not feel comfortable calling the police: fear of their own safety or not being taken seriously as a victim of sexual assault. Ultimately though, because of all these reasons, despite their victimization, Cat chose not to report or call for help from the police because of these factors. Within marginalized communities, the perception is that police, and other criminal legal practitioners, cannot be trusted, and the logical nexus of years of discrimination, harassment, and unchecked violence is that they will stop reporting. Further, this distrust of course hinders community building between the LGBTQ+ community and the police, furthering the gaps and hindering understanding over time.

The other main adaptation besides weighing whether to call 911 was that of gender presentation hiding, or gender presentation being carefully curated to be seen as cisgender. This is an extension of the adaptation of some participants not correcting when someone misgenders them in Chapter 7, but has a unique flavor because this is to actively prevent the possibility of additional punitive measures onto their situation because of their gender modality. Zelda aptly expresses this weighing and frustration, as she realizes that no matter the reason she would be in court, she would have to wrestle with being stereotyped as a sex worker:

When you're going to court, you have to figure out: Do I need to go back into the closet for the next four hours while I'm in court? If not, if I wear this, it might be disrespectful and I can look like a fool. Are they going to treat me worse for this? Walking through to the courthouse, am I going to get stereotyped as a hooker going to their court case? And I've already lost it [the case] because that's what everybody's already making up.

Because that's the biggest thing for trans people is, it's hooking.

Zelda is describing the hyper awareness that if she is clocked and does not “pass,” she may not only face discrimination from criminal legal practitioners, but potentially have a worse sentence

and sanctions because she is trans.⁵⁶ Describing these attitudes as having her lose the case because of other people's perceptions is horrifying, but unfortunately, can be the reality and is something that she has to grapple with when she has to interact with the criminal legal system.

Meow, a non-binary person who had a court date, noted that despite the fact they were out as non-binary, being AFAB,⁵⁷ they made the decision to dress more feminine:

I really was fortunate to be in the courtroom First, I mostly dressed feminine for these court appearances, even though I was already out. I just kind of knew no one was going to ask me about my pronouns or anything, so I just kind of went with it.

Dressing as more feminine in the courtroom and not correcting criminal legal practitioners on their pronouns is clearly a decision that is based on the unfortunate reality that Meow was afraid they would not be respected, and/or their gender would not allow them to have fair proceedings. This is similar to Zelda's sentiment in that it shows that Meow, while being happy with being out, made the choice to not disclose their gender modality in the courtroom because of potential lack of understanding. This is again, very similar to adaptations to discrimination in Chapter 7 of how to navigate public space.

Jack echoed these fears and decisions to not correct on pronouns when they described an instance with law enforcement where they did not disclose their pronouns and their gender modality:

It was definitely a choice of this does not belong in the conversation right now because it's not gonna help me. . . I feel really bad about it because I know there are people who cannot do this. But I choose really to portray myself as a cisgender person, when it will

⁵⁶ Notably, in Chapter 8, Lucky noted how this did happen to her after her false domestic violence case, so Zelda's fears are not unfounded.

⁵⁷ Assigned Female at Birth

benefit me, which I feel is a terrible thing because it's not being true to myself, but at the same time, it's the world we live in. And, you know, there are instances where I would really, really, really rather not bring up I'm trans just for the heck of it. If it's not going to benefit me, and clearly, like this person isn't gonna use my preferred pronouns and if they used my preferred pronouns. I think the deal of law enforcement is I'd rather that they don't know I'm trans at all. I just can't see how it would, it would help. Especially if I were to ever be arrested for, you know, any of the things that I do. Like, I do sometimes go protesting. So if I was ever to get arrested for protesting, I mean, I would not disclose that I was trans at all.

Notably, Jack feels guilty that they feel safer if they portray themselves as cisgender and not correct the practitioner if they do not use their accurate pronouns. In this way, they are afraid that practitioners will not respect them, but also with the realization that “this is the world we live in.” Understanding the discrimination that trans folx face in the public eye and how that translates with institutional power is vital to understanding why Jack and other trans folx are willing to “return to the closet,” as Zelda put it, for extended periods of time. Jack understands that their disclosure of their gender modality would be detrimental to their treatment, thus they hesitate and actively hide it. What this ultimately says, paired with the other parts of this section, is that participants were not likely to trust criminal legal practitioners and the system itself based on their own experiences, secondary trauma from trusted members or outside information, as well as the awareness of the institutional power and intersectional issues that are glaringly present here. This then correlates to direct policy implications that are vital in moving forward for practitioners, as well as criminological scholarship, which will be covered in the following section.

Policy Implications

When considering all the instances of discrimination faced by trans folx at the hands of criminal legal practitioners, as well as their perceptions of the criminal legal system, this leaves open an opportunity for what can be done now. While the policy implications presented here seem logical and basic, the issue is that they are not being done currently, or are only piecemeal in certain areas. The truth is that multiple accounts of trans folx in the same area, have different experiences, even when dealing with practitioners from the same department. The same department that Vanessa said treated her with respect in terms of pronouns also had officers interrogate Elvis about his gender. Ka-pree noted that police in one department were respectful compared to where she had lived before, but the same department did not take Jasmine's experience with being a victim of a hate crime seriously.

There is something very wrong happening in the criminal legal system when trans people have to hope that the individual officer or practitioner is affirming of their existence, or they have to wonder if they are going to be treated with respect. While this parallels the perceptions of other marginalized communities, future scholars and practitioners need to heed the calls for reform, which all filter to a unified sentiment, the disturbing notion that participants want to be seen and treated as human by criminal legal practitioners. This section will be divided into two main parts, that of overarching themes in terms of policy that can be applied to all three branches of the criminal legal system, and the second is specific policy implications and suggestions for each of the institutions.

Overarching Themes

Misgendering/Deadnaming.

Unsurprisingly, calls for criminal legal practitioners to actually properly use names and pronouns of trans folx was one of the most common policy suggestions by participants. As argued in Chapter 8, misgendering and purposeful deadnaming is a form of institutional harm. When a criminal legal practitioner makes the decision to deadname and decisively ignore the gender presentation of the person in front of them in favor of any legal paperwork, it is an active form of erasure. Ignorance is not an excuse here, as when trans folx ask to be addressed by a certain name and pronouns, it should unilaterally be respected, no matter what the circumstances. Trans folx being properly addressed by their name and pronouns is effectually a human right, the human right to be acknowledged, validated, and to be seen as who they are, not who a government body decides they are based on a name they had no hand in selecting or secondary sex characteristics they have no control over. That being said, participants suggested specific ways that criminal legal practitioners can engage with trans folx during their duties in order to do this effectively.

First, participants argued that criminal legal practitioners need to treat people as the gender they present. Your eyes are not deceiving you if someone is giving the obvious gendered markers of being a man or woman; they are trying to signal to you that is how they want to be addressed. Krys elaborated on this notion, that who is in front of you is who you should address:

I mean, just see the person as a person he is. Don't, just because they, like me, I may not have my marker changed or any of my stuff, but if you physically can see that is a lady in your face, treat her as such.

Thus, if someone is presenting themselves as a lady (as Krys notes), then treat her as she should be treated. Trans folx spend time to signal to folx the gender that they are, considering we live in a very binary society that capitalizes on biological determinism from gender reveal parties to specific colors in advertising. However, while these can be damaging to trans folx, they actually utilize these signals to inform you of how they want to be treated and identified. Vanessa reaffirms this point by just giving the advice to just “treat them as the gender they present. Just follow that and move on.” Yet, this can be trickier for non-binary folx, who are not bound by gendered visual cues and instead dress themselves based on individual decisions. Mac described that while attending court proceedings to support other activists, there were non-binary and queer folx who dressed in a myriad of ways which depended on choice and how they would be perceived by others. “It was a mix of queer people dressed in a diversity of ways. Some of us are trying to present more in line with how people would perceive us and other people [were] wearing stuff that more matches their identity.” So while visual cues may work for binary trans folx, ultimately, the recommendations that center around asking someone their name and pronouns can be applied to those outside the gender binary.

As Grace notes the legal paperwork and documents can complicate the dissonance between the person who is in front of you and what their legal paperwork says:

The legalities of things, what your gender marker is, what your birth certificate says, (sighs) they’re not infallible. People are different, I am different than what it said. (sighs) I think if they would just, ok, here I am, in court the first time, got the right name, wrong gender marker, and I tell him, “I’m a woman” the first time. (pauses) Accept it. Is it that hard?

While Grace is again referring to the fact that she was misgendered in a courtroom, even after affirming she is a woman, her assertion is valid in that she told the judge, “I’m a woman” the first time. Her asking him to accept her is not just a request to see her as a woman, but also to validate her existence as a trans person and the fact that the marker on the legal documents is not an end all, be all to a person’s identity. Grace’s question, “Is it that hard?” reveals the frustration and the challenge of her being unable to be seen as herself by criminal legal practitioners. Her request is not hard or difficult, but actually requires those in power to see her as how she identifies. Again, concerning non-binary folx, asking and subsequently believing them concerning their name and pronouns will alleviate any misunderstanding during proceedings. Arguably, I read her request as a demand as well: Accept it, *or you will be left behind*. V. also simply puts this as “treat them [trans people] as how they identify,” and that is a full stop here. Treating trans people as how they identify, using their correct names and pronouns, is not a herculean feat, but one of decency and cultural competency.

M. notably adds an important element of this acknowledgement as well, and it needs to be extended to trans folx who do not pass as cisgender:

I think like cops in general perceive us as men in dresses unless we’re passable. You know, if you’re a trans [woman] and you don’t pass, then you’re perceived as a man in a dress. I won’t deny that I have it [passing privilege]. You know, I want to thank God I have it; it’s made my life easier. But a lot of transgender people don’t have it [passing privilege], and they’re obviously transgender and people aren’t so understanding. ‘Cause it’s like some people will be like, you know, [if] they’re trans and they pass, [society] will accept to teach you and treat you like a woman, but if you don’t pass, we’re going to

misgender you and blah, blah, blah, blah. . . People will accept a passable trans woman more than they will [if you do not pass]. And it shouldn't be that way.

While M. notes that she has passing privilege, she explicitly states that her treatment as opposed to those who do not pass should not be different. Again, if someone is signaling to you that they are a certain gender, believe them, despite your own misconceptions of how they should look and appear. Passing is a privilege and requires access to resources, especially financial and medical. When someone transitions, they need financial resources in order to change their name, access hormones, and even change their wardrobe to clothes that are more affirming of their gender. Considering that numerous examples and studies show that trans folx face higher rates of poverty and economic inequity, it is a cycle that perpetuates itself. Those who cannot pass are discriminated against by practitioners, but they are working with the limited resources they have and should not be penalized with transphobia. Further, trans folx do not owe it to anyone to pass or to look like the gender they identify. If a trans woman does not shave her facial hair, or a trans man did not bind that day, it does not invalidate their existence; it is just part of who they are. A cisgender woman is not lesser for not shaving her legs, and a cisgender man is not less of a man if he cries with joy, despite cultural messaging that argues they are in fact, lesser. The double standards for trans people and presentation are damaging, and the criminal legal system will be in the dark ages if there is not advancement in thinking. However, Karen puts it best when she said, “We [trans folx] are who we say we are.”

Further, specific notes on misgendering and deadnaming from participants indicated that practitioners should use their actual names and pronouns. For instance, Mac specifically noted that while the criminal legal system does need overhauling, there can be small reforms currently that will help better the treatment of trans people:

I mean, I think that like, at least based on my opinion it can't just be reformed, but [in the meantime] there are small little reforms like respecting people's pronouns using the names I want to use [when I am] going into the jails.

Again, using the names and pronouns that a trans person asks for seems too logical and straightforward to be a policy implication, but if they were being honored in any way, participants would not be repeatedly asking for this. Atlas reaffirmed this idea by stating that reform needs to “start with pronouns in the narrative” of criminal legal reform. He goes on to say that it is important to see the person as they are instead of in legal terms because this can cause injustice and potential mistreatment in the criminal legal system, especially in the courts when a person who identifies as one gender is misgendered constantly in the courtroom for “legal” reasons:

If the public defender's like, "Look, I feel like we should use the birth name because this is their legal name," and they're [the opposing side] says, "No, the community, this person has been living as is—" . . . You just being able to have to keep acknowledging that transness right there is what causes that difference, which means they might not get a fair trial.

For Atlas, and correctly so, misgendering people and not using their accurate pronouns is not about simple respect and validation, but also ensuring that fairness remains in the courtroom for trans people. The idea that trans people will not be treated fairly based on the dissonance between their appearance and the pronouns and name used in the courtroom is a real fear that needs to be addressed and changed.

Wolf notes that this can be a simple implementation as the following, that revolves around the novel notion of simply asking trans folx about their pronouns:

Actually look at the person and just ask [about] pronouns, just honor them. It's quick and simple, and also, don't look at the fact that we're trans. We're just he/him, she/her, they/them, and this is our case, or this is our situation and we're past that. We're not trans people; we [are] just people.

This simplistic idea again can seem silly, but the reality is that trans people have to ask for basic requirements and respectful interactions because as evidenced by Chapter 8, that is typically not the case. Most of the participants in this study were either uncomfortable because of their personal interactions with the criminal legal system, or trusted members of the community, the news, etc., that informed them that the criminal legal system is not meant to protect them. Julian also underscores that in his experience of disclosing his hearing disability to the court, being unable to disclose his pronouns was the catalyst to him being misgendered in the courtroom:

There's no instructions on how to go about situations like that. Like how do you inform the court about being trans when they'll probably wonder about your legal name and such like that. So, I felt maybe it was kind of clever that I had that letter for the hearing loss as well as my name on it. So they'd get the tip. When you look at the websites online or ask them how do I inform them of my disability, they say, "Please do inform us." But it's that [informing them of your disability] is necessary. Like informing someone you're trans isn't as necessary.

To the court, in this case, letting them know about his hearing disability was requested, but when he tried to inform them of his gender modality and how his chosen name differed from his legal name, he puts it as the court does not see it as "necessary." Being precise in language, exact with names and pronouns, as the criminal legal system is with laws, charges, and Social Security numbers, is vital for the criminal legal system to leave behind their archaic views of gender.

Cultural Competency Training.

The other main theme that traversed through the interviews and that can be seen as applicable through the entire criminal legal system is that of cultural competency training. Participants called for criminal legal practitioners to be better equipped and knowledgeable in terms of LGBTQ+ and trans issues. LGBT liaisons are not enough; criminal legal practitioners as a whole need to better understand trans folx, at the very least be equipped with basic vocabulary. Their lack of skills, vocabulary, and overall blatant ignorance is damaging to the trans folx they interact with, as well as diminishes any chance they may have to build relationships with trans folx in their local community. This has ripple effects that are damaging long after the specific incident of the criminal legal practitioner and one trans person. For instance, in the Hampton Roads area, participants who did not know each other and ran in different social circles were aware of the two main cities in the area where police were incompetent and could be violent towards them. Having this knowledge shows not only the effectiveness of community information, but underscores the idea that criminal legal practitioners who are ill-equipped are damaging to more than just one person in a single instance.

Meow specifically emphasized that one of the biggest challenges that trans folx face in the criminal legal system is that of “visibility and acceptance” because if “no one asks, they do not listen.” To Meow, the visibility through training would lend trans folx to be more of a real issue for criminal legal practitioners, to place these issues in front of them as undeniable parts of society and the criminal system as a whole. Kate expands on this idea when they noted that training would also serve to open the minds of practitioners to trans issues and why trans folx may have to advocate for themselves:

I think if there was more education that these people who work in the systems from guards to cops to attorneys to judges, like a course or something that they had to take about identities and what some of these people go through and why they have the fears that they do. Or why when they advocate for themselves, they're not being a hassle; they're just trying to tell you what they need to get through the thing that they're going through. I think this education [would] maybe open people's minds a little bit. I think that there's just a massive lack of understanding of these communities.

Here, both Meow and Kate are pointing out that poor treatment (excluding intentional harm) is related to the fact that practitioners are not aware of trans folx and the unique needs that they face. Vanessa specifically noted these issues of ignorance in the Hampton Roads area and how the lack of training and dangerous stereotyping by police replicates itself:

I don't think most places in this area have adequate training on how to deal with trans people, but we're also in more diverse communities. Some of them are more likely to be sex workers or they think we are, even if we're not. I mean, there's that perception.

Noting that trans folx are more likely to be in diverse communities reveals that, according to Vanessa, trans folx are likely to reside in places that are not hegemonic or heteronormative in nature, like in suburbs or communities that are not going to be overpoliced. As a result, trans folx are more likely to come in contact with police.

Luna echoed Vanessa's sentiments that criminal legal professionals need to be more aware of issues that pervade the trans community, especially in terms of rejection and suicidal ideation:

I mean, there's an awful lot of suicide and suicidal ideation in the trans community.

Because people in society are brought up that this is a shameful thing, that this is a bad

thing. There was so much self-loathing from it and also rejection from families. Still today, even with all the support, [it] takes a lot of bravery to be able to come out and say, “I am trans,” I am [a part of] this [group of] people, you know. People have so painted it like look at all these people, they're claiming gender identity.

The solution here obviously is that criminal legal practitioners would have to be competent in the many complicated, intersectional issues that come with being trans. Being trans is a beautiful, personal journey, but society, and by extension, the criminal legal system, attaches so much baggage and requirements for them to exist in public space, but understanding where they are coming from can help build relationships and community ties. Further, as Lucky points out, this is vital as well because “no two trans people are the same,” and thus, with better cultural competency, criminal legal practitioners would be better able to handle trans folx in the system to treat them with the dignity and respect they deserve.

Also, it cannot be overstated that this training would not just help trans folx, but also their intersections of poverty, discrimination, mental illness, etc. would touch on several other communities that the police interact with. As Minaj simply puts it, trans folx are not asking of treatment outside of what practitioners are already providing, but just the same treatment as others. “But just like treated regular, just like you would treat any other girl or other human being, instead of just oh, it’s a tranny. Like you don’t really have to do anything different.” Asking to be treated like any other girl, as any other human being, can seem simple, but when given a deeper analysis, it reveals that the ills perpetuated by the criminal legal system on trans folx as a whole is so drastic and violent that their ask is to be treated like human beings. Or as Sean puts it:

When you're taking care of a dog, an animal, you care for them, right? You, you make sure they're fed, you make sure they're want[ed], they have enough water and everything; just decent humanity would be very nice, right? Which is how they should be treating everyone else. But somehow, some people aren't treating trans people like that, and I feel like it reflects more on the fact that I have to use an example of an animal to compare it to an actual human being, [which] is just sad within itself. Which I think just speaks volumes on how terrible trans people are treated. . . Just don't be an asshole.

Again, when trans folx are asking to be treated the same way that you would treat your animals because they feel that disrespected and degraded, it reveals how poor their treatment is and how desperately this cultural competency training is needed.

Further, participants underlined the necessity and understanding of trans folx and their unique positionality in society as well as in the criminal legal system. Donatello described addressing the wrongdoings committed by criminal legal practitioners as well as next steps:

The big, neat thing would to be not, to not have to continually abuse (laughs) trans people. That's like, you know, step one by far. Definitely step two would be a way to figure out, and then at least in the criminal justice system, is to treat them with dignity no matter what, to not make a laughingstock of them. I've heard things about them making fun of gender nonconforming people and trans people, when they're taking their mug shots...this person doesn't pass at all, that sort of thing. So, you know, obviously cut that crap out.

Understandably, these calls for better awareness and treatment are necessary, especially when these instances become canon in the narrative of the relationship between trans folx and the criminal legal system. The undertaking that could be built from cultural competency training is

reiterated by Asa, when he calls for compassion and empathy from criminal legal practitioners. “I just, kind of like, put yourself in someone else’s shoes. Put yourself in, I don’t know, just empathy I guess, I feel like...you can learn to be accepting.” Acceptance, understanding, and competency need to be achieved to not only better the lives of trans folx, but better prepare the criminal legal system to deal with the complex issues and reckoning they have been facing, especially within the last year concerning Black lives, police brutality, and institutional racism.

Calls for police and criminal legal competency are forcing practitioners to grapple with the ugly truth that they are uncompassionate, neglectful, and ignorant of the issues facing trans folx. Further, as Jasmine puts it, they need to train officers because arguably, it is too late for them to put it off any longer. “They need to go [and have training]; like, they have mental health training, CIT training for officers. They need to have the same courtesy for trans [people]. They need to train the officers on how to do this because we are here.” “We are here” is such a powerful statement, and again underscores the reality that despite criminal legal practitioners, or the system itself, actively denying and invalidating the existence of trans people, that really takes a back seat to the fact that trans people are actively involved in the criminal legal system.

However, even within this study, there were some strong examples of positive interactions with the criminal legal system, where it was clear that either some training had taken place, or the practitioners had chosen themselves to treat trans folx with decency and respect. For instance, when I asked Bridgett if she would ever call 911 if she ever needed anything, she responded yes and then elaborated on why. She disclosed that after she had pulled into an abandoned parking lot one night, she started to self-harm, and an officer came to her window to check on her. She realized that her ID was still incorrect, and she told the officer that she had not

changed anything legal yet, so her ID showed a different person than the one the officer was facing:

I told him my legal name is [deadname], but then [what] he said next was, “Well, what would you like me to call you?” So I told him Bridgett, [and] he goes, “Well, okay, Ms. Bridgett, you know, I’m just here to let you know that you’re not in trouble.” He didn’t tell me how they found out about me, but he said, “We just saw you sitting here and we were concerned. Would you mind stepping out at [of] the car? I want to take a look at your arm,” [he did] and he’s like, “If it’s okay with you, I’d like to call the EMTs. I think it’s a good idea just to have them check you out, make sure you’re okay.” So I agreed to it; I remember when he was making the call, he said, “Hey, I have a 30-year-old female here.” And I was [acknowledged as] a girl. I was a complete girl to these guys. And even to the EMTs...it was a very positive experience. And I was really surprised, considering all the stories you hear in like other cities and countries and states. So yeah, that’s why... I would be comfortable calling them if I needed to.

To Bridgett’s surprise, and my own, this officer was affirming, gentle, and even did not disclose to EMTs that Bridgett was trans. He made no effort to shame, deadname, misgender, or disrespect her.

Similarly, Ka-pree, after she was in court facing charges for not showing up for her initial court date, reported that when she did come to court, they did not use her first name (as it was her legal, but deadname), but instead asked her how to pronounce her last name. They then called her Miss. [last name] through the entire proceedings, and as a result, Ka-pree had a positive perspective of courtroom professionals. After she described this situation, I asked her

how she thought courtroom professionals perceived trans people, and she answered with the following:

With respect, hopefully because it is a law. A lawful thing. You can't discriminate, which is an unlawful thing. So I would, at the best of my knowledge, I feel like that people [who are] in the court system, they know what they getting themselves into, they know the system. They wouldn't disrespect [you] or they wouldn't put you in a position to make you feel, to make you feel disoriented.

While Ka-pree assumed that her being treated with respect was a result of a law, at the time she was experiencing this case in particular, there were no state or city ordinances that would have compelled the judge and the others in the courtroom to address Ka-pree in the way she should be addressed. Thus, it stands to reason that this was an individual choice, either based on the experiences, knowledge, or simple decency of the judge and the other courtroom professionals to choose to call Ka-pree by her last name with the honorific Miss.

Further, another example, that was touched on in Chapter 8, is that of Naomi, a trans woman who served time in prison and actually was able to receive the services she was entitled to and treated with respect after advocating for herself for three years. When she was transferred to a second facility during her sentence, Naomi was treated with respect by Ms. Forthright, the building manager, who orchestrated a care team for Naomi, as well as making sure that she had her clothing items and adequate medical care. While Naomi did not disclose why Ms. Forthright had such a clear cultural competency and was an advocate, it was effective in not only helping Naomi have access to necessary services, but revealed that while Ms. Forthright seemed to be an outlier, she was actually following the law according to PREA. Naomi was able to make connections at the local university that allowed for her to be able to continue medical care, which

included hormones after she was released. She still had rapport with the same doctors she knew while she was incarcerated. Establishing these connections was especially important, since on her own, Naomi may have not had access to these same resources.

Thus, considering these positive examples, while brief, it is clear that calls for policy changes, better treatment, and treating trans folx as how they identify are not out of the ordinary and are accessible. There are practitioners who are already making these choices, the decent human choice to treat trans folx as human, which makes these instances of transphobic violence even worse. The ability to be kind, decent, and professional towards trans people is a choice that consistently criminal practitioners are not making. Yet, these choices are not occurring in a vacuum, as practitioners are typically not held accountable for their transphobic actions and instead these are mechanisms through which the broader criminal legal system enables harm. While trans lives matter, to the criminal legal system through its continued marginalization, criminalization, and insistence of bio-essentialism, its stance is painfully clear.

System-Specific Critiques

This section is divided into the three branches of the criminal legal system, i.e., police, courts, and corrections, in order to address specific critiques that can only be applied to that particular institution. While some of these overlap with the overarching themes, these specific instances and calls that apply to only certain parts of the system are valuable to investigate and examine.

Law Enforcement.

The most specific call for law enforcement in terms of policy reform by participants revolved around them having specific training in order to be aware of trans issues and how to interact with trans folx when they are on the job. While this is an extension of cultural

competency training, participants provided specific examples that only apply to law enforcement and are important to highlight and discuss on their own. However, outside of the specific training, participants noted the issues about the LGBT Liaison Officers, specifically in the Hampton Roads area. Notably, excluding Elvis, most participants were widely unaware of LGBT Liaison Officers in their cities, and in Hampton Roads in general. Of course, as previously mentioned, this ended up not really helping Elvis, and in fact, placed him in more danger when they handcuffed him to a metal bar in the jail after he asked for the LGBT Liaison Officer. Thus, poignantly, Nicholas asserted that liaisons were created in order to delegate police issues with the LGBTQ+ community to a specific group instead of dealing with it as a department:

But then you also have the toxic masculinity in the police force as well. And then, they look at a trans woman. [Saying,] “Why would you want to do this to yourself? You're a man; be a man.” You know what I’m saying? There’s so much. There’s so many reasons why a police officer would act the way they do towards a trans person. And it’s out on the table, you know, and they don’t want to own up to their bullshit. That’s why they create the liaisons.

Nicholas is pointing out that delegating the issue of building these relationships to a small group diminishes the responsibility of the department itself, as well as places the burden on a couple of people. The statement, “They don’t want to own up to their bullshit,” is the literal frustration of if a situation occurs, like what happened to Elvis, potentially, the department could blame the lack of the presence of the liaison. Rather than point out that all of their officers and the entire department should be held accountable for their actions, the pawning off to these specific officers can be detrimental for building trust. “Owning up to their bullshit” would include the

admittance that the department as a whole is lacking, and thus, everyone needs training for LGBTQ+ issues.

Aquaria also pointed out another issue that these LGBTQ+ liaisons are supposed to interact with the community, but are widely unknown to the people who need them the most:⁵⁸

Some form of, of community outreach that goes beyond just having a liaison or a nice writeup, but real aggressive, them getting into the community, finding the people and, and I know it's a hard job because we try not to be seen. You know, we try to blend in, but we're not hard to find. People can tell for the most part, and so it's not like you can't find us, and there are groups, there are Facebook groups, there are things [ways]. And you [April] found us through one of those. So if you can find us, they can find us. They could put an article in the newspaper, say, "Hey, we're trying to establish contacts. If anybody would like to contact us, please, this is a number [to call us]."

Here, Aquaria is raising an excellent point. These officers are not out in the community trying to meet people and hope that community members would be willing to come to them for outreach. However, as per the perceptions of the criminal legal system covered in this chapter and the targeted issues of transphobic violence covered in Chapter 8, it is understandable that there might be hesitancy to connect, even if officers did perform outreach. It cannot be underscored enough how almost comical it is that citizens are expected to trust one officer after another insults, degrades, and victimizes them, when they both come from the same department. Thus, LGBTQ+ liaisons need to be more visible and more active in the local community if they hope to build any kind of trust, and *all* officers should be required to take some sort of LGBTQ+ training.

⁵⁸ Notably, these officers' emails and phone numbers are available through the Hampton Roads Pride website, but clearly, there is a disconnect in the community that needs to be addressed.

This notion of training tailored to specific instances which would only occur with law enforcement came up repeatedly during the interviews. For instance, if the person in front of police does not match who is presented on their ID, police need to reform how they proceed. As Winston notes, if the ID had a female marker, but clearly a man is standing in front of an officer, those folx are met immediately with suspicion. “They see the license, and then they have to like, act like you're trying to do something shady, when it's just kind of how it is. I know some places do sensitivity training and I think that would help, too.” Similar to the officer in Bridgett’s case, officers could choose to treat the person in front of them with respect and ask their name and pronouns, but typically, instead, they meet trans folx with suspicion as if they are doing something wrong. This happened to Minaj when she was pulled over, and the officer asked her for an ID, was struck that she did not match it (she had not changed her ID by then), and she described him as acting weird. “Yeah, he was kind of looking at the picture and looking at me; he just kind of looked down and was like, ‘OK,’ and then he gave it back and left [back to his car].”

While the officer addressed Minaj as ma’am and girl,⁵⁹ he topped off his weirdness with her by asking if she was a stripper, since she said she was driving back home after doing a show (Minaj is an entertainer, but not a sex worker). Here, clearly, the officer could have just asked her name and pronouns to move on instead of openly staring at the ID and her repeatedly.⁶⁰ However, the most important aspect of this, which would help law enforcement immensely with their relationship to trans folx, is that through training, they need to understand that there are mechanics that prevent trans people from changing their identification. Cat puts it as, “and we

⁵⁹ Arguably, this could have been similar to the racist use of “boy” by white men against Black men, but since this was not mentioned by Minaj, I will just assume she did not read it this way.

⁶⁰ By asking if she was a sex worker, since she’s trans and in makeup and Black, this reveals that Minaj was subjected to the officer’s racism and transphobic assumptions.

don't have to have marks on our license or something to be valid." That is the most important thing to remember is that they do not need to have a government document to be valid; know the difference, and do better.

Other notable critiques from participants concern specific training for law enforcement, especially concerning their treatment of those who are LGBTQ+ and those who are facing a mental health crisis. Ember expresses these concerns in the following quote:

I think the most important and necessary change would be sensitivity training, would be making it a condition of hire that the officer recognizes and vet people [who] are warranted, recognition of dignity. And that their judgments of whether a situation is dangerous needs to be kneaded out by the understanding that they might be not be the best ones to handle that situation, and certainly that force may not be required in that situation. If it's a mental health crisis, for instance. I think there is an enormous amount of suffering that is proliferated by officers who believe that they need to exercise force and provide a permanent solution to a temporary problem.

Here, Ember, and other participants, express their concerns that police are ill equipped to handle the intersectional nature of how these suggestions could play out in the community and how the police are just ill equipped to handle trans folx, or when they do, it is riddled with violence.

Further, Sasha, who is a trans woman, and also grapples with mental health issues that can put her at odds with police, expressed that she was genuinely concerned for her safety and that officers needed to be able to know what to do when they met someone like her. She elaborates on some important intersections that also are unique to law enforcement and require their consideration:

I think that the more you deviate from cisnormative white supremacist standards of appearance and behavior the more of a threat that you'll be. Even as a white trans woman, I fear interactions with police because I know that because of my mental health, I am prone to acting erratically sometimes, and I know that puts me at risk with interactions with police. I also think that a cop wouldn't think twice about misgendering me. . . I don't believe a cop would care. So it's, I mean it's, it's a question with, with a lot of nuance and different trans people will have different interactions with the police, but I think that the cops can use it as a weapon against you.

Sasha aptly pointing out her perception (and unfortunately, the reality) that when folx deviate from the heteronormative and cissexist expectations of their existence, they are subject to more police intervention and interactions. The belief that police will use these intersecting identities as weapons is dangerous, and is not only damaging to the trans folx who share this belief, but to practitioners who may want to amend these broken relationships. Make no mistake, most of the work to repair trust needs to come from law enforcement as a concerted effort because they are the ones who have ruined it in the first place.

Very pertinently, Joanie calls for law enforcement to be educated so they can be “allies in the community.” She observes that because of the generational difference, younger officers are more likely to be these allies since they are already “prone to the trans [they know about trans folx].” She elaborated:

I'm (pause) learning the younger officers that's come on board, they're already prone to the trans, the LGBTQ community, and they know how to deal with us better. It's the older officers that don't have no— they don't know [anything about the community], so

you know, I think it depends on the city, too. Like, [in] our area, all officers should be prone [exposed] to the LGBTQ community.

This training also has viability, as Grace noted she had spoken with officers where some had gone through LGBTQ+ training and some had not. “I think the ones who have gone through are the ones who may be a little bit more interested in acknowledging people’s rights to live their life freely.” This clear perception of the division between those who had taken the training in Grace’s area and those who had not showed that she not only saw the difference, but felt them as an out trans woman. The clear validation and acceptance that Grace experienced from officers who had taken the LGBTQ+ training was a result of the work done by the trainers in order to emphasize that LGBTQ+ people are valid and demonstrate to the trainees how to treat LGBTQ+ people in public.

Oftentimes, law enforcement is the first and only group of people that the public interacts with in the criminal legal system, so it needs to be heavily emphasized that, at least in terms of this study, as evident by perceptions and by the narratives presented in Chapter 8, there are catastrophic failures in the criminal legal system, and especially here in the police. Instances of police assaulting trans women at high rates, unlawfully searching them, and treating trans folx as a whole with disrespect are decently documented (NCAVP, 2014; NCTE, 2016). This study not only supports these statistics, but also emphasizes that a large number of officers are blatantly clueless on what to do with trans people. They default to their basic instincts, which trans people have to cross their fingers that they are affirming, but more often, that is not the case. However, these specific critiques and calls concerning the branches of the legal system also extend to the court system.

Courts.

In terms of specific critiques of the court system and specific policy suggestions that can be presented, these were divided into three different parts, that of calling for a special legal form, practitioners should be given specific information, and there should be specific legal protections for trans folx who enter the courtroom. In terms of the special legal form, Atlas noted that this could be a stand-in before legal documents are changed:

One thing I think might be helpful is if somebody is still living before they like [pass away], I think a special legal form, that would be helpful, regardless of legal status and changing name that can be signed...that can be used in [legal discussions] to state that this is the name that this person will go by here and henceforth.

That way, in court, a trans person's actual pronouns and name would be documented in lieu of the legal paperwork being officially completed. For a myriad of reasons: safety, accessibility, finances, fear of loss of government benefits, etc., a trans person may not be inclined to have their documents completed before a potential court appearance. Nicholas also supported this idea, as he noted that while the legal name may have to be somewhere for legal purposes, that the chosen name and pronouns should also be included:

I can understand from a legal aspect you have to use the legal name. But the lawyer, your public defender or your lawyer [knows] you are trans and these are your preferred pronouns.⁶¹ You would like the record to reflect the chosen name if your name hasn't changed. If your gender marker hasn't changed, just put it on the record.

⁶¹ Many participants said trans folx in the community have expressed their frustration at the use of the phrasing "preferred pronouns," which insinuates a choice to honor those pronouns or not, but I kept the language that Nicholas used. Instead, one should refer to "personal pronouns" or better yet, just "pronouns."

Here, Nicholas affirms the same point as Atlas, at least an acknowledgement of the person's actual identity in the courtroom is much needed and long overdue.

Tobias further emphasizes why the acknowledgement of pronouns is vital to the court system and why a simple form would help promote understanding within the courtroom:

In the court system, if a judge is starting out by saying male pronouns, your name is and you know, male pronouns, may I proceed? (sighs) 90% of the issues? Gone. 'Cause if you go in the court system and have the judge say on the record like these pronouns, you want these pronouns or you prefer these pronouns? Your name is this. Even though your certificate might say your name is this or that, and it could even be a slip that says "Yes, their name is Alex, but they prefer going by Tory" or something. If there was just a way to validate [this], I'm sure that the trans individual would be more cooperative.

Here, Tobias describes the simple act of having a form to inform the court and to move forward with the proceedings in a respectful way that can be understood by all. Powerfully, when expressing the prospect of these forms, Wolf made the excellent point that the courts' choice to already not implement these sorts of policies already make a statement about their choice of who to validate and how to treat trans folx:

It's a lack of knowledge and it's how protocol goes. You shouldn't just look at everybody like a court case number or a paper file or there's more to it. There's (sighs) especially, if it's a trans woman of color. Especially if it's a trans person or a nonbinary person who's going through something bad, like it was an attack, something that's violent. That's even more of a need for having that tiny little sensitivity to he or she used in the court. But I don't think they would do it. Paper form says he, and they're not gonna [use what's

needed], you know what I mean? I think they honor more of [the] document, than in the moment with a person.

Wolf describing the courts choosing to “honor more of [the] document, than in the moment with a person” is haunting, but true as defaulting to a gender marker on a driver’s license or a name the person was given at birth is honoring the paper over the person. This policy implication of providing a special legal form can seem inconsequential, but is vital to evolve the court system and the processes presented. Especially when judges and other courtroom staff may only see trans folx for a short amount of time, the alternative of deadnaming and misgendering them in public can have damaging and dangerous consequences.

The second court specific critique in terms of policy implication is that of providing practitioner-specific information that would only be applied to courtrooms. This was seen as vital to participants, as Donatello put it in the following quote:

I do think, to a certain extent, being trans itself is perceived as being unprofessional. . .

Man, it is so hard to describe the sentiment, but I feel like in the professional world and in the courts and similar [institutions], if you are openly trans and if you’re like visibly trans, so if you don’t quote, unquote, pass very well yet, you’re perceived as someone who will like rock the boat and, you know, try to get things done their own way. I would even go as far as saying some people probably, [think] trans people [think] they are entitled to something that they aren’t actually entitled to just by the merit of expressing their gender.

This sentiment is not entirely unfounded, as both Asa and Jasmine previously expressed issues of being targeted for being trans in a courtroom because they could be perceived as trans. Here, Donatello hits on a certain point that being trans, being “clockable,” is not unprofessional or

disrespectful, but when they are treated poorly in the courtroom and targeted, it is fairly obvious where the problem lies from practitioners.

Asa further describes how being in bigger cities (with likely more diverse populations) might be better able to handle unique issues concerning trans folx, but in the area he lived in, it would be seen as alien:

I feel like it just really depends on the judges in certain areas, it's all a kind of an exposure thing. In bigger cities, I feel they're more trans-oriented things [protections]. So they're kind of exposed to things like that. In this area, they look [at trans people] like we have two heads or something, so foreign and unfamiliar.

Perceiving judges as seeing trans folx as people with two heads when it comes to trans issues is informed from his own experience, but also his perceptions of the area he lives in. Asa having the perception that a judge will see trans issues as unfamiliar and foreign further underscores the demand and necessity that courtroom professionals need to be better equipped to deal with trans folx with the proper vocabulary. Atlas also highlights this frustration of being deterred from having conversations with criminal legal professionals, since they may have the potential to not be able to understand the basics of trans issues:

If I have to go to my counselor and I have to teach him about trans rights, how are you going to help me if I should go to my attorney, and they don't understand a lick of what I'm saying? What's the point in me [trying] – and why did I even waste the time? Just having that vocabulary at least, then you have to understand we can have a usual conversation so that you can speak the same language.

And therein lies the problem, in that trans issues require a special depth of cultural competency that most criminal practitioners do not have, and they need in order to be precise in their

courtroom and to not be transphobic. Logic dictates that you could just be a decent human being, but ultimately, trans folx crossing their fingers, hoping that they will be respected, is just not feasible for the long term.

The negative attitudes that extend towards courtroom professionals ultimately culminate in an understanding that lacks faith in not only the system, but the practitioners in them. For instance, Grace articulated this when prompted how she thought courtroom professionals perceived trans people. She answered simply, “I think they believe we don’t have feelings. Doesn’t matter if I call it, him or her, it’s an it. Doesn’t deserve a pronoun that’s appropriate.” This quote reveals that consistent misuse of names, pronouns, and gender, even within the small interactions in the courtroom, have long-lasting effects and damages reputations to the point that participants expressed being expected to be disrespected when facing the courtroom. Cassandra specifically expressed this when she discussed going to court to change her name and she was “ready to do battle.” She was ready to face off with a criminal legal practitioner, a judge no less, in order to fight for the right to change her name in court because of her gender, her legal right as an adult in the United States.

Cassandra was instead met with a friendly judge who looked at her while she was presenting as a woman, and then told her to get her approval paperwork from the clerk in 15 minutes. Hence, specific requests from trans folx concerning addressing this behavior in the courtroom would be to address them as who they are presenting, as expressed by Wolf, Kapree, and Krys, with this basic decency being the priority. But without courtroom practitioners having a legal form and specific information concerning how to interact with a person in a courtroom, these decisions are often left to be made in the moment by practitioners who are clearly unprepared.

Further, participants called for broader changes in the legal system concerning courts that would alleviate some of the bias and judgement that trans people face, as Elvis notes in the following quote:

I still think it's, they judge off that bias, the passability of somebody. If they, if they show up and they're presenting 100% and it's not questionable, then they don't question it when they go into account or whatever's happening. But if somebody shows up and it's questionable that they're transgender or they're [the practitioner is] like, "Oh, I know you're a man in a dress," or whatever, biased opinion or slander, then they're going to keep that [opinion] when they go forward, which is not right. But at the same time, we all have a bias. So it's also a [universal] problem when it comes to that.

This notion of passability returns to express that when trans people are not perceived as cisgender, whether they identify as a binary gender or non-binary, the issue is the perception that being perceived as *not cis* bears its own consequences from the legal system. Elvis further elaborates that a system based on legal names and gender markers quickly reveals a trans person in a courtroom setting, as he noted that his own navigation with the court system was easier due to his documents being changed when he got a speeding ticket:

But being in court transitional wise, the markers, things like that. Nothing has been there directly for transgender aspects. So it's not something that's in the works of like, so it's not [like] they're looking at me any different. I've never been outed, you know, to any extent.

However, a system that instead allows for the existence of folx who are outside these heteronormative boundaries would do better to serve people in the way they are supposed to.

A supportive courtroom to those who enter makes a large difference, especially when the intention is to help the person interacting with the system. For instance, as Jasmine noted when practitioners pushed her to get her name changed so they could prevent her counselors from misgendering and deadnaming her, Joanie underscored the importance of name changing and a supportive courtroom:

And that is why they implement all this training to be aware about it, versus today in our time when I'm learning [about the process] when I take a lot of my clients to get their name changed and stuff, they're really helpful. They're on point helping with the name change paper and everything is all solved. They're more knowledgeable now in today's time versus back then [when] it wasn't knowledgeable.

As someone who works with trans folx in need in her local community, Joanie was well aware of what needed to happen for clients to be able to function in everyday society, with their name change being instrumental. Taking her positive perception and her on-the-ground perspective, this assertion that trans folx need to have easier access to name changes, is vital not only for their acknowledgment and validity, but also for the overall dealings that the courtroom has with trans people as a whole.

Corrections.

Concerning the carceral system and corrections in general, participants underscored their specific critiques for the system, which centered around better laws to protect trans folx, and classifying them concerning specific facilities. Firstly, it needs to be restated that PREA (the Prison Rape Elimination Act) has outlined these protections for trans folx since 2012, and regardless of any rhetoric from the Trump Administration, these specific regulations were never overturned. However, participants calling on legal protections while incarcerated outlines the

active erasure of these protections from the public, and even trans people who experience incarceration. Rights that are guaranteed to them when they are incarcerated are strictly taken from them, and that is reprehensible and should not be forgotten. They are trans; they are not faking, invalid, or a bother. However, this active mistreatment of trans folx is just another behavior in a long list of issues that the criminal legal system has with dealing with marginalized folx.

Kylie and Ka-pree discussed specific notions of these protections, with Kylie stating that the criminal legal system needs to have specific laws and standards for trans folx after they are arrested:

Passing laws and regulations requiring correction facilities to treat us as our stated gender identities, prohibiting the use of isolation as an “alternative” to imprisoning us with the “wrong” population, [and] mandating hormone treatment as vital/critical medical care. These specific demands from Kylie reveal the most basic parts of PREA are not being met, as per the perception of trans folx in the criminal legal system because these are the narratives that are escaping the bars of the facilities, those of not being treated fairly, of being prevented from being themselves, and just a lack of protection. Ka-pree underscored these similar issues, and also made the correlation between her treatment on the outside of society to her treatment on the inside. Her expectation of being mistreated in public easily translated to being mistreated while incarcerated:

Treat us like everybody else that will be treated. I don’t know how, how they really treat us different. I don’t see. I see people in the [LGBTQ+] community treat us different. Not more so as the police, but what can be changed is, some of the things that we like or we don’t when we get locked up. If we are being in a solitary confinement, I mean, I know

there are things that's just gonna be as for proper procedure. You know, everybody will be going in jail cell with a wig on, with shit [contraband] up under they wig because they didn't take it off. You know. There's nothing really I can say; just make it more protective for us.

Kylie and Ka-pree both emphasize the necessity of understanding that trans folx need specific protections in terms of addressing their unique issues and needs, but also addressing a common practice of correctional facilities to place trans folx in “administrative segregation,” a practice that does not keep trans folx safer, but instead places them at a higher risk of being victimized by correctional staff, and prevents them from receiving the care that they need (Black & Pink, 2015).

Expanding on these protections that trans folx should already be receiving while incarcerated, Aquaria suggested that there should be an active LGBT liaison person available while someone is incarcerated who they can turn to. Similarly to what Naomi experienced with Ms. Forthright, the idea is there would be a position of at least one person who is competent in LGBTQ+ issues and knows how to help in these instances. Notably, the entire facility should be trained and competent in LGBTQ+ issues, but a dedicated correctional liaison would be a fantastic first step. Aquaria describes this as being a position where the liaison would act as a mediary to help navigate the system:

The forces who have some form of an “ombudsman” or liaison, it's probably helpful.

Although, I think they probably, I don't know how in the world you would go get to talk to 'em. Why, you know, you say, “Hey, I want to see the doc. I want to see the chaplain. I want to see the LGBT liaison. How long does that take?”

Here, the idea is that trans folx, and other LGBTQ+ folx who are incarcerated, would have a specific place to turn to, just in case they needed something from correctional staff. This can also run in tandem with Elvis' suggestion that there needs to be LGBTQ+ safe zones that establish safer, affirming places where trans folx and LGBTQ+ people can be and exist in areas that they know they will be safe from not only other incarcerated folx, but knowing this safe zone would contain affirming staff:

I just think it's establishing an area in a safe zone. We all think about that in the same extent as a medical zone. There's medical safe zones in jails. They can do the same thing for somebody in regards to LGBT [people]. If they're concerned of the backlash of what a population general [general population] could do, it's, this [is] the same as anything else that takes that precaution. I mean, they segregate anyways in general by population, by sometimes race, by sometimes the factors of are you a gang member or not a gang member, or sometimes they separate them by their crimes committed.

Here, Elvis argues that this classification system already exists, so why not extend that to LGBTQ+ folx as well? Arguably, while there is some debate whether this could make trans folx any safer, at the very least, they would have some sort of training instead of just defaulting to what they think they should do with LGBTQ+ folx when they enter the corrections system.

Further, expanding on this sentiment, more needs to be done concerning acknowledging trans folx and their pronouns and names while they are incarcerated. Jack specifically outlines this when they state that trans people need to be placed with how they identify rather than by their biological sex at birth:

They can make sure to use our preferred names and pronouns and to put us into facilities, you know, if we ever are stuck in this criminal justice system, to put us in facilities that

are in accordance with our gender identity. So, you know, in the case of a woman being sent to a woman's prisons or a man being sent to a men's prison, a non-binary person getting sent to whichever prison...it's the same kind of deal with bathrooms. It's like where you feel most comfortable.

Here, Jack is using the term "stuck" to really exemplify how trans folx feel stuck in the criminal legal system, but they suggest housing trans folx in spaces that they choose. Patrick supported this, furthering this with noting that education needed to be the forefront of these decisions:

Treat them as they identify, especially with housing; ask them where they feel most comfortable at. Because you got to ask, an MTF going into a male facility, that is a setup. I think sometimes to be able to use [the setup as proof], and that's what the doctors also say, they had more abuse that way.

Thus, if practitioners were more educated, and in fact followed the law, they would be better equipped to handle these decisions and be able to house trans folx where they feel comfortable and what works for them the most.

This is vital as Donatello points out, not only affirming the correct gender is important, but also matters of physical safety:

And to figure out a way to put them in facilities, whether they are physically safe, their gender is being affirmed, and no one else is in danger. I would again repeat that, I don't know if there is a, I have yet to hear a good suggestion on how to achieve all of those things yet. Um, we have a very binary, um, justice system as it is and uh, (sighs) a lot of trans people are being perceived as outside of that binary, even if they do fall within that binary.

Patrick, as well as many participants, also have pointed out the dangers, especially for trans women who are housed in facilities for men, are faced with a higher rate of danger. Further, Donatello notes that trans folx existing outside of the “binary” of two genders, which here is meant to address that trans folx, because they are trans, are outside of the gender binary and thus, should not be treated as even included in this binary, despite if they are identifying as a man or a woman. This treatment of trans folx outside of any basic understandings of gender perpetuates their poor treatment, especially in the criminal legal system.

Ultimately, though, as Emily points out, “Jail conditions are part of the binary um, like systems of sorting people and just a general misunderstanding of who trans people are, and like I guess why quote, unquote, people are trans.” It is just as simple as that, the fact that correctional systems are based on archaic understandings of what gender is perpetuates this poor treatment over decades. Ending with this specific call concerning classification, Bridgett’s words are the most appropriate here:

When it comes to incarceration, it’s a little harder, sending a trans woman to a woman's facility versus, you know, the men’s and vice versa...all in all, just treating us like humans.

Also, despite the fact that Ka-pree, Joanie, Jasmine, Naomi, and Patrick reported that they knew other trans people in the correctional system, the system actively dehumanizes these folx in order to force them to fit into boxes they do not belong in. Specifically, the correctional system, to a much deeper degree, house and withhold, provide resources based on binary gender, and punish those who are not compliant to understandings of gender that place their roots in hegemony.

Summary

This chapter discussed specific policy implications from the point of view of participants and how they would better shape the criminal legal system. The intent of this chapter is to center their expertise on what criminal legal practitioners and scholars need to know about how to move forward and changes that need to be enacted. Notably the recommendations presented here are reasonable, community centered, and have the potential to create much needed change against the backdrop of work towards an institutional overhaul. The data analysis chapters of this dissertation were meant to be centered on participants; the last installment will focus on my own recommendations and conclusions.

CHAPTER X

RECOMMENDATIONS AND CONCLUSIONS

The entirety of this dissertation was meant to be a community based, participant centered study where the voices of the participants would be the loudest, since they are the experts on their own lives. In academia we are instructed to find the gaps in the literature and fill the void, but I decided to also bridge the divide between scholarship and generational knowledge of trans folx by asking participants about their experiences and seeking their wisdom on what can be done. I often write about myself as a microphone for participants of this study; a figure who utilizes the platform I am given as a privileged cisgender, gay academic from a middle-class background. I have repeatedly noted that generations of trans folx were already speaking out in terms of trans issues and the criminal legal system. I just took the initiative to amplify these narratives and package them to hopefully impact institutional change through scholarship. Based on the findings of my study, I have formulated my views and recommendations concerning trans folx and the criminal legal system, as well as these larger institutional structures that cause so much harm.

On the Criminal Legal System: Towards Abolition

Overall, I do agree with all the recommendations presented in Chapter 9 from participants concerning the criminal legal system. There needs to be more cultural competency training for criminal legal practitioners in all branches because repeated institutional harm may actually be rooted in blatant ignorance rather than direct bias. Training, while not infallible, would allow for practitioners to interact with trans folx in a more respectful way and could facilitate better community ties while building trust. Further, holding malicious actors accountable for their actions would cultivate institutional legitimacy within local trans communities, since they would

be able to see that perpetrators of wrongdoing are unable to sustain long careers over decades. Especially with the few positive case that are present in this study, there is hope in what a system based around mutual respect and understanding could look like and the potential to decrease harm is a worthy cause to pursue such a system.

Despite this rosy outlook on the potential impact to changes to the criminal legal system, the system is fundamentally flawed as the historical and socio-cultural context reveal that its origins are incompatible with anything resembling justice for more than just white, straight, middle class men. A system rooted in white supremacy, which demands biological determinism from trans folx, is not a system that needs to be touted as the standard. Thus, my recommendation revolves around the eventual abolition of the system itself, and prior to that, a complete overhaul in each branch of the criminal legal system to address the inequities it perpetuates. However, it needs to be stated that although it is my sincere belief that the institutions of policing, courts, and corrections need to be dismantled and reconstructed in a way that is sustainable and humane, we cannot leave behind the folx who are trapped in these systems now.

To move towards abolition and an equitable system that can serve a purpose even remotely reflecting justice, there are substantive actions that can be taken now. For instance, decriminalizing non-violent offenses and instead partnering with community organizations and social services to assist folx in need, not arrest them. Policies reframing what constitutes criminal activity have already seen some moderate success in terms of marijuana decriminalization and legalization, as it has been found that states with such laws do not have an increase in violent crime (Dills, Goffard, Miron, & Partin, 2021) and in fact may curb other crimes such as larceny (Brinkman & Mok-lamme, 2019; Subica, Douglas, Kepple, Villanueva, & Grills, 2018). This is

such a dramatic shift from the previous ‘tough on crime’ drug war era in America where the focus was to stop all crime at any cost.

Further, at the start of the pandemic, State Attorney Marilyn Mosby decide that Baltimore would not “prosecute drug possession, sex work, trespassing, and other minor charges to keep people out of jail and limit the spread of the deadly virus” (Jackman, 2021, para. 1). After this change, violent crime dropped 20%, 39% less people entered the criminal legal system, there was a 20% decrease in those who were housed in the jail, and a staggering 1,400 warrants for non-violent cases were dismissed as well as 1,400 current cases (Jackman, 2021). This positive change motivated Mosby to make the decision to not arrest and prosecute for minor crimes permanent and this year the State Attorney’s office has worked to sign a contract with Baltimore Crisis Response, an alternative dispatch for mental health issues (Jackman, 2021). There is also discussion of establishing services for sex workers as well (Jackman, 2021). These are radical changes to decades of how the criminal legal system has functioned, but they are feasible and can produce ripples of change that alter the current destructive course of the criminal legal system. No longer prosecuting public order offenses such as sex work and loitering could have profound effects on reductions of arrests of trans women especially, who are frequently targeted for arrest via the pretense of engaging in prostitution, previously discussed as “walking while trans.”

I am not the only person who shares this belief as during the racial reckoning in the United States in summer 2020, calls for defunding and abolishing the police were part of a larger narrative to address why people of color, particular Black folx, are murdered by the police at such high rates. Analysis was given to the sheer amount of money police departments wield every fiscal year and how this money could instead be used to uplift neighborhoods, address

mental health issues, and decrease the responsibilities of police to only when necessary. Many of the current mechanisms within the criminal legal system trap folx in a cycle that they are unable to rid themselves, especially in terms of recidivism and the long-term consequences of a felony conviction, such as restrictions on employment, housing, and voting. These issues are compounded when considering whether a person is of color, LGBTQ+, an immigrant, or any other intersecting identities which may place them under the heels of a system that marginalizes such an identity. This study focused on the experiences of trans folx and the criminal legal system and revealed that ultimately, many parts of this system are not only failing trans folx, but the public at large. Thus, these broader issues cannot be ignored when taking this data together to consider what is the future of the criminal legal system.

On Institutional Discrimination: Towards Equality

While this dissertation is centered on criminology issues, the broader social, cultural, and historical contexts that create an environment which can cause trans folx to interact with the criminal legal system cannot be ignored. Institutional discrimination faced by trans folx in places of employment, while obtaining housing, and receiving medical care is reflective of broader negative societal attitudes towards trans folx. This is further exemplified by the overall lack of legal protections alongside active harmful laws that target trans folx. Trans folx have to check their individual states to ensure their rights will be honored or acknowledged in these contexts, but this should never be the case. A person should not hope that based on their gender they will be treated fairly, it should be expected. Thus, what should be demanded of these institutions is to move towards equality, in order to begin to level the playing field for marginalized communities.

The reality is that there is such a deficit of social safety nets in the United States that without being born in stable financial circumstances with access to a good education and health

benefits, or simply luck, people in America struggle to attain basic necessities. A 2019 assessment conducted by Prosperity Now revealed that 40% of American households lack a basic level of savings and would be at the poverty level at the end of 3 months if their income was disrupted (Wiedrich & Newville, 2019). Notably this was published in 2019, a full year before the Coronavirus pandemic, which further exacerbated these issues. Thus, institutionally, there needs to be a basic acknowledgement of human rights in one of the most prosperous countries in the world, where this is feasible. This would take the form of universal health care, a fundamental right to housing, and a universal basic income. Such policy changes could result in the building of sustained, resilient communities which would stabilize the broader economy by eliminating the biggest barriers that prevent social mobility (Adams, 2008; Frenk & De Ferranti, 2012; Haagh, 2019). These would serve to alleviate the hardship placed on trans folx who face discrimination in each of these avenues, but would also benefit the upwards of 135 million people who struggle with some part of their finances (Brockland, Garon, Dunn, Wilson, & Celik, 2019).

Beyond direct action, widespread societal bigotry and attitudes need to be addressed with education and accountability, similar to how participants speak on the criminal legal system. Ideally, education concerning gender and gender modality would happen during formative years (such as through comprehensive sex education), but overall, educating institutional practitioners is essential. Doctors refraining from stigmatizing trans clients, homeless shelters able to properly intake those who are not cisgender, and employers who take the concerns from their trans employees seriously are all standards that should be strived for. The hope is that treating trans folx in a humanizing way would start to create a ripple effect which would spread in order to combat the negative message that are often received by the public about trans folx. The other

piece to this being the accountability, which would ensure that trans folx could build trust in institutions which are supposed to provide necessary services. Some trans folx are wary of the doctor and this can impact their likelihood to see a medical professional for a serious issue, since an underlying fear of disrespect based on past experience or fear can prevent necessary medical care to take place. Holding bad actors accountable would effectively show that these institutions take trans folx and their concerns seriously, thus encourage more engagement with them over time and by extension decrease the risk for trans folx to be interacting with the criminal legal system.

Even addressing the negative stigma and stereotypes against trans folx is a form of accountability that should be engaged in at the institutional level. The very important institutions which are the basis of economic mobility are simply leaving trans folx behind in order to align with ideals that fit the gender binary. The issues discussed throughout this dissertation, especially the attitudes of some biased practitioners, do not happen in a vacuum, but rather an environment that is rich enough to perpetuate transphobia, cisgenderism, and biological determinism in order to uphold archaic beliefs centered around gender. While the very nature of equality can be quite broad, in this context, it should look like institutions providing all types of people services despite their identity or background. There should be no expectation of fear, but one of acceptance and understanding. However, the current negative attitudes that permeate reflect society's widely anti-trans narratives which bleed into institutions and ultimately, into the criminal legal system.

Moving Research Forward

Future research needs to continue grounding studies that are community based and rooted in the narratives of trans folx and other marginalized folx in order to truly understand what their

experiences are. The narratives presented here in this dissertation reveal that there is such a large gap in knowledge, but not because of a lack of stories, but the lack of interest from criminology and criminal justice until quite recently. The burden of this work is left to non-profits and LGBTQ+-specialized organizations to the point that the lack of knowledge is perpetuated and has continued to cause these mechanisms of control to enact violence on trans folx. This should not be one of the only studies sitting on the laurels of others that have been published in the last 10 years or so. Trans folx are screaming; we need to listen to them. We need to do the work. If we, as a society, want real, actual change, we need to make those pathways and work towards a sustainable future that is radically inclusive, not just diversity initiatives that earn us lines on CVs.

Criminology research outside of queer criminology should engage with these concepts of intersecting identities, particularly with the nuance that comes with LGBTQ+ populations. LGBTQ+ people in criminological research are often discussed in terms of diverse demographics of samples rather than their value and knowledge to the broader issues that pervade the criminal legal system. Thus, it is my firm belief that not only should trans folx and other folx of differing marginalized identities be asked about their experiences—on literally all criminal justice topics—but that all research should have a deeper understanding of identity than a check box next to a demographic question.

Conclusion

This chapter resulted in the ultimate culmination of the story of trans folx: the story of a group of folx who faced difficulties at every juncture, and then faced additional violence at the hands of criminal legal practitioners, who are largely ignorant, if not outright malicious. Their perceptions, based on their own experiences and adaptations, which lead to policy implications,

is the result of decades of institutional violence that has been unchecked, and now that has left the community trust shattered and trans folx asking for basic needs, like being seen as human. As scholars and practitioners, we should be appalled that we have let this happen for so long. Finally, I started this study to address my two research questions, “What are trans people experiencing in their daily lives?” and “What are the experiences of a diverse group of trans people with the criminal legal system?” I feel that I have not only found out the answers to these questions to such a depth it is hard to encapsulate, but I also learned about myself, how to position myself to be a better ally, a good scholar, and someone who advocates for institutional changes. I admire the resilience and strength that participants showed consistently after being discriminated, thrown out of their homes, losing friends, jobs, and then facing violence from practitioners. The fact that they still wanted to make a difference using their stories in this study will continually take my breath away. This dissertation is called courageous endurance in an attempt to put a label on the intense strength that trans folx consistently showed in this study. I can only hope that I have honored them in the way that they deserve. These narratives are reflections of a failed system and society but also the stories of intensely strong people who are in fact, “just human.”

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APPENDIX A⁶²

RELEVANT TERMS

AFAB: Used as a shorthand to mean *Assigned Female at Birth*. Traditionally, the terminology for AFAB was FTM (female-to-male) which is used when a person's gender identity is not congruent with the female sex they were assigned at birth.

AMAB: Used as a shorthand to mean *Assigned Male at Birth*. Traditionally, the terminology for AMAB was MTF (male-to female) which is used when a person's gender identity is not congruent with the male sex they were assigned at birth.

Gender Non-Conforming: A term used to describe some people whose gender expression is different from conventional expectations of masculinity and femininity. Please note that not all gender non-conforming people identify as Transgender; nor are all Transgender people gender non-conforming.

Folx: A variation on the word folks, folx is meant to be a gender-neutral way to refer to members of or signal identity in the LGBTQ community.

LGBTQ+ (LGBT): Acronym for lesbian, gay, bisexual, Transgender, and queer or questioning.

Non-Binary, Genderqueer, and/or Genderfluid: Terms used by some people who experience their gender identity and/or gender expression as falling outside the categories of man and woman. They may define their gender as falling somewhere in between man and woman, or they may define it as wholly different from these terms.

Transgender: An umbrella term for people whose gender identity and/or gender expression differs from what is typically associated with the sex they were assigned at birth. People under the Transgender umbrella may describe themselves using one or more of a wide variety of terms - including *Transgender*.

Trans: Used as shorthand to mean *Transgender* or *transsexual* - or sometimes to be inclusive of a wide variety of identities under the Transgender umbrella. Because its meaning is not precise or widely understood, be careful when using it with audiences who may not understand what it means.

⁶² Relevant terms (from GLAAD, 2018) and (Peters, 2017)

APPENDIX B

INTERVIEW GUIDE⁶³**Interview Guide***Courageous endurance: The lived experiences of trans people and the criminal justice system*

Thank you for sitting down with me today. As we have previously discussed, I am interviewing transgender people and those who identify under the trans umbrella, such as people who are non-binary, genderqueer, gender nonconforming, genderfluid, and others. One of my primary goals is to explore experiences and thoughts about the criminal justice system, but I also want to know about your life. So, I will be asking you some questions that are about your identity, your relationships, your opinions, and your goals. I am a doctoral student and am conducting this study as part of my graduate school work.

Should you agree to participate, I want to remind you that you can refuse to answer any question, and if you start to feel uncomfortable, we can stop at any time. I will give you \$15 cash for being interviewed for this study, even if you cannot complete the interview, but I do hope we will be able to finish so that I can learn from you. If after the interview you decide you do not want your interview materials to be used, you are able to withdraw. Deciding not to participate or choosing to withdraw from the study will not result in any penalty or loss of benefits to which you are entitled, and it will not harm your relationship to the research or researchers.

Because it will be hard to write down everything that you are saying, with your permission, I would like to audio record the interview. Once I type up what is on the tape, I will erase the tape. You can tell me to turn off the recorder at any point.

Your identity will remain confidential. We will come up with a pseudonym (a fake name) to refer to you in the study and any time I write about the study. Please avoid mentioning your real name. If you accidentally mention it, I will not include it when I type up your interview. I will keep audio recordings and transcriptions on a password protected computer or flash drive.

If you have any questions or problems about anything that's happened here today, please contact Dr. Vanessa Panfil at vpanfil@odu.edu or 757-683-4238; and/or Dr. Randy Gainey (Chair of the Arts and Letters Human Subjects Review Committee) at rgainey@odu.edu or 757-683-4794.

I hope that you'll think of this interview as a conversation about your life and your experiences. Do you have any questions before we get started? You can also ask them as we're going along. If you're ready, let's get started with the interview.

⁶³Note: Questions that are in red text are questions crafted by participants when they are prompted with the following, "I'll be interviewing other trans people in the future with the same questions, but do you think there is something I have missed that is important and should be asked?"

Pre-Interview

So that I refer to you correctly, what are your pronouns?

How would you describe your gender identity?

How would you describe your gender?

How old are you?

How would you describe your race or ethnicity?

How would you describe your sexual orientation?

We need to come up with a name I can use when I write about you, that is not a nickname anyone else calls you and not an alias that you use. It could be a name you like or a reference to your favorite actor, hobby, etc. What would you like your study name to be?

Life History

Can you tell me about where you grew up?

Can you tell me about your family growing up? How would you describe your family life growing up?

How would you describe your relationship with your family as of today?

How would you describe your current living situation? Who do you live with? House, apartment?

Have you lived mostly in the same place or have you frequently moved residences?

Have you ever been without a steady home or homeless for an extended period of time?

Can you tell me about that period in your life?

If homeless shelter; was it religious based? Can you tell me about your experiences there?

Have you ever had any legal issues when obtaining housing?

Are you currently in a romantic relationship?

If YES, can you tell me about your partner?

If NO, can you tell me who you are the closest to currently? I.e. best friend, mom, etc.

Do you have any children?

If YES, Can you tell me about your relationship with them?

What is the highest level of education you have completed?

How do you make money?

If EMPLOYED: Can you tell me about a typical day in the workplace? What do you do there? Was employment easy to find?

If NOT: Do you perceive there to be any barriers in gaining employment? What is the longest amount of time you have spent unemployed?

Would you consider yourself to be religious or spiritual? Can you tell me about that?

Can you tell me about any hobbies or interests that you have? I.e. what you do in your spare time?

Identity

Can you tell me about when you first knew you were [use terminology participant has provided]? How did you come to understand yourself as [use terminology participant has provided]?

Can you tell me about when you came out as [use terminology participant has provided]? Who did you tell first? How old were you?

Would you say that the following people in your life know you are [terminology participant has provided]? Family? Friends? Partner(s)? Your kids?

To what extent would you say your daily gender expression/presentation coincides with your gender identity?

IF FAIRLY LOW: What sorts of concerns prevent you from living your life in a way that's consistent with your gender identity?

[Possible probe for binary transgender folks who are transitioning:] How old were you when you started living full time as the gender you identify with?

Are there times when you feel you must hide your gender identity? When/with whom?

If you are comfortable doing so, can you tell me about any steps you've taken to transition socially, legally, or medically?

If YES: How would you describe where you are in the transition process?

Have you taken steps to make any physical changes to be more congruent with your gender identity? [may be discussed above already – move probes up potentially]

IF YES: Can you tell me about these experiences?

IF NO: Do you desire to make any physical changes? (hormones, top surgery, etc) If so, what changes would you like?

How often do you interact with other trans people?

IF AT ALL OFTEN: How do you socialize? Activism, online, friend groups?

IF NEVER/RARELY: Can you tell me more about why you do not interact with other trans folks?

For people you meet who do not know you are [use terminology participant has provided], what gender do they typically assume you are?

If someone misgenders you, do you typically correct them? Why or why not?

If YES: Can you tell me about a specific time when you corrected someone? What was that like?

Police

These next questions are about your experiences with law enforcement. As we go through them, I'd like to try to keep track of when these happened: whether what we're talking about happened before you transitioned or identified as [use terminology participant provided].

Have you ever had a face to face interaction with a police officer? What was that like?

In what context was this interaction – e.g., being stopped, or something else? Was this before you transitioned or identified as [use terminology participant provided]?

IF STOPPED: What was the reason they stated for stopping you? Why do you *think* they stopped you?

Have you had any other experiences with law enforcement that weren't related to you being stopped? (e.g., Filing a police report, seeing them in the neighborhood or at events, etc.)

IF YES: Can you tell me about these experiences? What happened during them? Was this before you transitioned or identified as [use terminology participant provided]?

Have you ever called the police?

If YES: Can you tell me about that experience? What happened? What was the outcome?

If NO: Do you feel comfortable calling the police if you ever needed anything? Can you talk about that?

Have you ever been arrested?

If YES: Can you tell me about that experience? Was this before you transitioned or identified as [use terminology participant provided]?

IF YES: What charges were brought against you?

[If they've had any face to face interactions] Can you tell me about police reactions to your gender identity? Did they recognize your identity? Were they respectful?

[If they've had any face to face interactions] Have you ever had a negative interaction with police *because of* your gender identity or expression?

How do you think police perceive trans people in general? What about people who identify as you do, as [use the terminology they provided for their identity] – how do you think police perceive folks like you?

Courts

Now I am going to be asking you questions pertaining to any experiences you have had with the court system. Again in this section, I'd like to try to keep track of when these happened: whether what we're talking about happened before you transitioned or identified as [use terminology participant provided].

Have you ever been to court for any reason?

If YES: Can you tell me about that experience of going to court? What about your experiences with court professionals? (Probe: Judges, attorneys, bailiffs, etc.)

IF NO CRIMINAL OFFENSE, SKIP TO "CRIMINAL JUSTICE GENERAL" SECTION

Earlier you told me that you were charged with [insert] offense. Did you have to go to court pertaining to that offense?

Can you tell me about this experience?

What was the outcome? (probe: did you plead, were the charges dropped, trial, etc.)

IF PLEA BARGAIN OR TRIAL: Can you tell me about how that process unfolded?

Did you perceive this process to be fair? Why or why not?

Can you tell me about court professionals' reactions to your gender identity? Did they recognize your identity? Were they respectful?

Have you ever had a negative interaction with court professionals *because of* your gender identity or expression?

How do you think courtroom professionals perceive trans people? Judges? Attorneys? Staff?

Corrections

Now I am going to be asking you questions pertaining to any experiences you have had with being incarcerated, particularly if this was after you transitioned or identified as [term provided by participant].

Have you ever been incarcerated?

IF NO INCARCERATION, SKIP TO "CRIMINAL JUSTICE GENERAL" SECTION

Was it in a prison or jail?

How long was your sentence?

How would you describe your experience being locked up?

Can you describe the facility? In what kind of section were you housed?

Did you identify as trans or [term provided by participant] when you entered the facility?

Take me through an average day in the facility? What did you do? Did you have any friends?

Were you ever afraid while you were incarcerated?

Can you tell me about your interactions with other inmates? What were those like?

Can you tell me about your experiences with correctional officers?

Can you tell me about correctional officers' reactions to your gender identity? Did they recognize your identity? Were they respectful?

Have you ever had a negative interaction with correctional officers *because of* your gender identity or expression?

Did you feel that you could approach correctional officers if you needed anything?
How do you think correctional officers perceive trans people?

Criminal Justice General

What do you think are the biggest challenges facing trans people in the criminal justice system?
What can the criminal justice system do to treat trans people fairly and respectfully?
What is the most important thing that criminal justice professionals need to know about being trans and the criminal justice system?

What do you think the future of the criminal justice system will be?

Final Thoughts and Post-Interview Questions

Thank you so much for your time and sitting down with me. I really appreciate you sharing your experiences with me. We are almost done, but I wanted to ask you a couple more wrapping up type questions as well as allow some time for me to answer your questions.

What are your dreams and goals for the future?

What keeps you going?

What is something you wished everyone knew about you? **What do you wish your family knew about you?**

Is there anything you wished they knew about trans people or [term participant has provided] in particular?

I'll be interviewing other trans people in the future with the same questions, but do you think there is something I have missed that is important and should be asked?

If YES: Ask their question to them.

Again, thank you so much for speaking with me today. May I ask why you decided to participate?

Are there any final thoughts you would like to finish with today?

Would you like to ask me anything?

APPENDIX C

RECRUITMENT FLYER



DO YOU IDENTIFY AS
TRANSGENDER, NON-
BINARY, OR
GENDERQUEER?

HAVE YOU HAD AN INTERACTION WITH POLICE OR THE
COURTS?

I WANT TO TALK TO YOU.

Participants will receive \$15 cash for their time
in an approximately 1-2 hour interview.

Please contact April Carrillo: 757-204-1953,
albennet@odu.edu, or on Facebook!

APPENDIX D

STUDY PARTICIPANTS (N = 44)⁶⁴

Name	Age	Gender
Aquaria	65	Trans woman
Asa	24	Trans man
Atlas	26	Trans man
Bridgett	33	Trans woman
Cassandra	43	Trans woman
Cat	38	Genderqueer
D.	63	Trans woman
Djinni	44	Trans woman
Donatello	21	Trans man
Elvis	31	Trans man
Ember	27	Trans woman
Emily	24	Non-binary
Grace	60	Trans woman
Hera	31	Non-binary
Jack	21	Non-binary
Jasmine	31	Trans woman
Joanie	40	Trans woman
Julian	26	Trans man
Ka-pree	33	Trans woman
Karen	26	Trans woman
Kate Kaine	22	Trans masculine non-binary
Krys	30	Trans woman
Kylie	33	Trans woman
Louise	31	Trans woman
Lucky	56	Trans woman
Luna	48	Trans woman
M.	46	Trans woman
Mac	23	Non-binary
Maggie	37	Trans woman
Meow	21	Non-binary
Minaj	21	Trans woman
Naomi	53	Trans woman
Nicholas Cage	32	Trans man
Nova	19	Trans woman
Patrick	51	Trans man
Sasha	23	Trans woman
Sean	22	Trans masculine genderqueer
Storm	33	Trans femme non-binary

⁶⁴ Typically these tables would include race/ethnicity, but due to the relatively small and close-knit nature of the trans community where this sample came from, these attributes were left out so as to not identify participants.

Tobias Lassiter	31
V.	65
Vanessa	34
Winston	27
Wolf	35
Zelda	27

Trans man
Trans woman
Trans woman
Trans man
Trans man
Trans woman

VITA

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EDUCATION

Ph.D. Doctoral Candidate (ABD), Criminology & Criminal Justice, Old Dominion University, Norfolk, VA (expected May 2021)

M.S., Criminal Justice, University of Tennessee Chattanooga (UTC), 2017.

B.S., Criminal Justice, University of Tennessee Chattanooga (UTC) (summa cum laude), 2015.

PUBLICATIONS

Peer Reviewed Articles

Wood, Frank, Carrillo, April, & Monk-Turner, Elizabeth. (2019) Visibly Unknown: Delegitimizing transgender women of color in media reporting. *Race and Justice*. doi:10.1177/2153368719886343

Carrillo, April, Crittenden, Courtney, & Garland, Tammy S. (2019). Faculty Perceptions of Consensual Sexual Relationships between University Faculty and Students. *Journal of Academic Ethics*. doi: 10.1007/s10805-019-09337-1

SCHOLARLY PRESENTATIONS

Carrillo, April (2020). “*They see us as men in dresses*” the role of community concerning trans folx perceptions of police officers. Inaugural meeting of CrimCon, Virtual.

Carrillo, April (2020). “*PREA is a joke*”: A case study of how trans PREA standards are(n’t) enforced. Annual Meeting of the Mid-South Sociological Association, Virtual.

Carrillo, April (2020). “*PREA is a joke*”: A case study of how trans PREA standards are(n’t) enforced. Annual Meeting of the American Society of Criminology, Washington, D.C. (Accepted for November 2020, but cancelled due to COVID-19)

Carrillo, April. (2019). *Courageous Endurance: the lived experiences of trans folx and the criminal legal system*. Annual Meeting of the American Society of Criminology, San Francisco, California.