



COMING OUT OF CONCRETE CLOSETS

A REPORT ON BLACK & PINK'S NATIONAL LGBTQ PRISONER SURVEY

To increase the power of prisoners we need greater access to the political process. We need real! access to real people in real power who will actively hear us and help us, not just give us lip service, come sit and talk with me, help me take my dreams and present them to the people who can turn them into a reality, I am not persona non grata, hear me, don't patronize me just to keep me quiet, understand that I'm very capable of helping in this fight. -Survey respondent

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EXECUTIVE SUMMARY

This report lifts up the voices of LGBTQ prisoners from across the United States so that they can inform, shape, and lead the movement for prisoner justice. These numbers, statistics, and stories represent the largest ever collection of information from LGBTQ prisoners. This collection of information is possible because of the time taken by 1,118 prisoners across the United States to handwrite responses to our 133-question survey, which was itself designed/drafted with prisoners themselves. Black & Pink's free world leadership extends the utmost thanks to prisoner members who took the time to help design and respond to the National LGBTQ Prisoner Survey and for sharing their deeply personal and valuable stories of harm and resilience.

LGBTQ people, particularly people of color and poor people, experience high levels of policing and criminalization, leading to arrest and incarceration. Once inside prison, LGBTQ people are subjected to constant violence by both prison staff and other prisoners. This report seeks to offer a tool for organizers, both inside and outside of prisons, to strengthen national campaigns and grassroots efforts to alleviate the immediate suffering of prisoners and bring an end to the prison industrial complex while centering the needs of LGBTQ prisoners.

KEY FINDINGS

Homelessness and Housing

- Nearly a fifth of respondents reported being homeless or transient prior to their incarceration, while 29% lived with family or a friend. Only 52% were living in a home of their own.

Unemployment and Criminalized Economies

- Over a third of respondents reported being unemployed prior to their incarceration, nearly 7 times the 2014 national unemployment rate in 2014.
- 39% of respondents reported that they have traded sex for survival.
- Selling drugs is also a frequent means of survival: over half of respondents have sold drugs for money. Black respondents were nearly 20% more likely to have participated in the drug trade than white respondents (67% and 48% respectively). This over-representation of Black respondents in the drug trade highlights the racism of the War on Drugs, since white people are actually *more* likely to sell drugs.

Arrest and Incarceration

- Close to two thirds (58%) of respondents' first arrest occurred when they were under the age of 18. Black and Latin@/Hispanic respondents were more likely to have their first arrest occur when they were under 18 compared to white respondents (66% versus 51%, respectively).
- For two thirds of respondents, the current sentence they are serving is not their first experience of incarceration. Frequency of incarceration varied, although Black, Latin@/Hispanic, and mixed-race respondents were more likely to have experienced multiple incarcerations than their white and Native American/American Indian counterparts.

Education

- Ninety percent of respondents have completed high school or earned a GED. Closer scrutiny, however, reveals that *only* 29% of respondents completed high school outside of prison. This means that 71% of respondents dropped out of school, were expelled from school, or never attended school in the first place.

Children

- Forty five percent of respondents report having children, although only 29% of these parents report having any kind of contact with their children.

Pretrial Detention

- Nearly three quarters of respondents were held in jail prior to their conviction. Of those held in pretrial detention, more than half were detained for a year or more.

Sentencing

- Respondents were twice as likely to be serving life sentences than the general state and federal prison populations.
- The average time respondents have spent in prison was 10 years. According to research by Pew, prisoners released in 2009 served an average of 2.9 years in custody.

Prison Security Levels

- While all respondents were over-represented in higher security facilities as compared with the national prison population, white respondents were nearly twice as likely as Black respondents to be held in minimum security prisons.

Parole

- Nearly a third of respondents have been granted parole on a previous sentence. Of those who have been granted parole, 65% have been returned to prison on a parole violation.

Sexual Identity and Gender Identity

- 65% of respondents identified as LGBTQ prior to their incarceration.
- 70% of respondents experienced emotional pain from hiding their sexuality during incarceration/throughout their interactions with the criminal legal system.
- 78% of transgender, nonbinary gender, and Two-Spirit respondents experienced emotional pain from hiding their gender identity during incarceration/throughout their interactions with the criminal legal system.
- Of transgender, nonbinary gender, and Two-Spirit survey respondents, only 43% have been diagnosed with Gender Identity Disorder or Gender Dysphoria. 31% reported being denied these diagnoses upon seeking them during incarceration.
- More than a third of transgender, nonbinary gender, and Two-Spirit respondents took hormones prior to their incarceration. The majority of these respondents took street-based hormones that were not prescribed by a doctor.
- 23% of transgender, nonbinary gender, and Two-Spirit respondents are currently taking hormones in prison, while an overwhelming 44% report being denied access to hormones they requested.
- Only 21% of respondents are allowed access to underwear and cosmetic needs that match their gender.
- 15% of respondents have been barred from programs offered by the prison because they identify as LGBTQ.
- Only 20% of respondents have access to LGBTQ affirming books.

Sexual Activity

- 70% of respondents have been sexually active in prison.
- Only 2% of respondents have access to condoms allowed by the prison, yet 22% have used a condom or another barrier to stop the transmission of sexually transmitted infections (STIs).
- 81% of respondents discussed safer sex with their sexual partner(s).
- Over a third of respondents have been disciplined for engaging in consensual sex, and of those, nearly two thirds have been placed in solitary confinement as punishment for consensual sexual activity.

Solitary Confinement

- 85% of respondents have been in solitary confinement at some point during their sentence; approximately half have spent 2 or more years there. Altogether, respondents have spent a total of 5,110 years in solitary confinement.
- Black, Latin@/Hispanic, mixed-race, and Native American/American Indian respondents were twice as likely to have been in solitary confinement, at the time of the survey, than white respondents.
- Respondents with a mental illness diagnosis were more likely to be in solitary confinement at the time of the survey and more likely to have ever been in solitary confinement than survey respondents without such a diagnosis.

Experiences of Violence

- Respondents were 4 times more likely to be sexually assaulted than the general prison population.
- All survey respondents have experienced strip searches. In answer to the question regarding how many times they have been strip searched, answers ranged anywhere from 1 to 50, 250, 500, “millions,” “every day in 12 years,” and “too many to count.” One respondent wrote, “who the heck keeps track of all that?” This means that, despite the declared intentions of the Prison Rape Elimination Act (PREA), 100% of prisoners have experienced sexual violence by prison staff.
- Prisoners are nearly three times more likely to have committed sexual assaults on LGBTQ prisoners than prison staff. However, of those who report having been sexually assaulted by a prisoner, 76% also report that prison staff intentionally placed them in situations where they would be at high risk of sexually assault from another prisoner.
- The vast majority of respondents experienced discrimination and verbal harassment by prison staff and more than a third were physically assaulted by prison staff.

Healthcare

- Seven percent of survey respondents are HIV positive.
- Black respondents were more than 3 times more likely to be HIV positive than white respondents.
- 81% of respondents reported having to pay a fee to see a doctor. Fees ranged from \$1 per visit to \$100 per year.
- Fees prevented 43% of respondents from seeking medical care they needed.
- 67% of respondents have been diagnosed with a mental illness; of these, 48% receive no therapy.

Relationships and Community

- 68% of respondents have been in a romantic relationship with another prisoner while incarcerated.
- One third of respondents in romantic relationships experienced intimate partner abuse.
- 66% of respondents have monthly correspondence with someone outside of prison.

Prisoner Needs and Demands

- The clearest mandate from respondents was that Black & Pink should continue its current projects: the newspaper, pen pal program, resource list, and prisoner advocacy (e.g., calling prisons to advocate for individual prisoners who are being abused). Respondents reported that both the newspaper and pen pal program help them deal with the stress of being incarcerated and feel accepted in their gender and sexuality.
- Respondents need more information about their rights, legal changes, and case law. Abuse and discrimination from prison staff is a major concern.
- Respondents want their voices and stories to reach both lawmakers and the general public in order to educate them about what prison conditions are actually like for LGBTQ people.

RECOMMENDATIONS

As an abolitionist organization, Black & Pink makes the following recommendations in the spirit of what Ruth Wilson Gilmore calls “non-reformist reforms” or what are also called abolitionist reforms. While we remain committed to the abolition of prisons, we recognize that meeting the needs and ending the daily suffering of LGBTQ prisoners is also an urgent necessity. We are convinced that such reforms are not necessarily incompatible with an abolitionist politics, provided that they do not create new barriers or prisons that we will need to tear down in the future. Hence, our recommendations include policy proposals, advocacy areas, and grassroots organizing priorities that meet the immediate needs of LGBTQ prisoners and criminalized LGBTQ communities outside of prison which we believe will neither ideologically nor materially increase the power of any facet of the prison industrial complex.

The recommendations are divided into short-term, intermediate, and long-term efforts within specific advocacy areas. Each is informed by the findings of the report and/or comes directly from recommendations articulated by respondents themselves. Black & Pink wishes to emphasize that in moving forward with implementation, it is imperative that policymakers and community organizers remain vigilant against unwittingly introducing reforms that reinforce the power of the system they seek to change.

POLICING AND CRIMINALIZATION OF LGBTQ PEOPLE

Short-Term:

- **Eliminate the practice of Stop & Frisk/Search in every municipality.** Evidence shows that Stop & Frisk practices discriminate on the basis of race and also disproportionately target LGBTQ people. Ending these practices would slow the funneling of LGBTQ people of color into the courts and prison system.
- **Pass the End Racial Profiling Act (ERPA) (in its sexual orientation- and gender identity-inclusive version).** Advocates have long been trying to pass ERPA, a federal law that would prohibit racial profiling, collect data on racial profiling, provide police with re-training on racial profiling, and hold departments that continue to racially profile accountable, albeit without success. As of 2015, ERPA is now inclusive of sexual orientation and gender identity. Lambda Legal’s report, “Protected and Served? Survey of LGBT/HIV Contact with Police, Courts, Prisons, and Security,” showed that 25% of LGBT respondents who had interactions with police experienced misconduct and harassment. Passing an inclusive ERPA will ensure new tools are available for LGBTQ people to resist profiling.
- **End “Quality of Life” policing practices.** Our findings contribute to the wealth of research that shows LGBTQ people disproportionately experience homelessness, trade sex for survival needs, struggle with addiction, and live with mental illness, all of which are all criminalized under “Quality of Life” policies. “Quality of Life” policies do nothing to help those they criminalize and instead lead to increased incarceration, rather than provision of social services and public health measures for those who need them.
- **End all stings on internet and public spaces known to be used for purchasing and selling sex.** Ongoing police surveillance of these spaces forces those who trade sex into less public environments with fewer potential clients, forcing individuals to engage in transactions they otherwise would have rejected (e.g., sex without a condom). Given that many respondents have engaged in the sex trade prior to their incarceration, it is important to allow safer practices for trading sex.

Intermediate:

- **End the criminalization of the sex trade, for both purchasers and sellers of sex.** Decriminalizing sex trades will facilitate a safer economy and allow for greater resources and support systems to be developed by and for those engaged in the sex trade. As well, decriminalizing the sex trade will work to alleviate the discrimination in housing and employment faced by many with criminal records for sex trade participation.
- **End the practice of arresting people under the age of 18.** Youth are being introduced into the criminal legal system at increasingly earlier ages. Rather than addressing youth conflict with arrests, community-based teams should be created to stop the cycle of multiple incarcerations before it begins.
- **End the War on Drugs and decriminalize drug possession.** The majority of respondents report having sold drugs at some point in their lives. However, as has been thoroughly demonstrated, the War on Drugs has failed to reduce the use of drugs or increase safety. Criminalization of drugs does not decrease the harm caused by the drug trade, but rather gives police an additional tool to profile and arrest communities of color. Harm reduction strategies can teach people how to use drugs in safer ways, which saves lives and improves quality of life much more effectively than compulsory incarceration.
- **Create addiction treatment-on-demand programs and mental health treatment programs in non-carceral settings.** Rather than criminalize addiction and mental illness, or create more prison beds in the name of “drug treatment,” well-funded community-based addiction treatment programs and outpatient mental health care facilities would create authentic opportunities for healing and healthcare that can keep individuals and communities safer.
- **Utilize saved funds from decreased policing to create affordable and accessible housing for those most affected by homelessness and incarceration.** Nearly a fifth of respondents were homeless or transient prior to their incarceration. Establishing affordable and accessible housing will reduce reliance on criminalized economies to survive. Ending homelessness will also keep individuals out of constant surveillance by police, decreasing their likelihood of arrest and incarceration.

Long-Term:

- **Abolish the police.** Police forces’ direct ancestors are the slave patrols that targeted Black people for violence, arrest, and reenslavement. This institution has always created more harm than good for those society considers disposable, particularly people of color. Policing practices are inherently rooted in maintaining systemic oppression and as such the long term goal is to create a world free from the power of police.
- **Institute community-based solutions to harm and violence.** Abolishing the police will not bring an end to all forms of interpersonal harm and violence. Establishing alternative ways to address harm without punitive based systems will facilitate both healing for survivors and accountability for those who caused harm or stood by as harm occurred. These practices can be started well before the end of the police and organizations such as *Creative Interventions*, *Generation FIVE*, and *Philly Stands Up* have already begun such initiatives.

COURTS / BAIL REFORM / SENTENCING

Short-Term:

- **Train all court-appointed attorneys on LGBTQ issues re: appropriate client advocacy (e.g., using correct name and pronouns).** With effective trainings, attorneys will, ideally, be less likely to discriminate against their own LGBTQ clients. Training should be led by or undertaken in collaboration with currently or formerly court-involved LGBTQ people.

- **Train all judges on LGBTQ issues and appropriate address of defendants.** Judges are responsible for setting the tone in the courtroom, and the majority of respondents report feeling discriminated against by judges. It is important that judges are trained on appropriate modes of interaction with LGBTQ defendants to create a less hostile environment.
- **Increase financial support for public defender programs.** The enormous caseload saddling public defenders across the country indicates a significant need for these attorneys, who are unable to serve their clients effectively due to overwork. Increasing resources to public defender programs should lead to the hiring of more staff who are able to address the unique needs of all their clients, including LGBTQ defendants.
- **End the practice of incarcerating people on parole or probation for violations that are not new criminal charges.** Reincarceration for technical violations of parole or probation increases recidivism. Rather than choosing incarceration in these circumstances, parole and probation officers should be trained to effectively support individuals under their supervision to find housing, access an income, and receive other social services they need.
- **Repeal all three-strikes laws and create a process for releasing individuals serving time on a third strike.** These laws are simply placing more people in prison, producing overcrowding and creating more violent environments.

Intermediate:

- **Eliminate financial conditions for pretrial release and develop local pretrial service systems to support and assist defendants' appearance for court dates.** Nearly three quarters of survey respondents were held in jail prior to their conviction. However, multiple states across the country have instituted new pretrial services that do not require defendants to pay bail or bond in order to regain their freedom. These programs have proven effective at ensuring defendants' appearance in court without mandating incarceration beforehand.
- **End mandatory minimum sentences for all offenses.** Not only are our respondents doing long sentences, but the far majority also took plea deals. The threat of a mandatory minimum sentence pressures defendants into taking plea deals for fear of serving lengthy sentences if they are convicted at trial. Mandatory minimums also require people to spend longer time in prison without access to parole, eliminating them would expand opportunities for parole.
- **Abolish life sentences and the death penalty.** Rather than hold people accountable for harm they have caused, life sentences and the death penalty simply dispose of human beings. They inherently dehumanize people by presuming there is nothing of value left to them. More than 20% of survey respondents are serving life sentences. Taking away these sentences will require courts and society to engage in actual transformative justice processes with those who have caused harm rather than simply throw them away.

Long-Term:

- **Close the criminal court system.** The US criminal legal system is claimed by its proponents as the "best system in the world," yet the basis of the system is punishment of individual acts with little to no attention to transformation of social conditions that led to harm occurring or authentic healing for those who have experienced harm. Rather than rely on a system that is rooted in 17th Century Puritan values of punitive control, new systems are necessary that refuse to allow racial/gender/sexual identities and access to wealth to be the determinants of justice.
- **Institute community-based solutions to harm and violence.**

PRISON CONDITIONS AND DECARCERATION

Short-Term:

- **Eliminate solitary confinement.** A wealth of evidence shows the long-term detrimental effects of solitary confinement; it is considered a form of torture by the UN Special Rapporteur on Torture. Solitary confinement is also used as a tool of control over LGBTQ prisoners, especially transgender women and cisgender gay men. 85% of respondents have been held in solitary confinement at some point during their sentence.
- **End prisoner strip searches.** Our data indicates that queer prisoners are strip searched repeatedly. However, this bodily invasion is a form of sexual assault and should not be common practice among prison officials. The security benefits of strip searching do not outweigh the sexual trauma experienced by prisoners subjected to this practice.
- **Permit consensual sex between prisoners and provide access to a variety of safer sex options, including condoms and Pre-exposure Prophylaxis (PrEP).** 70% percent of respondents have engaged in consensual sex with other prisoners, but only 2% have access to condoms. Rather than disciplining prisoners for engaging in consensual sex, prisons should provide access to safer sex options to reduce the transmission of sexually transmitted infections (STIs).
- **Eliminate all fees for medical care in prison. Provide full care for people living with HIV and Hepatitis C, including the cure for Hepatitis C.** All prisoners have a right to medical care.
- **Allow all prisoners access to the underwear, uniform, and canteen of their choice.** Not all prisoners who might want access to undergarments or other gendered canteen options identify as transgender, although it is essential that transgender and gender variant prisoners have access to undergarments and canteen options not provided at the prison they are assigned to. Quite simply, there is no need for any policy restricting gendered clothing or canteen options at any prison or for any prisoner. Any and all such restrictions should be eliminated.
- **Create clear policies that allow transgender prisoners easy access to gender affirming medical and mental health care, including: access to hormone replacement therapy, individual and group talk therapy, gender confirming surgeries, electrolysis, and any and all other treatments recommended by doctors and mental health clinicians.** The majority of transgender survey respondents have been denied access to requested health care. More than half are unaware of any policy that might allow transgender prisoners to access such services. The consistent denial of transgender health care is rooted in transphobia and it must end.
- **Establish the safest possible housing for LGBTQ prisoners.** Policies for housing transgender prisoners should be based on individualized assessments that presume housing is assigned according to gender identity (rather than legally assigned sex). However, in all cases, individual prisoners must also be allowed to specify their housing preference and have that preference respected, even if it seems to differ from their gender identity. LGBTQ prisoners should also have the option of being housed with other LGBTQ prisoners in their facility, although no resources should be spent on building additional bed space that would be used to incarcerate more individuals.
- **Ensure every prison has a library that all prisoners can access. Provide LGBTQ-affirming books in all prison libraries.** Access to books, especially LGBTQ-affirming books, can affirm stigmatized identities and provide a respite from prison life.
- **Permit prisoners to correspond with one another through letters and email.** Nearly one-third of respondents have no regular contact with anyone outside the prison where they are housed. Moreover,

mail distribution is often conducted publicly, with prison staff calling out the names of prisoners who have received letters or packages. Prisoners whose names are never called are noticed by other prisoners and sometimes made a target for harassment or abuse, since it is presumed they do not have a network of protection or support. Being able to correspond with other prisoners thus potentially protects prisoners, increases their relational connections with others, and reduces isolation.

- **Ensure all prisoners can make free and unrecorded calls to domestic violence, sexual assault, and drug abuse hotlines.** Nearly 40% of respondents report being sexually assaulted (either by prison staff or other prisoners) and it is essential to healing for survivors to have access to outside services.
- **End all prison/jail contracts with phone companies charging more than \$5.00 per 15-minute phone call.** The expense of phone calls creates significant barriers to communication, not only between prisoners, but also between prisoners and people on the outside.

Intermediate:

- **Institute a moratorium on all prison/jail/detention center development (including, but not limited to, state funded research on prison expansion projects, additional bed space added to existing prisons/jails/detention centers, and building new institutions).** The violence, abuse, and oppression detailed in this report show that prisons cause significant harm. There should be absolutely no expansion of the carceral system while these harms remain unaddressed.
- **Close all supermax prisons.** Survey respondents are disproportionately housed in supermax prisons, which have been decried by human rights organizations around the world for the harm caused by constant sensory deprivation.
- **Hold all prison staff accountable (including clear paths to termination) who harass or physically/sexually assault prisoners.** Expand policies that hold staff accountable who are on duty when prisoners sexually assault one another. Prison staff set the tone of the prison environment. As such they should be held accountable for the harm they perpetuate. Respondents have experienced many forms of harm by prison staff, and if there were greater accountability for those staff, the harm may decrease.
- **Establish presumptive parole guidelines that will facilitate the release of prisoners at their first parole eligibility date unless they are charged with a new criminal offense while serving their sentence.** Along with ending life sentences, the practice of presumptive parole will facilitate the quicker exit of more people from prison. Given that our respondents are serving such long sentences, the practice of presumptive parole would help decrease the amount of time they are forced to serve on their sentences.
- **End indefinite commitment for people convicted of sex offenses.** Develop effective programs that facilitate safe integration back into the community and provide sustainable housing and meaningful work opportunities. The practice of civil commitment is considered, by many advocates, to be unconstitutional. There is much evidence to show that there are adequate tools and treatment to reduce sexual harm without indefinite detention.
- **End the practice of disenfranchisement and reinstate voting rights to all prisoners during and following their incarceration.** When people are incarcerated they do not stop being affected by the political process. Rather than revoke an individual's right to vote when convicted of an offense, prisons should provide opportunities for prisoners to engage in the political process.
- **Increase financial compensation for prisoners who work during their incarceration, in accordance with state and federal minimum wage laws.** Prisoners are expected to pay for many of their own basic needs and are also often expected to work inside prison. In an effort to diminish prison labor exploitation, both private and public entities that utilize prison labor should compensate prisoner workers according to the minimum standards required by law.

Long-Term:

- **Close all prisons and jails.** Rather than respond to social problems by simply locking people up, new practices for accountability must be instituted that do not rely on incarceration or carceral practices (e.g. GPS tracking bracelets). Prisons and jails have become a fundamental tool of social control and by removing this tool we will be compelled to create new practices that can rely on transformation rather than punishment.
- **Institute community-based transformative justice practices to create healing from harm and violence and to prevent violence before it occurs.**



Art by Patrick H. F., incarcerated member