

Solitary confinement is generally defined as holding someone in isolation without meaningful human contact for up to 24 hours a day, for periods ranging from days to decades.<sup>1</sup> Although the United Nations considers solitary confinement beyond 15 days to be torture, the practice is widespread in the United States, where over 120,000 people are held in solitary in prisons and jails.<sup>2</sup>

**LGBTQ+ people face disproportionate rates of violence, abuse, and psychological trauma while incarcerated.<sup>3</sup> Often, this results in being sent to solitary confinement, either as alleged “protection,” as punishment for their gender expression and personal relationships, or as retaliation for acting in self-defense and filing grievances.<sup>4</sup>**

## Overrepresentation of LGBTQ+ People

*“All too often the experiences of LGBTQ+ people and people living with HIV are downplayed or altogether dismissed, especially within the criminal legal system... Reports that center the voices and policy recommendations of those most impacted prove that people are not a monolith, and that blanket policies to address the harms of the criminal legal system are ineffective.”*

—Andrew Aleman and Kenna Barnes, Black and Pink National<sup>5</sup>

Lesbian, gay, bisexual, transgender, and queer (LGBTQ+) people are overrepresented in every aspect of the criminal legal system.<sup>6</sup> LGBTQ+ adults comprise 9.3% of all men in prison, 6.2% of men in jail, 42.1% of women in prison, and 35.7% of women in jail, and receive longer sentences than their straight and cisgender counterparts.<sup>7</sup> Additionally, nearly 20% of incarcerated youth identify as LGBTQ+.<sup>8</sup> Incarceration rates are particularly high among transgender people, especially transgender immigrants and people-of-color.<sup>9</sup>

Although it is well known that LGBTQ+ incarcerated people are disproportionately placed in solitary confinement, available data on this subject is far from comprehensive. The most recent government data on incarcerated LGBTQ+ people was collected during the 2011-2012 National Inmate Survey (NIS), which found that 27.8% of lesbian, gay, or bisexual people reported having spent time in solitary within the last year, compared to 17.5% of straight people. In jails, the rates were 21.6% and 17.2%, respectively.<sup>10</sup> The NIS also found that prisons with higher rates of solitary also had higher percentages of lesbian, gay, and bisexual incarcerated people.

Notably, the 2011-2012 NIS does not include information on solitary confinement experienced by transgender or gender non-conforming incarcerated people. And it is unlikely that there will be updated federal data on this issue due to the executive order issued by the Trump administration in January 2025, which prohibits federal agencies from acknowledging “gender identity” and limits agency forms to the biological sex categories of “male” and “female.”<sup>11</sup>

More recent data comes from a 2015 survey of more than 1,000 incarcerated LGBTQ+ individuals, conducted by the nonprofit Black and Pink National, which advocates for better conditions for LGBTQ+ people in jails and prisons. Some 85% of respondents reported spending time in solitary confinement,

with half reporting that they lived in solitary for two or more years. Respondents of color were twice as likely to spend time in solitary compared to their White counterparts.<sup>12</sup>

Incarcerated transgender people report even higher rates of solitary confinement. Data collected from 2019-2022 by the Vera Institute of Justice and Black and Pink National found that 89% had spent time in solitary and approximately one in five respondents had completed the survey while in solitary.<sup>13</sup>

Transgender people often end up in solitary because most jails and prisons categorize incarcerated people according to their biological sex assigned at birth. Although some state-level reforms allow for housing based on gender identity, a 2020 NBC News investigation found that only 15 of the 4,890 transgender people incarcerated in state prisons across 45 states were housed according to their gender identity.<sup>14</sup> As of February 2025, only 23 of the 2,198 transgender people incarcerated in the federal system were housed according to their gender identity.<sup>15</sup>

## Solitary Confinement as “Protective Custody”

*“I went to the box, supposedly to keep me safe. [In the solitary unit, an officer] punched me so hard in my ribs, that I could barely breathe... he was grabbing me, choking me and hitting me, pinning me down...there was a point I couldn’t even move. He made me give him oral sex and he turned me around and that’s when he attacked me sexually—he raped me and this went on for a few weeks.”*

—Yvette Gonzalez, a transgender woman who spent three years in protective custody<sup>16</sup>

Incarcerated LGBTQ+ people experience increased risk of being assaulted by staff and other incarcerated people—a situation that mirrors their heightened risk of violent victimization in the outside world.<sup>17</sup> Respondents to Black and Pink’s 2015 survey were over six times more likely to have been sexually assaulted behind bars than the general prison population.<sup>18</sup> When asked by Lambda Legal specifically about assault by staff, 81.6% reported being verbally assaulted, 43.3% reported being physically assaulted, and 21.4% reported being sexually assaulted.<sup>19</sup>

As a result, incarcerated LGBTQ+ people are often placed in “protective custody” units, either voluntarily or involuntarily.

Half of respondents to Black and Pink's survey reported being placed in protective custody against their will, compared to 38% who requested to be isolated for their safety.<sup>20</sup> On paper, protective custody is not supposed to consist of solitary confinement conditions, but reports show little distinction between protective custody and punitive isolation.<sup>21</sup> Solitary disguised as protection is often falsely presented to incarcerated LGBTQ+ people as the only measure that will ensure their safety.

Transgender and gender nonconforming people are more likely than cisgender people to be assaulted while incarcerated (35% vs. 27.4%, respectively), especially if they are HIV positive, do not conform to stereotypical standards of gender presentation, or are confined in facilities that do not align with their gender identity.<sup>22</sup> Looking specifically at assaults by staff, incarcerated respondents to the 2015 U.S. Transgender Survey were over five times more likely to be sexually assaulted by staff than the general population in prisons and jails.<sup>23</sup>

In 1989, Dee Farmer, a Black transgender woman, was sexually assaulted by her cellmate while incarcerated in a men's prison. Farmer filed a federal lawsuit alleging that prison officials' deliberate indifference to her safety was cruel and unusual punishment and violated the Eighth Amendment.<sup>24</sup> After years of litigation, in 1994 the U.S. Supreme Court unanimously ruled that "[b]eing violently assaulted in prison is simply not part of the penalty that criminal offenders pay for their offenses against society."<sup>25</sup> The ruling established that prison officials have a constitutional duty to protect vulnerable populations and laid the foundation for the passage of the Prison Rape Elimination Act (PREA) in 2003. PREA even acknowledges that LGBTQ+ people face heightened rates of sexual assault while incarcerated and states that isolation should only be used when there is no alternative.<sup>26</sup>

## Solitary as Discriminatory Punishment

*"It was very apparent that it was just a hug. And even if the suspicion was that we were in an intimate relationship, that shouldn't be enough to put someone in solitary confinement. It is stigmatizing for LGBT people that we are treated differently than others while in the system. It happens all the time."*

—Michael Cox, executive director of Black & Pink Massachusetts, who was put in solitary confinement for hugging a friend.<sup>27</sup>

Under PREA, prisons and jails are audited by independent monitors to ensure compliance. While PREA does not prohibit platonic or consensual touching between incarcerated people, most carceral systems have used the law as precedent for policies banning consensual sex between incarcerated people, and some go so far as to prohibit any touching, including hugging and holding hands.<sup>28</sup> Additionally, biased staff often misconstrue or twist the law's "zero tolerance standard" to punish platonic touching and consensual romantic relationships between LGBTQ+ people.<sup>29</sup> Of the respondents to Black and Pink's survey who received disciplinary sanctions for engaging in consensual sex (34%), nearly two-thirds (64%) reported being punished with solitary.<sup>30</sup>

LGBTQ+ people have also reported being punished with solitary confinement for requesting PREA investigations, filing grievances due to discrimination, standing up to harassment, or expressing their gender.<sup>31</sup> Transgender or gender non-conforming incarcerated people frequently report experiencing solitary because of discrimination. Almost half (47%) of respondents to Vera's 2024 survey reported being sent to solitary for a disciplinary sanction. While some reported intentionally breaking rules so they would be placed in isolation as a strategy to protect themselves, many actions can qualify as a violation. One respondent recounted that they were sent to solitary for using colored pencils (a contraband item) as makeup.<sup>32</sup>



Protest following the June 2019 death of Layleen Cubilette Polanco. The 27-year-old Afro-Latina transgender woman had been punished with solitary confinement on New York City's Rikers Island despite her known physical and mental health issues. (Photo: Anti-Violence Project)

## Impact of Isolation on LGBTQ+ People

*"I was placed in solitary after being raped...[and] only released after it drove me to a suicide attempt."*

—Anonymous respondent to Black and Pink's 2015 survey<sup>33</sup>

Solitary exacerbates the isolation already experienced by LGBTQ+ people in prison. While solitary confinement is known to cause intense psychological distress, LGBTQ+ people face the additional trauma of being cut off from support systems and resources that affirm their identities.<sup>34</sup> The extreme isolation of solitary confinement can trigger and worsen anxiety, depression, PTSD, and gender dysphoria—anguish experienced when a person's gender identity contradicts their sex assigned at birth. Severe symptoms of gender dysphoria sometimes lead a person to attempt self-harm or suicide, which can also result in solitary confinement.<sup>35</sup>

LGBTQ+ incarcerated people are regularly denied or face harassment that prevents them accessing gender-affirming health care. More than one-third (37%) of respondents to the 2015 National Transgender Survey report being barred from taking gender-affirming hormones while incarcerated.<sup>36</sup> Additionally, nearly half of transgender incarcerated people surveyed by Vera reported that their health care providers had no knowledge of transgender issues.<sup>37</sup>

## Alternatives to Solitary for LGBTQ+ Populations

*“I’ve had several clients who have tried to stand up for themselves when staff refer to them as ‘it’ or ‘thing’ or use the wrong pronoun even after my clients have explained what pronoun to use and why not doing so is hurtful and emotionally cruel. However, standing up for yourself in prison often results in a Misbehavior Report and being placed in solitary.”*

—Mik Kinkad, Attorney for Prisoners’ Legal Services of New York<sup>38</sup>

Solitary confinement is a humanitarian crisis that perpetuates and exacerbates the violence, harmful mental and physical health conditions, and gender dysphoria experienced by LGBTQ+ incarcerated people. The use of solitary confinement for protection and punishment must be addressed, first and foremost, by ending the overcriminalization of LGBTQ+ individuals by law enforcement. Additionally, LGBTQ+ incarcerated people are not a homogenous group; therefore, finding alternatives to solitary confinement requires a system that takes their voices into account and is able to adjust based on the needs of individual cases. Ultimately, prisons and jails must establish reliable and effective safeguards against harassment and sexual violence, staff training protocols that address issues unique to LGBTQ+ incarcerated people, and increased access to support systems, including gender-affirming health care and housing placements.

Respondents to surveys by Black and Pink and Vera called for major changes to staff training and to the consequences for misconduct.<sup>39</sup> Staff behavior and attitudes toward incarcerated people play an influential role in dictating the culture of a prison. Increasing familiarity with LGBTQ+ issues through training developed by LGBTQ+ people combats bias, counters harmful narratives, and equips staff with the knowledge to address the issues unique to this community. However, staff training must be supported by policies that clarify and enforce consequences for discriminatory behavior, harassment, or assault toward LGBTQ+ people.

Recommendations for changes to LGBTQ+ housing policies are more complex, as they require officials to address cases individually. For instance, LGBTQ+-only housing units may be the preference of someone who requests to be placed in protective custody, while others may be concerned that housing all LGBTQ+ people together will make it easier to target and hide staff harassment and violence. Similarly, many, but not all, transgender incarcerated people wish to be housed according to their gender identity.<sup>40</sup> Prior to the second Trump administration’s changes to federal housing guidelines for transgender people, 39 states and the federal system had policies addressing assignments on a case-by-case basis and three states practiced gender-affirming housing.<sup>41</sup>

Additionally, ending policies that punish people for their gender presentation is essential to decreasing the use of solitary confinement on LGBTQ+ people. Socially transitioning (i.e. wearing make-up, growing out their hair, and wearing gender-affirming clothing) mitigates the impact of gender-dysphoria and affirms LGBTQ+ identities. Policies that punish social

transition subject incarcerated LGBTQ+ people, particularly transgender women, to a greater likelihood of being sent to solitary due to a disciplinary infraction or mental-health-related isolation. Respondents to Vera’s survey recommended changes that created the same allowances for personal style and accessories across men’s and women’s facilities.<sup>42</sup>

Notably, 55% of respondents to Vera’s survey said that the policies that exist don’t benefit LGBTQ+ people, and 48% stated that they believe it is due to issues with implementation.<sup>43</sup> In order to protect LGBTQ+ people from the violence of incarceration and harm of solitary confinement, officials must design policies that actually address their needs and create oversight mechanisms that ensure they are implemented.

## Notes

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Solitary Watch is a national nonprofit newsroom whose mission is to uncover the truth about solitary confinement and other harsh prison conditions in the United States by producing high-quality investigative journalism, accurate information and analysis, and authentic storytelling from both sides of prison walls. By amplifying the voices and experiences of those most directly affected, we generate public awareness, shift narratives, promote accountability, and spur policy change on an underreported humanitarian crisis.

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