

WHAT JUSTICE CAN BE: LOOKING AT THE IMPRISONMENT EXPERIENCES OF  
TRANS AND GENDER NON-CONFORMING INMATES THROUGH QUEER THEORY,  
AND THE ROLE OF SOCIAL WORKERS IN ABOLITION PRACTICES

by

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### **Abstract**

**Purpose:** *The purpose of this paper is to review the literature discussing the challenges that transgender and gender non-conforming (TGNC) individuals contend with while imprisoned in the United States, and to use queer theory's concepts of gender performance and gender control as a way to examine why they face such high rates of violence. This paper also offers suggestions on how social workers can better engage in non-carceral social work practice on micro and macro levels.*

**Methods:** *A modified systematic literature review was used. Search terms were determined for each section's topic, as well as inclusion and exclusion criteria. The first section was for articles on empirical research regarding TGNC people's experiences in the prison system. The second was to find articles that analyze gender in the prison system through the lens of queer theory. The final section looked for articles containing suggestions for abolition-oriented social work practice. The results were then presented in a narrative format.*

**Findings:** *TGNC people face disproportionate amounts of transphobia-driven violence from fellow inmates and correctional officers/prison staff. Queer theory posits that this violence stems from socialized gender expectations, in particular TGNC people's failure to adhere to expectations of gender performance.*

**Conclusion:** *The construction of the prison system serves to enforce the gender binary in ways that inflict violence on TGNC people who do not conform to its expectations. In order to move away from carceral practices, social workers should engage in restorative justice and transformative justice practices that create non-violent solutions to conflict within the social welfare system.*

### **Acknowledgement**

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**Background**

### **Relevant Terminology**

There is a common misconception that gender is equal to sex. *Sex* has to do with anatomy and one's genitalia, and are traditionally distinguished as male and female. It is the physical parts one is born with. *Gender* is a more fluid concept, as it is constructed by individual societies. Haefele-Thomas & Combs (2019) describe it as how masculinity and femininity are presented and created through culture, society, and expectations. In Western culture, gender and sex are traditionally perceived as the same, contributing to gender roles and creating a gender binary. However, gender can change from culture to culture, as is seen with the indigenous identity of "Two-Spirit," or someone who does not fit into a single gender category (Haefele-Thomas & Combs, 2019). The *gender binary*, common in Western culture, is the belief that one can only be a man or a woman in accordance with traditional expectations of masculinity and femininity (Haefele-Thomas & Combs, 2019). This enforcement of the gender binary, and the roles that come with it, can potentially contradict one's *gender identity*, or "[one's] deeply felt sense of their own gender" (Haefele-Thomas & Combs, 2019, p. 12). If one's sex does not match their gender identity, then they are considered *transgender or gender non-conforming*. Trans and gender non-conforming (TGNC) individuals are defined in this paper as anyone who does not identify or present in accordance with the traditional expectations of the gender they are assigned at birth. In other words, a TGNC person is anyone who is not *cisgender*, or someone who identifies with the gender they were assigned at birth.

### **Background on TGNC Individuals**

Trans and gender non-conforming individuals are among the most marginalized members of the LGBT+ community. They face some of the highest rates of incarceration in

the country, and within the prison system they are shown to be disproportionately targeted by both fellow incarcerated individuals and prison staff. While the general prison population is estimated to be less than three percent of the U.S. population, that number is estimated to be 16-21% for the TGNC populations (Jenness, 2017; Ledesma et al., 2020). The high and disproportionate rate is partially attributed to the prejudices that follow TGNC people throughout their life. Stigma and discrimination often leave TGNC individuals unemployed and unhoused, which forces them into illegal means of making money, leading to arrest and incarceration (Redcay et al., 2020). The treatment that comes with these encounters and with the incarceration that follows has been reported to be dehumanizing and prejudiced (Clark et al., 2017).

The purpose of this study is to provide a comprehensive analysis of what hardships TGNC populations face when they are arrested and imprisoned, and to analyze through the lens of queer theory why the rates of harassment, assault, and mistreatment are so much higher among TGNC populations. Using the information presented, suggestions will be given for how social workers can move forward in engaging in more ethical practices that do not subject clients and their communities to punishment via the carceral system.

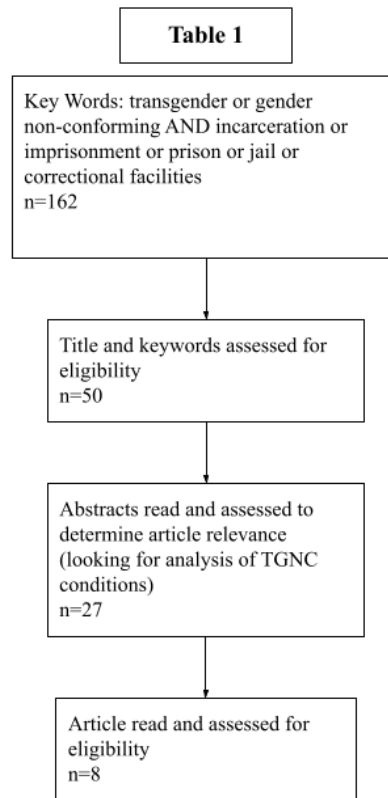
### **Methodology**

A modified systematic literature review (SLR) format was used to answer the research question. Like a typical SLR, there was a set list of inclusion and exclusion criteria used to gather information to answer the research question. However, the results are presented in a narrative format instead of a quantitative analysis (Pati & Lorusso, 2017). In order to gather the proper literature of this report, the author first specified the academic databases. Academic Search Complete, Social Work Abstracts, Gender Studies Database,

LGBTQ+ Source, and EBSCOHost databases were the chosen databases because of their relevance to the topics being explored. The paper was divided into three sections, “Common TGNC Experiences with the United States Criminal Justice System,” “Queer Theory and the Prison System,” and “Implications for Social Work.” Each section was given a unique set of criteria, given that each section highlighted different topics. However, articles were analyzed in the same process for eligibility. First, keywords and titles were analyzed to ensure the article was relevant to the section's topic. Then, abstracts were read and assessed. Finally, the full article was read to determine whether or not it qualified. For the first section, “Common TGNC Experiences with the US Criminal Justice System,” articles had to be published in the last ten years and peer-reviewed to ensure the most updated and accurate information possible. The search terms were *transgender or gender non-conforming AND incarceration or imprisonment or prison or jail or correctional facilities*. There were 162 articles in the initial search (Table 1). Studies that were included could be qualitative, quantitative, mixed methods, or literature reviews. The subjects of the data had to be either TGNC, or professionals who interacted with them directly in the prison system. Studies that only focused on theoretical implications or only examined laws and policies were eliminated, because the author wanted to focus on the lived experiences of TGNC people, rather than legal or theoretical frameworks.

In section two, “Queer Theory and the Prison System,” there were two search combinations used to ensure that there was more opportunity for relevant information to be covered. The searches each had the same inclusion criteria for their articles. They had to be peer-reviewed journal articles published in the past ten years, and could be qualitative, quantitative, or mixed methods. The included studies examined the ways in which the gender

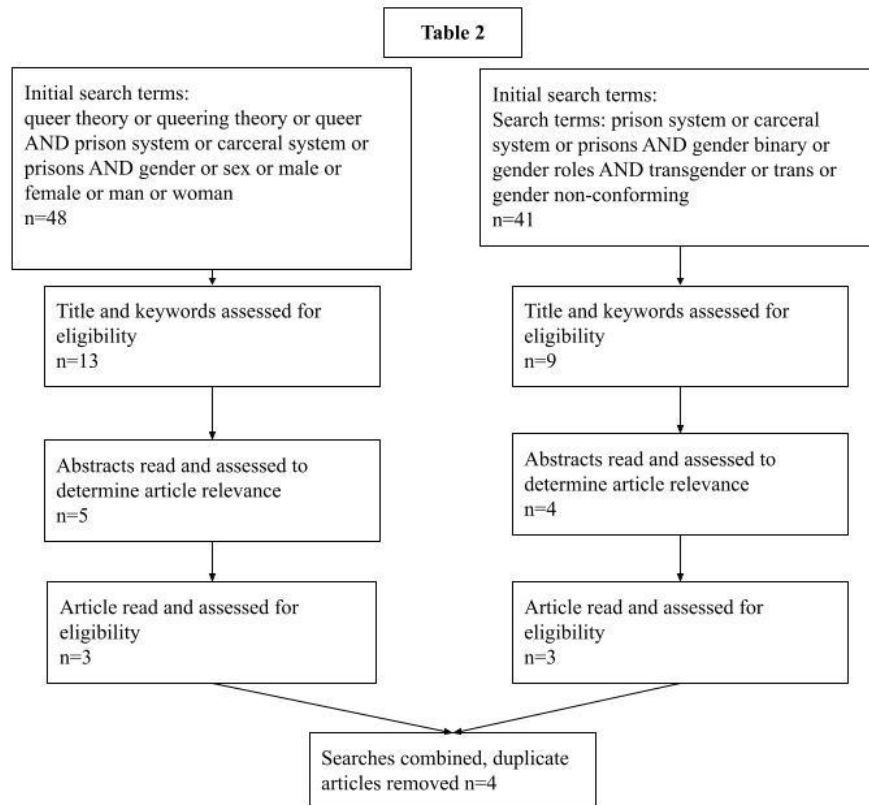
binary presents itself and is upheld within the prison system. This could include an examination of gender roles in the prison system, how the concepts of masculinity and femininity are perceived, and how gender is performed by inmates. These ideas had to be explored from the



perspective of queer theory and TGNC populations. Shown in Table 2, the key search terms for the first group were “*queer theory or queering theory or queer AND prison system or carceral system or prisons AND gender or sex or male or female or man or woman*” (n=48). They were chosen because the author wanted to examine, through queer theory, how the prison system views gender. Titles and keywords were assessed first (n=13), then abstracts (n=5), and then entire articles were read (n=3). The second search combination that was used



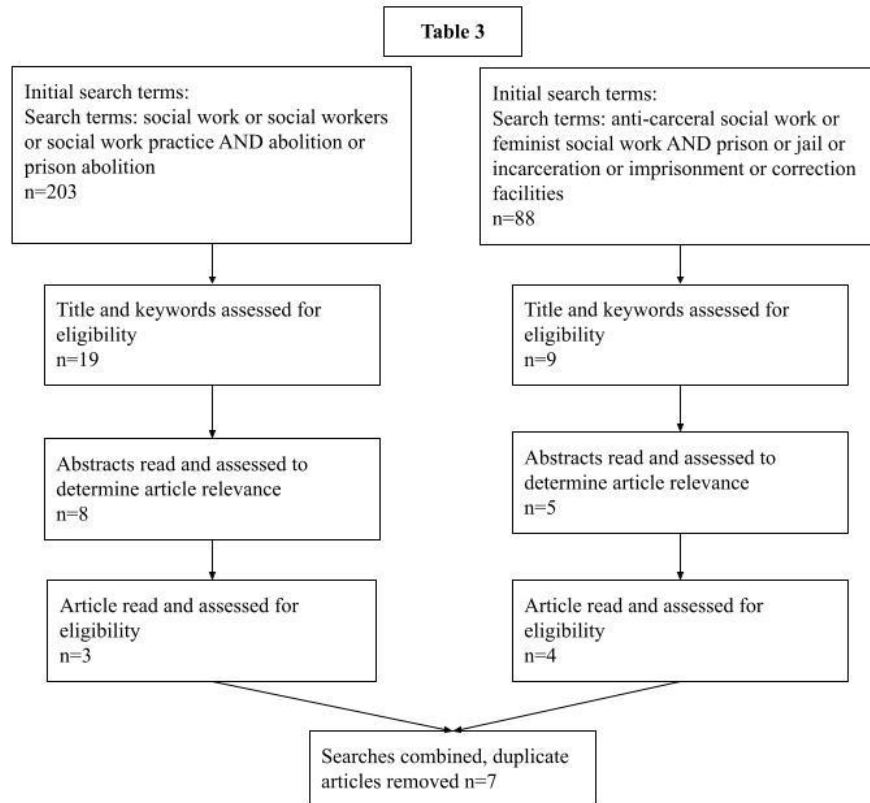
was “*prison system or carceral system or prisons AND gender binary or gender roles AND transgender or trans or gender non-conforming.*” These words were chosen because of the desire to examine how prisons uphold the gender binary, specifically in regards to how TGNC people are impacted. After the initial search (n=41), the articles were narrowed by title and keyword (to n=9), then



abstract (n=4), then the entirety of the article (n=3). Once the articles in both searches were narrowed down, the final articles were compiled and the duplicates deleted (n=4).

For section three, “Implications for Social Work Practice,” two different search combinations were used in order to ensure that a broad range of suggestions were being covered. Articles had to be written in the past ten years to ensure the most updated

information, and the practice suggestions had to be based in social work. The article's recommendations had to be made with the intention of abolishing the prison system, rather than reforming it. The search "*social work or social workers or social work practice*" AND "*abolition or prison abolition*" were used to find any social work practices regarding abolition (Table 3). The same process was used to assess articles (n=203); titles and keywords were assessed to determine if they were relevant to the topic (n=19), followed by more thorough examinations of the abstract (n=8), and then the entire article was read (n=3). Common reasons for expulsion of the articles was the argument not being centered on social work practice, the article being in a language other than English, the geographic location not being in the United States, and the article not being about prison abolition. The second search was "*anti-carceral social work or feminist social work AND prison or jail or incarceration or imprisonment or correction facilities.*" These phrases were used because the author's preliminary research indicated that anti-carceral social work and feminist social work were the two most predominant frameworks applied to social work practices in which abolition was the ultimate goal. The author chose to use "*prison or jail or incarceration or imprisonment or correction facilities*" to ensure that articles found examined anti-carceral and feminist social work practice in relation to these systems. The same process as the previous search was followed: the initial search (n=88), followed by an analysis of titles and keywords for relevance, and duplicates removed (n=9), then an overview of abstracts (n=5), and then finally the entire article was read (n=4). After reading the articles from both searches thoroughly, the final results from both groups were combined, and the duplicates of overlapping articles were removed (n=7).



### **Common TGNC Experiences with the United States Criminal Justice System**

Within the United States prison system, there are common trends across the experiences of TGNC populations. Specifically, verbal and physical abuse, lack of access to resources, and prejudice as a result of minimal cultural competence by prison staff members and police forces. These displays of cruelty leave impacts on TGNC populations that can last a lifetime, ranging from PTSD to substance use disorder. The systematic oppression that follows TGNC people can leave them trapped in vicious cycles of imprisonment, release, illegal means of surviving, and re-incarceration. The patterns of abuse and maltreatment in the prison system are far too prevalent among incarcerated TGNC people, and the consequences that ensue can be devastating.

**Factors for Arrest and Incarceration**

The literature reflects that a large proportion of TGNC individuals feel targeted by the police (Stotzer, 2014). While arrest rates themselves fluctuate from study to study, they are consistently higher than the general population (Clark et al., 2017; Ledesma 2020; Stotzer 2014). Part of this is attributed to the transphobia they face. Because of discrimination, many transgender people are placed on paths that leads to incarceration. Many are forced into illegal means of survival, because the marginalization and transphobia they face leaves them without jobs, healthcare, or support systems (Redcay et al., 2020). This includes sex work, homelessness, and substance use, which are all predictors of incarceration. TGNC people have a higher risk of encountering all of these situations, and therefore being incarcerated (Redcay et al., 2020). However, rather than providing resources and support for these populations, law enforcement officers continue to resort to punishment instead via arrest and imprisonment. Furthermore, Stotzer's (2014) literature review shows that transgender sex workers are arrested at higher rates than cisgender sex workers, reflecting compounded police bias and discrimination. This study also shows that many transgender individuals feel as if they were stopped unjustly by police officers with no reasonable cause. Interviews with transgender individuals contend that these unjustified stops are linked to stigma that being transgender means engaging in illegal activities, feeding into narratives about TGNC people being predatory and dangerous (Stotzer, 2014). Not all TGNC individuals are forced into illegal activities, but even those who are not can become targets of the police because of negative biases. Stigma and discriminations create hazardous situations for TGNC individuals that fuel their increased likelihood of encounters with law enforcement and incarceration.

### **Assault and Harassment within Prison Walls**

TGNC individuals are shown to be disproportionately harassed and assaulted while imprisoned. They face this discrimination from fellow inmates, the guards who are meant to protect them, and healthcare workers (Clark, et al, 2017; White Hughto et al., 2018).

Additionally, they face constant misgendering by the prison system. It is rare for TGNC prisoners to be sent to the prison that corresponds to their gender identity (Sevelius & Jenness, 2017). The combination of being harassed by other inmates and guards, frequently having their gender identity invalidated, and receiving apathetic responses from people in charge makes prisons a dangerous environment for TGNC people. These factors put the health, wellbeing, and safety of imprisoned TGNC people at risk (Redcay et al., 2020; Sevelius & Jenness, 2017; White Hughto et al. ,2017).

The culture of prisons, specifically the toxic masculinity of male prisons, puts TGNC people who present themselves outside of the gender binary in danger of being a target by other inmates (Redcay et al., 2020; White Hughto et al., 2017). Toxic masculinity is a set of beliefs that are associated with males, such as “heterosexuality, violence, knowledge, and power,” that bring harm to others (Hefner, 2018, p. 232). These traits and this culture are heightened in the prison system, which create more danger for TGNC inmates (Hefner, 2018). A transgender woman in Jenness et al.’s (2018) study reported that “they always think I’m interested in them because I’m [transgender]. It’s constant harassment every day” (p. 618). Transgender inmates are routinely subjected to verbal harassment by their cisgender peers, facing a chorus of slurs and insults because of their non-conforming appearances (Jenness et al., 2017; Redcay et al., 2020). Estimates of TGNC people who experience transphobia-motivated verbal assault while incarcerated are as high as 80% (Jenness et al.,

2017). These insults are often attempts to dissuade TGNC inmates from expressing themselves, forcing them to adhere to binary gender appearances, and reject their true gender identity (White Hughto et al., 2017).

Incarcerated TGNC people are often the victims of physical assault from other inmates as well. The reported rates are exponentially higher than those of their cisgender peers, and the rates are especially high for transgender women who are placed in men's correctional facilities. Nonsexual physical harassment is the most common, with estimates of anywhere from 60-80% of transgender inmates facing this treatment from their peers (Jenness et al., 2018; Ledesma et al., 2020). In one study, an inmate reported that they had been "beaten...raped..., slapped, punched, and even threatened because of my being transgender" (Jenness et al., 2018, p. 606). Sexual assault is reported by as many as 58.5% of transgender inmates, including groping, fondling, and being raped by other inmates, as if the differences of TGNC people make other inmates feel like they are entitled to their bodies (Stotzer, 2018; White Hughto et al., 2018; 2018; Jenness et al., 2018; Ledesma et al., 2020).

Prison culture also leaves TGNC people with a lack of protection from prison staff. Correctional officers have been cited across studies as unhelpful in curbing violence against transgender inmates. Studies show that prison staff are often severely undertrained when it comes to cultural competency regarding TGNC people. As a result, heavy bias endangers this population, especially since they have little to no power over correctional officers' actions (Clark et al., 2017; Redcay et al., 2020). In response to being raped, one prisoner was told by a guard to "take a shower," and then no action was taken (Jenness et al., 2018, p. 619). Requests for protection by TGNC people either go ignored or unreported (Jenness et al., 2018). TGNC individuals have even said that correctional officers are perpetrators

themselves, verbally harassing and physically assaulting imprisoned people (Stotzer, 2018). The sample from one study found that 7% of incarcerated transgender women interviewed had been sexually assaulted by a prison staff member, and the number skyrocketed to 38% when looking at how many had been verbally harassed (White Hughto et al., 2017). Many TGNC individuals reported that correctional staff intentionally discourage gender expression. One inmate said “[staff members] would do whatever they could to...dismantle your femininity. Like, if you had a wig on, they’ll take your wig off” (White Hughto et al., 2017, p. 75). Another study (Clark et al., 2017) found that reasons for the staff’s behavior had to do with lack of training. For example, a common belief amongst correctional officers is that transgender inmates only express their gender identity out of desire for attention. It was also reported that staff who show any form of kindness to imprisoned people are dubbed “inmate lovers,” by their coworkers, which is considered a derogatory term (Clark et al., 2017). This study shows that prison staff are punished for seeking to create better conditions for TGNC (and cisgender) inmates, and rewarded by their fellow guards for showing indifference and cruelty towards the people they are hired to protect (Clark et al., 2017; Redcay, 2020). For TGNC populations in prisons who are already vulnerable to harassment, there are no protections.

### **Access to Healthcare**

Alongside physical attacks, imprisoned TGNC people are harmed through the denial of healthcare. More specifically, they are not granted the proper gender-affirming treatment, such as surgeries and hormones (Clark et al., 2017; Redcay et al., 2020; Sevelius & Jenness, 2017; Stotzer, 2018; White Hughto et al., 2017). Studies found that in order to access hormone therapy, imprisoned TGNC people had to prove that they were using the hormones

before being arrested (White Hughto et al., 2017). Unfortunately, many transgender individuals use “street drugs” as hormones, which do not have medical documentation (Sevelius & Jenness; White Hughto et al., 2017). Once in prison, they are often denied access to this critical healthcare. This can cause de-transitioning (growing once-gone facial hair, voice changes, et cetera), which can bring on severe psychological distress (White Hughto et al., 2017). If TGNC individuals are unable to obtain hormones before being imprisoned, then there is a very low possibility that they will be able to access them during their sentence. There have even been reports of inability to access them *despite* having medical documentation (White Hughto et al., 2017). While prisons cite budgetary restrictions as reasons for denying this medical care, hormone treatment can cost as low as \$15 per month. Studies show that as few as 14% of imprisoned TGNC individuals receive the hormones that they require to help their gender dysphoria (Clark et al., 2017).

Gender reassignment surgery is even more difficult to obtain. The first person to receive this treatment while incarcerated did not do so until 2017 (Clark et al., 2017). Prison staff tend to be apathetic to the needs of TGNC inmates, denying them access to their gender-affirming healthcare, and minimizing the struggles that they face while incarcerated. This can have dire consequences on the wellbeing of incarcerated TGNC individuals that can impact them beyond the end of their sentence.

### **Impacts of Abuse in Prisons**

The abuse that TGNC inmates face in prison creates consequences for them both during and after their sentencing. Being denied hormones can lead to intense bouts of gender dysphoria. Dysphoria is a sense of disconnect between one’s gender expression and one’s biological sex, and the distress that comes as a result (Clark et al., 2017; Sevelius & Jenness,



2017). There are several factors in the prison system that lead to gender dysphoria in TGNC individuals. These include being placed in a prison that does not correlate with one's gender identity, being restricted from wearing clothes or makeup that help to express one's identity, being misgendered or dead named (calling a TGNC person by their birth name, or the name that they used pre-transition, instead of their chosen name), being denied the proper treatment, such as hormones, and the invalidation of one's gender identity (Clark et al., 2017; Ledesma et al., 2020). Dysphoria can be the cause of more mental health challenges, including "severe psychological distress and intense emotional pain...debilitating depression, [and] suicidality" (Ledesma et al., 2020, p. 652). Gender dysphoria can also lead to maladaptive coping mechanisms in order to reclaim one's gender identity. These can include self-harm (as severe as auto-castration), substance use, and engaging in unsafe sexual acts with other inmates (Ledesma et al., 2018; Seveluis & Jenness., 2017; White Hughto et al., 2017). Despite the literature on mental health challenges for TGNC people that accompany being denied gender-affirming treatment, prisons are still slow and/or reluctant to react, and sometimes will only allow the needed treatment if the TGNC inmate is at risk of death (White Hughto et al., 2017). Clark's (2017) study found that mental health resources such as group counseling were often cancelled by correctional officers and deemed unnecessary.

Challenges that result from this treatment do not end when one's sentence does. Once TGNC people are no longer incarcerated, the various impacts still follow them. Combined discrimination because of incarceration and being a TGNC person can make housing and employment especially difficult to obtain (Stotzer, 2014). This can lead to homelessness and being forced back into illegal means of making money. Engaging in illegal activities for survival means that many TGNC people will return to prison, trapping them in a cycle of

recidivism (Redcay et al., 2020; Stotzer, 2014). Furthermore, incarceration is a positive predictor of exacerbated mental health and substance use in TGNC populations, particularly in those who were victimized during their imprisonment (Redcay et al., 2020; White Hughto et al., 2017). These factors keep TGNC people who interact with the prison system trapped in a vicious cycle of imprisonment, abuse, and pain with no escape.

The wellbeing of imprisoned TGNC people is not taken seriously by the prison system. Their ways to deal with struggles like gender dysphoria are weaponized against them, such as when they are ridiculed for their gender expression. Or, their treatment is withheld, such as in the case of being denied hormone treatment. The literature shows that far too often, TGNC individuals are given sentences that result in abuse from correctional officers, healthcare workers, and other imprisoned individuals. The prison system is said to rehabilitate, but all it does for this population is deliver cruel punishment that enhances their struggles (Ledesma et al., 2018). The consequences on the wellbeing of TGNC inmates are dire, and serve to create a terrible quality of life that is disguised as rightful punishment in the punitive justice system.

### **Prisons and Queer Theory**

The second part of this paper draws on the ideas of queer theory to critique how the structures of prisons uphold antiquated ideas about gender, and create consequences for TGNC people who do not fit within these ideas. Queer theory examines topics through a lens that actively rejects binary models of thinking. It allows one to critically analyze and dissect how society is constructed through binaries such as male/female, or gay/straight (Baker, 2019). The research in this section utilizes this perspective to analyze the construct of the United States prison system, allowing for a better understanding about the prison system's

commitment to the gender binary, and the consequences that result for those who dare to stray from it.

The two ideas in queer theory that will be used in this paper are the concept of gender performance and the concept of state control via gender enforcement. Many queer theorists contend that gender itself is a socially constructed idea, with “protocols...[and] ritual acts” that allow individuals to feel as if they fit into the “normal” (Brintall 2020, p. 2). An example of this would be women being housewives while men work and have jobs, because that has been the traditional expectation. There is no real biological reason for gender roles and their applications to males or females; they are human constructions (Jenness & Fenstermaker, 2014; Pemberton, 2013). People are socialized to perform in accordance with the gender they are assigned. Clothing and appearance, how they interact with their environment, and how they interact with others are all examples of how people perform their gender. This performance can change based on the environment, which will be explored in the “Gendered Performance in Prisons” section (Baker, 2019). This section will further explore how within the prison system, this type of performance can either ostracize or benefit TGNC people. Queer theory also contends that this “arbitrary” performance of gender allows for state institutions to have stronger control over those in their custody (Baker, 2019, pp. 7). This concept will be explored in “Control Through Gender Within the Prison System.”

### **Overview of the Gender Binary in the Prison System**

The prison system is one of the most gender-segregated institutions in the United States. The methods of separating the genders in this system reinforce archaic ideas that serve to enforce the male-female binary and punish those who dare to stray from it (i.e., TGNC populations). Deviance from traditional gender expression is unwelcome in the

carceral system, and structures and procedures are implemented to prevent this divergence and maintain traditional males and female roles.

Engagement with the prison system seeks to immediately place people into two categories: male and female, according to one's genitalia. Little consideration is taken into account for the circumstances of TGNC people who face incarceration (Arlyn, 2018; Báčak et al., 2018; Pemberton, 2013; Jenness & Fenstermaker, 2014; White Hughto et al., 2018). There is an expectation that people adhere to the gender (and its roles) that they were assigned at birth, despite their true identity. Once a TGNC person's gender has been determined in the prison system, it is incredibly difficult to change within the legal system. In the "Transgender Offender Manual" created by the Trump administration in 2018 (which is still in effect), the legislation stated that "the designation to a facility of the inmate's identified gender would be appropriate only in rare cases" (p. 3). The consequences of the misplacements have been noted in previous sections (harassment, misgendering, lack of medical care, et cetera). Queer theory posits that the prison system's strict categorization creates a gross simplification of gender that disenfranchises and invalidates the gender identity of anyone who is not cisgender. This system disregards the complexities of gender and reinforces the idea that sex is equal to gender (White Hughto et al., 2018). This binary ideology helps to perpetuate stigma against TGNC people who are imprisoned, as can be seen by the increased rates of assault, the heightened verbal abuse, and trivialization of their identities (Clark et al., 2017; Jenness & Fenstermaker, 2014). In applying queer theory to the maltreatment of TGNC prisoners, one can see that despite the true identity of TGNC individuals, they are expected to live in accordance with the roles of the gender that they were assigned at birth. Within prisons, the separation of sexes into male or female is a tool to

enforce both gender performance and gender binary. This serves to stigmatize and invalidate TGNC individuals who do not adhere to the traditional expectations.

### **Gender Performance in Prisons**

One concept in queer theory is gender performance, or the idea that people act in a certain way because they have been given the label of “man” or “woman.” These roles can be flexible depending on the situation, as is seen in the microcosm of prisons. Research shows that sex-segregated inmates tend to fulfill gender roles that they feel are lacking. Some literature reflects hierarchies in which inmates take on more traditionally feminine roles for masculine prisoners (Hefner, 2018, Jenness & Gerlinger, 2020). In other words, some inmates will change their gender performance to fulfill a traditional role that is lacking (however, it should be noted that the majority of studies examined this type of role-adoption in men’s prisons, not women’s). For some TGNC inmates, this shift in their gender performance offers protections, as they can serve the role of a woman that many men in prison desire (Hefner, 2018; Jenness & Fenstermaker, 2014). However, this also creates an environment that allows for invalidation of transgender identities if they do not fit into the binary category to the satisfaction of everyone else. Not being viewed as “woman enough” has dangerous implications for TGNC prisoners. Within the prison system, one has more protections if they commit more fully to the traditional gender roles of a man or a woman (Hefner, 2018; Jenness & Fenstermaker, 2014). In queer theory, this would be described as being able to accurately perform one’s gender. To exist in the in-between, either in appearance or actions, serves to make one a greater target of violence.

If TGNC people do not perform well enough within their gender identity to be considered a “real” man or woman, then they are more likely to face violence (Pemberton,

2013; Jenness & Fenstermaker, 2014). Prison cultures perpetuate violence against TGNC people who stray from traditional gendered categories. It has been established in previous sections that TGNC people are at much higher risks of experiencing violence in the prison system, which is attributed to their non-adherence to the gender binary (Jenness, 2018). However, the literature shows that for many transgender women, the more they pass as someone assigned female at birth, the greater protections they have in the prison system, oftentimes from another cisgender, more traditionally masculine inmate. In essence, those who are more successful at performing to the traditional gender binary in the microcosm of prisons are more likely to be accepted by other inmates. Jenness and Fenstermaker's (2014) study found that many transgender women reported having more respect from cisgender inmates if they appeared more feminine or act more like a traditional woman. They shared that many men have "protective instincts" over them as women (p. 25). This shows that TGNC people are not the only ones who feel the need to fulfill gender roles, and that the expectations of gender performance extend over most prisoners. Cisgender men want to perform the gender expectations as well by being the protectors over women (Jenness & Fenstermaker, 2014). There were even reports of marriage-like relationships between inmates, in which the feminine-presenting person is protected by the masculine-presenting person, in accordance with gender roles and expectations (Jenness & Fenstermaker, 2014). However, this adherence to gender roles results in mistrust and violence towards those who are not perceived as "feminine enough" or "woman enough." TGNC prisoners who do not perform adequately in accordance with gender expectations risk ostracization and violence (Hefner, 2018). Cisgender inmates perceive that those who exist outside of the gender binary "have not been open and forthcoming," meaning that these TGNC populations lack any sort

of protections and are more prone to being isolated or targeted (p. 245). From the perspective of queer theory, this finding supports that the culture of prisons requires traditional gender performance in order to obtain safety. Those who break away from social expectations of gender are targeted, making the environment especially dangerous for TGNC people. Within the carceral system, failure to adhere to the societal category of “man” or “woman” means that the person is deserving of violence.

### **Control Through Gender Within the Prison System**

Queer theorists have also looked at the performance of binary gender norms in the prison system as a means of control by the state (Pemberton, 2013). The research shows this in two senses: control over the individual, and control over the group mindset. The former entails the challenges faced by each individual TGNC person. Being a TGNC person in the prison system means the state is given autonomy over whether or not their identity is valid enough to be legally recognized (Pemberton, 2013). For example, if a transgender woman (who was assigned male at birth) has not had what is considered enough gender-affirming treatment, or does not have “valid” lived experience as a woman (i.e., has not sufficiently performed in accordance with women’s expectations), then she is declared to be a man in the prison system, despite what she says her identity is. Essentially, the state takes control over the legal recognition of one’s gender, which has heavy influence over how others will see them (Jenness & Fenstermaker, 2014; Pemberton, 2013). This constant misgendering can have detrimental effects on the wellbeing of TGNC people, as has been acknowledged in previous sections.

Control over the group mindset is achieved through discipline in the prison system (Pemberton 2013). Pemberton (2013) posits that the rules set in prisons reflect “normative

femininity and masculinity” (p. 153). For example, men’s prisons have rules regarding physical appearance, such as being forbidden from wearing makeup, wigs, or bras. In other words, there are strict regulations in how one is permitted to perform their gender. Pemberton (2013) also points out that within many correctional facilities, the vocational training programs that are offered reflect the traditional roles of the prison’s gender assignment. For example, women’s prisons are more likely to have training in activities such as needlepoint, cooking, or cleaning, which are programs that men’s prisons often do not have. These structures and rules enforce the gender binary being normal and correct in the beliefs of inmates and prison staff. These beliefs serve in “othering” TGNC inmates and making it seem as though their gender performance, and therefore their identity, is wrong, insinuating that their behavior needs to be corrected. This leads to them being a target of the violence and discrimination (Pemberton, 2013). Queer theorists put forth that the structure of the prisons allows for the state to have control over the group’s/the population’s perception of what is and is not proper gender performance and expression. These structures have devastating consequences that create a dangerous environment for TGNC people, and continue to perpetuate binary and transphobic beliefs.

### **The Gender Binary and Access to Resources**

This discrimination happens at all levels of the prison system. When correctional and medical staff perceive that TGNC individuals’ identities and roles do not conform to the gender binary, they are less likely to access affirming healthcare because they are not recognized as truly being a member of that gender (Pemberton, 2013). Queer theory posits that they are being punished for not performing to their gender as they have been socialized to do (Pemberton, 2013). Correctional officers have been reported intentionally misgendering



TGNC people and using the wrong pronouns (Jenness & Fenstermaker, 2014; White Hughto et al., 2018). Prison staff perceive that the way in which TGNC people exist is incorrect, and therefore invalid. By misgendering them or denying them healthcare, they are projecting an ideology of binary gender that prevents TGNC individuals from being their authentic selves and keeps them locked under traditional gender expectations. They subject TGNC people to punishment for failing to perform in the gendered categories that are expected.

The prison system consists of rules, structure, and culture that, when scrutinized through the lens of queer theory, show a dangerous dedication to the binary and traditional concepts of gender, which can essentially be boiled down into “genitalia is equal to gender.” The pushing of these beliefs is dangerous to the wellbeing of TGNC people. The prison system puts forth that there is only one way to be a man and one way to be a woman, and the result of this belief system is violence against the marginalized.

### **Implications for Social Work Practice**

Social workers interact with a plethora of institutions in the United States, including schools, court systems, and healthcare. Nearly all of these institutions have ties with law enforcement and prisons to some capacity. Jacobs et al. (2021) uses the term “carceral social work” to describe social work practice that “relies on logics of social control and white supremacy that uses coercive and punitive practices to manage BIPOC (Black, Indigenous, and People of Color) and poor communities” (p. 3). After establishing the detrimental impacts of the prison system in the previous sections, and analyzing how it upholds dangerous ideologies, the author argues that social workers have a duty to their profession and their clients, both TGNC and cisgender, to deviate as much as possible from the punitive forms of practice that connect clients with the prison system.

**Why Work Towards Abolition?**

The prison system is deeply entrenched in the society of the United States. Punitive responses are often the only way to handle interpersonal issues, such as domestic violence and child abuse. However, the prison system is a deeply inhumane one that offers little room for actual rehabilitation or improvement. The author argues that there are alternative forms of justice that can be implemented that are more humane and will create lasting change.

Prisons heavily disrupt the communities where they are placed. Resources often become divested from social support services and reinvested in punitive forms of justice (Chandler, 2017). Furthermore, states often pass off the role of incarceration to private industries to offset costs, which results in owners of these companies being incentivized to incarcerate more people (Chandler, 2017). Rather than helping communities, incarceration and penal punishments have become the default response to situations that would benefit from interventions by professionals properly trained in conflict resolution and communication with diverse populations (Jacobs et al., 2021). Where there is punishment, there could be more money divested into mental health resources, conflict resolution, healthcare, and other services that are more beneficial in building strong communities than arresting and surveilling its members (Jacobs et al., 2020).

As has been described, prisons subject people to horrific conditions that include verbal and sexual harassment, lack of healthcare, and apathy from correctional officers and other workers. Imprisonment means disenfranchisement in certain states, and difficulty finding employment in most (Riche & Martensen, 2020). TGNC people are already at high risk of unemployment and being unhoused because of stigma. Being incarcerated makes it even more difficult to get public housing, “leading to a cycle of reincarceration” (Ledesma &

Ford, 2020, p. 653). Prison gives no room for personal growth, and even less opportunity to build a life that exists outside of illegal actions. The recidivism rate in the United States is 76.6%, which reflects a failure of the prison system to offer opportunity for comprehensive lifestyle change (Benecchi, 2021). It functions as a punishment from which people are commonly unable to escape.

One of the most needed reasons for the abolition of the prison system is its inextricable ties to racism, classism, transphobia, homophobia, sexism, and ableism. As has been established in previous sections, TGNC populations are more likely to be incarcerated during their life than cisgender populations. Furthermore, the prison system disproportionately houses BIPOC, people with mental illness, and people living in impoverished conditions (Jacobs et al., 2021). The most marginalized populations are the ones who are the most impacted.

Much of the work that social workers engage in is a direct violation of the core values of social work, particularly the dignity and worth of a person, and social justice (National Association of Social Workers, 2021). There are social workers within the prison system who work to help inmates and educate correctional workers, and their work can be helpful and supportive to targeted inmates. However, to create a world that truly reflects social justice, social workers should strive to abolish prisons altogether, and introduce non-carceral practices into their work. As has been established, prisons strip inmates of their humanity and paint them to be deserving of the violence that they face while imprisoned. It has been established that they receive poor treatment that is detrimental to their mental health and wellbeing both during their sentence and after. Social workers believe that everyone is deserving of dignity and respect, and prisons are a direct contradiction to that belief.

Furthermore, prisons are disproportionately filled with people from marginalized groups (Jacobs et al., 2020). To allow the profession to continue working alongside prisons is to go against the values that the National Association of Social Workers and social workers across the United States uphold. There are means of justice other than punitive and carceral. As will be discussed in the following sections, violence does not have to be the response to violence.

### **Micro Level Practice Implications**

Social workers can seek to create more humane systems of justice in their micro-level practices. Micro practice is the work that professionals do with individuals and small groups, such as families. There are many different frameworks that anti-carceral social workers use. The two that were most prevalent in the literature were restorative justice and transformative justice, which are practices that function on similar principles of using community and relationships to right wrongs between people, rather than defaulting to punishment.

Restorative justice functions under the ideas of compassion, strong relationships, and strong communities (Mountz, 2020; Richie & Martensen, 2020). This practice pulls away from the carceral mentality of prisons and punishment that seek to devalue the people who are incarcerated. This framework adds value to all people's lives and allows the victim to voice their hurt, and the perpetrator to learn and have the opportunity to grow and do better. It focuses on building relationships and working to "restore harmony," creating healing where there has been harm (Mountz, 2020, p. 193). Social workers can seek to implement this with their clients in multiple settings. School settings, for example, are critical institutions where micro-level restorative justice can be applied. Students can begin learning important skills such as collaborative conflict resolution, the importance of creating community relationships, and how to cope with interpersonal problems in a healthy manner

(Chandler, 2017; Jacob et al., 2021). In a study that interviewed queer youth, many described harsh bullying, teachers turning blind eyes to their struggles, and “misinterpreting responsive acts of self-defense” (Mountz, 2020, p. 189). Mountz (2020) also describes students, specifically queer and gender non-conforming students, doing drugs, shoplifting, and other illegal acts that placed them on a road to a juvenile detention facility. In efforts to intervene in these behaviors, social workers can act as mediators when there is conflict between students, and help to reach an understanding in a way that does not lead to punitive actions. These situations can be used as opportunities to educate, communicate, and build mutual respect (Jacobs et al, 2021). In a school where this practice is utilized, a study found there was a “28% decrease in the number of students suspended and a 30% decrease in total disciplinary referrals within two years” (p. 18-19). This practice of restoration rather than punishment led to a stronger school community and a greater perceived sense of safety by the students (Jacobs et al, 2021). Social workers can help to change school frameworks of how to deal with students, and create a narrative of support and healing, rather than punishment. Another strategy that is rooted in restorative justice framework is pods in communities (Jacobs et al., 2020). The idea is that when someone is harmed, they reach out to the people in their pod. These people are community members with whom they have strong connections. The people in this pod help to mediate the harm that was done, encourage accountability, and create a solution (Jacobs et al., 2020). Rather than including law enforcement and the prison system, community members help the people involved in the situation to right any wrongdoing, creating accountability in healing instead of creating more harm through the criminal justice system.

Transformative justice was also noted in the literature as a way to solve interpersonal conflict without bringing in the carceral system (Jacobs et al., 2020; Mountz, 2020; O'Brien et al., 2020). The main difference between transformative and restorative justice is that restorative justice focuses on repairing the harm that was done, whereas transformative justice focuses on changing the conditions that caused the harm to happen. It operates under the notion that there is a possibility of a safe world without prisons, and similar to restorative justice, says that solutions to conflict can be reached outside of oppressive systems (Mountz, 2020). One example of transformative justice is the work of INCITE, an organization that “centers the wants and needs of [intimate partner violence] survivors” (Jacobs et al., 2021, p. 12). The organization works with the communities and friends of both the victims and the perpetrators to create long-term change and accountability without involving state systems. Intervention in the violence was initiated by “organizing community members most directly impacted by violence” (Jacobs et al., 2021, p. 13). While the organization seeks out solutions that do not involve state-run systems, which could include social workers, there is more opportunity for similar practices and a transformative justice framework in how social workers interact with victims and perpetrators of violence. For example, Mountz (2020) talks about children who are rejected and neglected by their parents. According to their study, social workers can use counseling models that are “designed to facilitate family support and child well-being” through education, resiliency, and family adaptation (p. 193). This creates lasting change through healing, rather than involving family separation and continuing cycles of trauma. While Mountz (2020) acknowledges that this might not always be a perfect solution, it can lower the risk of the involvement of law enforcement and family separation. The default response to wrongdoing does not have to be the violence of prisons. There are

ways to create healing amongst people who are hurt and who have hurt others. Their humanity does not have to be diminished in the carceral system.

### **Macro Level Practice Implications**

Carceral and punitive mentalities are implanted deep in the United States' psyche. The most common reaction to wronging someone is prison or fines, which often continue to do harm, rather than help the parties involved. To create the best quality of life for people, social workers must engage in anti-carceral practice on a macro level to make positive change in communities. Macro-level practice occurs on a large-scale; this can include work on an agency, local, state, or nation-wide level. While changes must be made on a micro level with individuals, there also must be legislation that can help to build communities and give people the ability to deal with violence in ways that do not include the carceral system.

Most of the literature on anti-carceral social work stresses the importance of working within community groups to create collaborative change that has the input of marginalized voices who are impacted by the prison system. (Chandler, 2018; Jacobs et al., 2021; Hereth & Bouris, 2020; Mountz, 2020; Richie & Martensen, 2020). The NASW (2021) *Code of Ethics* maintains that clients have a right to self determination, and that clients know what is best for themselves. Therefore, social workers who are engaging in macro work should collaborate with community members who will be impacted by this work to ensure that their actions are in the population's best interest. This might not look like fighting directly for abolition of prison systems, but rather helping to make incremental change that creates harm reduction. For example, generationFIVE was cited in two articles as an organization seeking to end child abuse through transformative justice rather than prisons (Jacobs et al., 2021; Mountz, 2020). Part of their mission is addressing child abuse at a structural level, which

includes divesting funds from punishment-based justice systems like prisons, which are unhelpful in creating substantial intervention where there is intergenerational trauma. Their methods have to do with rebuilding community relationships and addressing the structures and trauma that are at the root of abuse. Established by former victims of child abuse, this organization is an example of how social workers can engage with community organizations to address problems in a way that build communities up, rather than tear them down through carceral forms of justice.

Social workers should advocate for new policies on organizational, local, statewide, and national levels that are in the best interest of communities and incarcerated individuals. Within their own organizations, Jacobs et al. (2021) encourage that all social workers work within their agency to adopt policies that move away from mandatory police involvement so that people better trained in mental health intervention and de-escalation can engage in situations that are traditionally handed to the police to deal with. This will help to create nonviolent responses to situations like mental health crises, substance use problems, and domestic violence. Policies that focus on restorative and transformative justice can be made on local, state, and national levels. One suggestion is moving funds away from prison systems and police forces and into social services so that there are options for ways to deal with problems beyond arresting, incarcerating, or fining people (Jacobs et al., 2021). Another form of harm reduction could be advocating for policies that call for a requirement of all prison facility staff to have in-depth cultural competence training on the needs of diverse populations so that they can be better equipped to handle a variety of situations (like TGNC individuals who want hormone therapy). In short, social workers can advocate for policies that better support communities and humanize marginalized groups.



### **Future Research Recommendations**

For future research, the author recommends developing a program from the framework of transformative and restorative justice and implementing it in communities with high rates of incarceration and arrest, or in a school setting to gather data on its effectiveness. The author also suggests that more research be done in women's prisons, as much of the research surrounding TGNC people is centered on transgender women in men's prisons. It is also recommended that a more thorough analysis be done of how race/ethnicity and socioeconomic status interact with TGNC identities in arrest rates and imprisonment experiences. Intersections of different identities can create different experiences. For example, the experiences of incarceration for a Black transgender woman might be different than a White transgender woman. While they share the identity of being transgender, their racial identities cause difference in experiences. It is important that research captures the issues of people with diverse backgrounds so that all problems can be addressed.

### **Conclusion**

The prison system inflicts violence on the majority of those who are held within. However, the identities of TGNC people exacerbate challenges and violence against them while incarcerated. The prison system amplifies gender binaries and the expectations of gender performance, which creates dangerous environments for many TGNC people who dare to live authentically and break away from the traditional gender expectations they are assigned. Social workers have a responsibility to look critically at the violence of the prison system and find alternatives that do not rely on violent punishment as a form of justice. Marginalized populations are disproportionately harmed by the carceral complex, yet there are restorative and transformative programs and plans that can replace these harmful systems

if people, including social workers, work towards them. There is a possibility of a world without prisons. There are alternatives to incarceration. There can be a transformation of the justice system in the United States from one of punishment and retribution, to one of healing and peace.

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