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Where the Margins Meet: A Demographic Assessment of Transgender Inmates in Men’s Prisons

Lori Sexton, Valerie Jenness and Jennifer Macy Sumner

Drawing on official data and original interview data on 315 transgender inmates in California prisons for men, this research provides the first empirical portrayal of a prison population in California that is unique by virtue of being both transgender and incarcerated. Situated at the nexus of intersecting marginalities, transgender inmates fare far worse on standard demographic and health measures than their non-transgender counterparts in the US population, the California population, the US prison population, and the California prison population. With the possible exceptions of partnership status and educational attainment, these factors combine to reveal that transgender inmates are marginalized in heretofore undocumented ways. At a time in which an evidence-based approach to corrections is increasingly embraced by corrections officials in the US, this article provides the first systematic profile of transgender prisoners. It reveals they can be regarded as a special population that, from a policy point of view, raises what Minow calls “the dilemma of difference”.

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Introduction

A recently released report by The Pew Center on the States (2008) revealed a startling figure: "For the first time, more than one in every 100 adults is now confined in an American jail or prison" (p. 3). This number has received considerable attention from the media, policymakers, academics, activists, and corrections officials alike, at least in part because it dramatically emphasizes mass incarceration in the USA. Growing mass incarceration, in turn, raises a plethora of social, legal, and fiscal issues related to how US prisons have become "warehouses" for a sizeable, and growing, portion of the American population (Tonry, 2004). In the words of Mauer and Chesney-Lind, "[U]ltimately, a society in which mass imprisonment becomes the norm is one in which questions of justice, fairness and access to resources are being altered in ways hitherto unknown" (2002, p. 2).

Mass imprisonment has been accompanied by newfound challenges confronting criminal justice officials charged with managing diverse and changing inmate populations while attending to human rights issues as well as legislative and judicial mandates. In a historical context in which prisons have become "warehouses" for criminals rather than institutions designed to rehabilitate offenders (e.g., Irwin, 2005; Simon & Feeley, 1992; Tonry, 2004), departments of corrections have increasingly had to confront the realities of incarcerating transgender women—biologically male inmates who identify and/or present themselves as female—in men’s prisons. From a managerial point of view, these realities include reconsidering intake, screening, and classification processes and other custodial challenges related to medical care, housing, physical presentation, disproportionately high rates of victimization, and litigation resulting in high institutional costs (Blight, 2000; Jenness, Maxson, Matsuda, & Sumner, 2007; Mann, 2006; Petersen, Stephens, Dickey, & Lewis, 1996; Tarzwell, 2006; Tewksbury & Potter, 2005).

Among the millions of people currently incarcerated, transgender inmates have become increasingly visible. Over a decade ago, the U.S. Supreme Court heard a case in which a transgender inmate, Dee Farmer, alleged "deliberate indifference" to her safety. In this case the Court affirmed that prison officials have a duty to protect inmates’ rights under the "Cruel and Unusual Punishment" clause of the Eighth Amendment of the U.S. Constitution by protecting them from violence at the hands of other prisoners (Farmer v. Brennan [114 S.Ct. 1970 (1994)]).\(^1\) More recently, the issue of conditions of confinement for transgender inmates was made even more visible to the American public in

1. The Court’s ruling in this case was a landmark decision insofar as it affirmed that being violently assaulted and raped in prison is not part of the penalty and serves no penological objective.
Cruel and Unusual (Baus, Hunt, & Williams, 2006). This award-winning documentary follows the lives and stories of a handful of transgender women in men’s prisons to reveal the complex nature of their identities as well as the unique challenges they face as prisoners. Bringing mainstream media attention to transgender inmates, more than one corrections agency in the USA has made the news when announcing new policies providing for the treatment of transgender inmates. In 2008, for example, New York corrections made national news when Governor Patterson’s office announced a new anti-discrimination policy that allows transgender youth in New York detention centers to wear whatever uniform they choose, be called by whatever name they want, and request (and be considered for) specialized housing (Kates, 2008). More recently, the Washington D.C. Department of Corrections issued a new policy on “Gender Classification and Housing” that will allow for housing placement according to gender identity (Najafi, 2009). Furthermore, in California, State Assemblyman Tom Ammiano (D-13th District) recently introduced a Bill (The LGBT Prisoner Safety Act, AB 382 [2009]) that, if adopted, would require the California Department of Corrections and Rehabilitation (CDCR) to add “self-reported safety concerns related to the sexual orientation and gender identity of the inmate or ward” to the list of “risk factors to be considered” when classifying inmates and wards “in order to prevent inmate and ward sexual violence and to promote inmate and ward safety” (p. 1). At the heart of this legislative proposal, which recently passed the State Senate, is a concern about how best to keep lesbian, gay, bisexual, and transgender inmates and wards safe while incarcerated in California.

In a context in which the judicial decision-makers, the media, elected officials from the executive and legislative branches, and corrections officials are increasingly focused on transgender inmates, there is little empirical social science research devoted to this particular population of inmates. As Tewksbury and Potter (2005) recently concluded, “Despite the fact that transgender individuals are fairly likely to end up in prison... there is very little scholarly information available about transgender inmates” (p. 15-2). While select works examine correctional policies that do and do not address transgender inmates (see Petersen et al., 1996; Tarzwell, 2006; Tewksbury & Potter, 2005), systematic social science work that examines the demographic patterns and lived experiences of this population is, at best, in a nascent state. In 2007, the Sylvia Rivera Law Project, a non-profit group dedicated to providing legal services to transgender, gender non-conforming, and intersexed low-income communities, released a report based on a systematic analysis of first-hand accounts obtained through in-person interviews with legal clients (Sylvia Rivera Law Project, 2007). Also in 2007, research on violence in California correctional facilities by Jenness et al. (2007) revealed that transgender inmates are disproportionately victims of sexual assault. Specifically, comparing the results from in-person interviews with a convenience sample of 39 transgender inmates and a random sample of 322 inmates in California prisons for adult men, Jenness and her colleagues reported that 59% of transgender inmates reported having been
sexually assaulted in a California correctional facility in contrast to 4.4% of the random sample of inmates (Jenness et al., 2007). Moreover, incident-level data from this study revealed that when transgender inmates are sexually assaulted in prison by another inmate, the incident is more likely to involve the use of a weapon, yet less likely to evoke medical attention if needed. Through these and other empirical findings, this report makes clear that the prevalence rate of sexual assault for transgender inmates is significantly higher than for their non-transgender counterparts in prison; moreover, transgender inmates experience different institutional interactions and responses than their non-transgender counterparts in prison.

These recently conducted studies are the exception, rather than the rule, when it comes to relying on systematically analyzed empirical data to delineate the demographic parameters of transgender inmates as a uniquely situated prison population. This is surprising given the wealth of information provided through decades of ethnographic research on inmate culture and lives. Although the term “transgender” is absent in most research on prison culture and inmate violence, a well-established literature on inmate culture nonetheless details the characteristics, behaviors, and status of the “punk” and the “queen”—each of whom could, presumably, be included in current umbrella understandings of the term “transgender.” A queen is an inmate who displays visible feminine characteristics and plays a submissive role to the “men.” The queen is often referred to by female pronouns and is generally understood to have presented as feminine/female when outside of prison (Donaldson, 1993, 2003; Fleisher & Krienert, 2009; Sykes, 1958). While not occupying the lowest position within the prison hierarchy, she is located not far above the truly despised punk (but see also Coggeshall, 1988; Fleisher & Krienert, 2009; Hensley, Wright, Tewksbury, & Castle, 2003). The punk is distinct from the queen and, from the point of view of inmate culture, occupies a lower status within the prison hierarchy because he has been forcibly “turned out” or forced to play the submissive sexual role through force or threat of force.

In their recent work, Fleisher and Krienert (2009) report that “the prison sexual hierarchy does not exist on a simple continuum from homosexual to straight” (p. 66). In light of this finding, they provide rich empirical evidence of
crucial distinctions between punks, “true” homosexuals, and queens. True homosexuals, who may or may not present as effeminate, occupy a higher status position in the inmate hierarchy than punks because they were, presumably, homosexual before coming to prison and are thus, presumably, being “true to themselves” in prison. In contrast, punks are despised because they did not have the strength to resist the force or pressures of other inmates and were “turned out” (i.e., became homosexual). Queens, who look, dress, and act as women, have an elevated status compared to punks for several reasons. Most notably, queens are seen as being who they were prior to incarceration and not willing to hide who they are in prison, whereas punks are viewed as lacking respect for themselves as indicated by their “choice” to engage in sexual submission, something they probably would not do outside of prison (Fleisher & Krienert, 2009). This important recent work is careful to delineate the social roles of differentially vulnerable inmate groups within prison culture as well as the roles each type of inmate plays in prison culture (e.g., Fleisher & Krienert, 2009; c.f., Hensley et al., 2003); however, it does not provide a systematic empirical examination of the demographic contours of these groups of inmates (but see Table 5.1 in Fleisher & Krienert, 2009, p. 73).

Similarly, while empirical research that examines the causes and correlates of inmate violence or other inmate issues often includes inmates with non-normative sexual identities, it does not allow for the separate and distinct consideration of transgender inmates. In prison settings, references to sexual and gender identities are frequently conflated and inconsistently used by both inmates and staff. According to Donaldson (1993), “[t]he prisoner subculture fuses sexual and social roles and assigns all prisoners accordingly” (p. 7). Thus, not surprisingly, even as the more established literature on “homosexuality” in inmate culture details the characteristics, behaviors, and status of those who may presumably be considered transgender, we have yet to fully understand this population within a rubric of non-normative gender and sexual identities. Transgender inmates are a unique and empirically underexamined population whose labels and images are subject to interpretation both inside and outside of prison by inmates, researchers, lawmakers, and lay persons alike.

Drawing on official data and original interview data with transgender inmates in prisons for men, the following research provides the first systematic empirical portrayal of a population that is exceptionally vulnerable by virtue of being...
both transgender and incarcerated. The focus is on demographic and well-being factors that characterize this population in ways that render it distinct from other inmate populations as well as non-incarcerated populations. We begin by detailing the research methodology employed and the data collected. Next, we provide an examination of the demographic characteristics of transgender inmates in California prisons for adult men. We then compare transgender inmates in California prisons for men to the non-incarcerated transgender population, the incarcerated populations of both the USA and California specifically, and the non-incarcerated populations of the USA and California in order to determine whether these populations are comparable or distinct when it comes to a host of demographic and social factors that correlate with victimization and life chances more generally. We do so to address the following overarching, interrelated questions: Are transgender inmates more marginalized than other groups in terms of their basic demographic and social profile? And, if so, how?

Research Methodology and Data

This article draws on data collected from a larger study focused exclusively on transgender inmates in California prisons (Jenness, Sexton, & Sumner, 2009; see also, Jenness, in press). As described below, it makes use of both official and original data collected for the purposes of this larger study as well as secondary data on the US population, the California population, the US men’s prison population, the California men’s prison population, and the transgender population in the community for comparative purposes. We begin this section by defining the target population. Thereafter, we describe the research sites, how we collected original interview data and official data from the CDCR, and how we amassed the best available secondary data to be used for comparative purposes.

Defining the Target Population

Our focus on transgender inmates immediately raised a dilemma best phrased as a question: Who is transgender in prison and how can we identify transgender inmates in prisons? Varying definitions in the activist and research communities, and a lack of consensus with regard to what transgender means in a prison setting and by what criteria an inmate should be classified as transgender, made this task quite challenging. To further complicate matters, the CDCR, the research site for this work, does not employ an agreed-upon definition of transgender to identify or classify inmates. Also, the most recent and most comprehensive research on prison sexual culture does not provide clear direction along these lines (Fleisher & Krienert, 2009, pp. 63-84).

6. For a more detailed description of the research methodology employed in the larger project, see Jenness et al. (2009).
In light of this morass of real-life ambiguity and lack of clear direction from the literature, in order to collect reliable and valid data in prisons for men, we operationalized transgender by utilizing four specific criteria. For the purposes of this study, a transgender inmate is an inmate in a men's prison who: (1) self-identifies as transgender (or something analogous); (2) presents as female, transgender, or feminine in prison or outside of prison; (3) receives any kind of medical treatment (physical or mental) for something related to how she presents herself or thinks about herself in terms of gender, including taking hormones to initiate and sustain the development of secondary sex characteristics to enhance femininity; or (4) participates in groups for transgender inmates. Meeting any one of these criteria would qualify an inmate for inclusion in this study.

Selecting Research Sites

The State of California currently has the largest correctional population in the country (Petersilia, 2008; The Pew Center on the States, 2008). When field data collection began, approximately 160,000 adult prisoners were incarcerated in California’s 33 prisons. Despite the rising rate at which females are being incarcerated in California (Petersilia, 2006), well over 90% of these inmates are housed in 30 prisons for adult men. Rather than sample transgender inmates from these institutions, we worked collaboratively with CDCR officials to identify and make face-to-face contact with all transgender inmates in California prisons for men in order to obtain data on the population. We asked for all inmates on our lists to be recruited for confidential interviews and, once face-to-face with inmates on the list, we asked them if they are transgender. Inmates who met our criteria as described above were invited to participate in the study.

7. By deploying these criteria, we bypassed larger debates about who is and is not transgender and, instead, relied on a comprehensive understanding that would maximize inclusion without diluting the target population beyond recognition. In particular, the third criterion—participation in groups for transgender inmates—was utilized to be as inclusive as possible. While there was the potential for slippage in terms of transgender identification of all inmates who participate in such groups, the actual number of research subjects who were recruited through this means was small.
8. This represents the total population of CDCR prisons in April 2008, just a few weeks prior to the commencement of data collection in the field (see http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Monthly/TPOP1A/TPOP1Ad0804.pdf, last retrieved May 21, 2009).
9. In prison, a ducat is written permission to move throughout the institution for a particular appointment or responsibility, such as a medical appointment or a work assignment.
10. In compliance with the protocol approved by the University of California, Irvine’s Institutional Review Board (IRB), all interviews were conducted in confidential settings after obtaining informed consent. No potential respondents were questioned about inclusion criteria until a confidential setting was secured.
Collecting Original Interview Data

The field data collection process began in late April 2008 and ended in late June 2008; in eight weeks, the interview team traveled to 27 prisons for adult men in California, met face-to-face with over 500 inmates, and completed interviews with over 300 transgender inmates. The interview instrument included questions about transgender inmates’ daily prison life, fear of victimization in prison, perceptions of sexual and non-sexual victimization in prison, personal victimization from sexual and non-sexual assaults in California correctional facilities and in the community, opinions on safety and reporting, and demographics. The shortest interview was less than a half an hour (19 minutes), while the longest extended to just under three hours (2 hours and 55 minutes). The mean duration for interviews was slightly less than one hour (56 minutes). The total amount of live interview time approached 300 hours (294 hours and 6 minutes).

Predictably, there was some sifting and attendant loss of cases from the interview data as we moved from the total number of names provided on all of the lists from 27 prisons for adult men (n = 705) to the number of inmates we actually saw face-to-face at a prison (n = 505) to the number of inmates who met our eligibility requirements for participation (n = 332) to the number of inmates who consented to an interview (n = 316) and the number of inmates who completed a usable interview (n = 315).

There are two potential sources of bias introduced in our data collection strategy. First, there were possibly transgender inmates who were not identified by CDCR officials for inclusion in the study and thus did not appear on our original interview lists. Second, it was the case that many of the inmates who were listed were not transgender (according to our study definition). Our method corrects for error resulting from inmates being on our lists who do not qualify for participation. However, it does not address the opposite source of error: the omission of inmates who qualify for participation in the study from our lists. Fortunately, we have no reason to believe this introduced systematic bias and, in fact, our experience in the field suggests that CDCR

11. For more details on the experience of collecting data on transgender inmates in California prisons, see Jenness et al. (2009).
12. The complete interview schedule is available upon request.
13. The loss of potential cases—going from the name on the master list to actually seeing the person at the prison—is due to a variety of factors, including inmates paroling, dying, or being transferred to another prison after we received our list and before we arrived at the prison; inmates being unwilling to come out of their cell; inmates being unavailable as a result of an urgent medical or psychiatric appointment; and inmates—believe it or not—being "lost" in the prison and thus unavailable for an interview. We emphasize that these are potential losses of cases because we have no way of knowing how many would have met our eligibility requirements and, therefore, have been given the opportunity to participate in the study. If, upon arrival at a prison, we learned that an inmate on our list had been transferred to a prison at which we had not yet collected data, we made every effort to ducat the inmate at that prison; however, if an inmate on our list transferred to a prison from which we had already collected data, we did not return to that prison to ducat the inmate.
officials were—just as we had requested—over-inclusive. This process resulted in a 95% participation rate. This exceptionally high participation rate does not leave much room for consequential bias in the data born of transgender inmates declining to be interviewed. Using age, sex, race/ethnicity, occupational status, and language used in the interview as key interviewer indicators, we found no evidence to suggest that the characteristics of the interviewer had an impact on transgender inmates’ willingness to participate in the study.

Collecting Official Data

We concatenated existing official data retrieved from the CDCR’s database on inmates—the Offender Based Information System—to the self-report data described above. To protect the identity of each inmate participating in the research, we assigned each a unique study identification number for the purposes of this project only. This study ID was used to link the interview and official data for each inmate in the study. Official data variables include age, race/ethnicity, mental health status, verified gang membership, custody level, commitment offense, lifer status, and sex offender registration.

Secondary Data Collection

Finally, for comparative purposes, we retrieved the most comparable data possible on all relevant indicators of social status and welfare across other populations. To do so, we first chose several key demographic and social dimensions on which to compare transgender inmates to other populations, including education and employment, marital status, health, sex work, homelessness, and victimization. We also identified empirical research that examined these variables for each of the following populations: the non-incarcerated transgender population, the incarcerated populations of both California and the USA (in adult men’s prisons only), and the non-incarcerated California and USA populations. A total of 27 data sources were ultimately selected for inclusion in the study. These range from decennial Census reports to small-scale studies of transgender health and economic needs conducted by small non-profit organizations, with

14. We also identified four transgender inmates in a prison for women. Three of these inmates completed an interview. These interviews were exceptionally illuminating, both in and of themselves and in light of interviews conducted in men’s prisons; however, because there are so few cases it is difficult to extrapolate statistical trends from these interviews. Therefore, this research focuses exclusively on transgender inmates in prisons and reception centers for men.
15. Because the University of California, Irvine’s Institutional Review Board, the research design, and our own professional ethics required that the identities of research participants be kept confidential, we received central file information on all individuals currently housed in California adult correctional facilities from the CDCR, from which the research team extracted information for study participants. This enabled us to collect official data without revealing to the CDCR which inmates are included in this study (for more along these lines, see Jenness et al. (2009)).
the methodological rigor and sampling quality of each study informing the ultimate decision for inclusion.

This approach has its limitations, which are largely born of those that are characteristic of secondary data collection more generally. First, the large number of distinct data sources—each with its own particular operationalization of key constructs—results in imperfect comparisons across several dimensions. This is most problematic when differences are evident in the unit of analysis or time frame, or when constructs themselves were differentially operationalized. This limitation was minimized through the selection of sources with data that best approximate measures used for the transgender inmate population in order to maximize validity of comparisons across data. Second, because the study of transgender populations is in a nascent state, several data sources and analyses did not meet the high standards of methodological rigor evident in data for the other populations. In an effort to remedy this, wherever possible multiple measures were used from multiple studies, in order to triangulate the estimates and achieve convergence—or, at the very least, display the breadth in estimates evident in the larger literature. Limitations aside, the official and unofficial data utilized in the next section constitute the best available data given the limited information on this population.

Findings

To make systematic comparisons between the transgender inmate population and the entire men’s prison population in California, we analyzed official data on eight demographic variables: age, race/ethnicity, offense category, custody level, type of life sentence (or not), registered sex offender (or not), verified gang affiliation (or not), and mental health status. Table 1 reveals that transgender inmates are distinguishable from the larger population of inmates in prisons for adult men in terms of age, with transgender inmates more represented in the middle ages (36–45); race/ethnicity, with transgender inmates disproportionately White and Black; commitment offense, with transgender inmates disproportionately White and Black; commitment offense, with

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16. These variables were chosen for two reasons: (1) they are typically used to profile inmate populations; and (2) they represent factors identified by extant research as potential correlates of sexual and/or non-sexual violence—the main focus of the larger study from which this article derives.

17. This finding is no doubt related to the age at which transgender people “come out” (i.e., a process whereby gay men, lesbians, bisexuals, and transgender people inform others of their non-normative identity). A recent study based on a survey of 3,474 transgender people from across the USA revealed the following: although the vast majority of transwomen “felt different” and reported feeling “uncertain about their gender identity” very early in life (age 12 and under), only 1% disclosed their gender identity to others when they were age “12 and under.” According to this study, 6% of transwomen disclosed their gender identity to others between the ages of 13 and 19, 16% disclosed their gender identity in their 20s, 17% disclosed their gender identity in the 30s, and 38% disclosed their gender identity when they were 40 or older. In other words, transwomen most often come out as such later in life (Beemyn & Rankin, in press; but, see a related Power Point presentation at: http://www.umass.edu/stonewall/translives/, last retrieved May 21, 2009). For a more complicated view of coming out as transgender, see Gagné, Tewksbury, and McGaughey (1997).
transgender inmates disproportionately admitted to prison for property crimes; custody level, with transgender inmates disproportionately classified as Level 3 and Level 4 inmates;\textsuperscript{18} sex offender status, with transgender inmates more frequently classified as sex offenders; gang status, with transgender inmates less frequently identified as gang members; and mental health status, with transgender inmates more often classified as CCCMS\textsuperscript{19} and EOP.\textsuperscript{20} The magnitude of the difference (i.e., the effect size) for all of these dimensions is not large. Transgender inmates and the larger population of inmates in prisons for men are roughly equivalent on only one dimension reported in Table 1. Namely, 15.7\% of transgender inmates are serving life sentences and 16.9\% of inmates in prisons for adult men are serving life sentences. Combined, these findings suggest that the demographic composition of the transgender population is considerably different from the demographic composition of the total population of inmates in prisons for adult men.

\textbf{Table 1} A comparison of select characteristics of the transgender inmate population in CDCR prisons for men and the total population in CDCR prisons for men

<table>
<thead>
<tr>
<th></th>
<th>Total transgender population in CDCR prisons for men</th>
<th>Total adult population in CDCR prisons for men\textsuperscript{1}</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(N)</td>
<td>(%)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>332</td>
<td>146,360</td>
</tr>
<tr>
<td><strong>Age</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean</td>
<td>38.05</td>
<td>37.69</td>
</tr>
<tr>
<td>Median</td>
<td>38.50</td>
<td>37.00</td>
</tr>
<tr>
<td>SD</td>
<td>9.61</td>
<td>11.18</td>
</tr>
<tr>
<td>Range</td>
<td>19, 63</td>
<td>18, 92</td>
</tr>
<tr>
<td>18–25</td>
<td>33</td>
<td>9.9</td>
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<tr>
<td>26–35</td>
<td>90</td>
<td>27.1</td>
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\textsuperscript{18} Classification level is based upon the Inmate Classification Score System (ICSS) and represents the recommended custody level at which an offender is to be housed. Inmates with a Level 1 placement score (0–18) are normally housed in Level 1 facilities and camps consisting primarily of open dormitories with a low security perimeter. Inmates with a Level 2 placement score (19–27) are normally housed in Level 2 facilities consisting primarily of open dormitories with a security perimeter, which may include armed coverage. Inmates with a Level 3 placement score (28–51) are normally housed in Level 3 facilities primarily having a secure perimeter with armed coverage and housing units with cells adjacent to exterior walls. Inmates with a Level 4 placement score (52 and above) are normally housed in Level 4 facilities primarily having a secure perimeter with internal and external armed coverage and housing units with cells adjacent to exterior walls or cell block housing with cells non-adjacent to exterior walls. Inmates with Close Custody must be housed in a celled environment, whereas inmates with Minimum or Medium Custody can be housed in a celled or dormitory environment.

\textsuperscript{19} CCCMS stands for Correctional Clinical Case Management System.

\textsuperscript{20} EOP stands for Enhanced Outpatient. According to the \textit{Mental Health Services Delivery System Program Guide} (MHSDS, 2009), EOP inmates experience “Acute Onset or Significant Decompensation of a serious mental disorder” and “an inability to function in a general population” (p. 12-1-8).
Tables 2 through 6 present a bricolage that expands the domain of comparisons between transgender inmates in California and other populations. It does so in two ways: (1) by making comparisons across more populations, including the US population, the US prison population (men’s prisons only), the California prison population (men’s prisons only), the transgender community (non-incarcerated),
and the transgender population in California prisons for men; and (2) by moving beyond age, race/ethnicity, criminal history, and offender status—standard demographic variables—to consider other variables related to health and welfare, including education and employment, marital status, health status (mental health, substance abuse, and HIV status), participation in sex work, homelessness, and experiences with victimization (sexual and non-sexual). These features of social life serve as a lens through which specific dimensions of the economic and social status of transgender people (in general) and transgender inmates (in particular) are rendered evident.

Education and Employment

A comparison of transgender populations in the community and in prison to their non-transgender counterparts reveals notable differences in terms of education and employment, two important measures of class status. The highest level of educational attainment for 32.4% of the transgender inmates in California prisons is a high school degree or GED, while only 8% have a college degree. This compares favorably to the population of inmates in men’s prisons in California and the population of inmates in men’s prisons in the USA; however, it does not compare favorably to the transgender community outside of prison, the California population, or the US population (see Table 2).

Just over 10% of Americans were unemployed or marginally employed as of August 2008 (U.S. Department of Labor, 2008). This stands in stark contrast to the figures for the US and California men’s prison populations one month prior to their arrest, which hover around 30% (U.S. Department of Justice, Bureau of Justice Statistics, 2004). For the transgender population in the community, unemployment estimates range from 23% to over 50% (Herbst et al., 2008 and Clements-Nolle, Marx, & Katz, 2006, respectively). By some accounts, the prevalence of unemployment for transgender people is even higher than the US and California prison populations, and by all accounts it exceeds the percentage of the general population that is unemployed (Table 2). In accordance with estimates for both transgender and incarcerated populations, joblessness for transgender inmates in California prior to their incarceration is just below 30%.

Throughout the interviews with transgender inmates in California prisons for men, transgender inmates expressed awareness of their marginalized status along these lines. For example, a Level 1 African-American transgender inmate who worked as a prostitute on the streets of Los Angeles for over 20 years explained it this way: “Look at me. That’s the only line of business some of us can get. They aren’t going to hire us at Target. Only real girls get hired at Target.” Related, some of the transgender inmates expressed that the value of

21. Unfortunately, there is very little research on the health and welfare of transgender people in the community that reports systematic data along these lines and what does exist consists of convenience samples from a few select regions of the country. As a result, basic demographic characteristics of the transgender community are difficult to document.
Table 2  A comparison of educational status and employment of the transgender inmate population in California prisons for men and various other populations

<table>
<thead>
<tr>
<th></th>
<th>US population</th>
<th>CA population</th>
<th>US prison population (men’s prisons only)</th>
<th>CA prison population (men’s prisons only)</th>
<th>Transgender community</th>
<th>Transgender inmate population in CA men’s prisons¹</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Education</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Some grade school</td>
<td>18.2%</td>
<td>23.2%</td>
<td>60.8%</td>
<td>50.1%</td>
<td>34.5%</td>
<td>38.1%</td>
</tr>
<tr>
<td>High school graduate or GED</td>
<td>28.6%</td>
<td>20.1%</td>
<td>24.6%</td>
<td>31.9%</td>
<td>28.2%</td>
<td>32.4%</td>
</tr>
<tr>
<td>Some college</td>
<td>21.1%</td>
<td>22.9%</td>
<td>10.3%</td>
<td>13.3%</td>
<td>17.9%</td>
<td>21.3%</td>
</tr>
<tr>
<td>College graduate</td>
<td>21.8%</td>
<td>24.2%</td>
<td>1.1%</td>
<td>2.7%</td>
<td>6.3%</td>
<td>7.0%</td>
</tr>
<tr>
<td>Any post-graduate</td>
<td>8.9%</td>
<td>9.5%</td>
<td>1.1%</td>
<td>2.7%</td>
<td>7.6%</td>
<td>1.0%</td>
</tr>
<tr>
<td><strong>Employment</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unemployed</td>
<td>10.7%</td>
<td>7.3%</td>
<td>26.6%</td>
<td>31.6%</td>
<td>23.0%</td>
<td>28.7% (unemployed before most recent incarceration)</td>
</tr>
<tr>
<td></td>
<td>(unemployed or marginally employed as of August 2008)</td>
<td>(percent of civilian labor force unemployed)</td>
<td>(unemployed one month prior to arrest)</td>
<td>(unemployed one month prior to arrest)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

¹Population N = 332 (includes 16 refusals and one unusable interview).
²U.S. Census Bureau (2000).
⁴Xavier (2000).
⁷Herbst et al. (2008).
⁸San Francisco Bay Guardian and Transgender Law Center (2006).
⁹Clements-Nolle et al. (2006).
securing conventional employment outside of prison is as much about securing respect as it is about the pursuit of financial self-sufficiency. As a White transgender inmate who reported considerable problems with drug addiction and mental illness surmised when asked how transgender people get respect outside of prison: "You have to show you can be productive as a transgender. You'll get a lot of respect if you can get a real job." Those who reported having a "real" job—which means conventional, legal employment—outside of prison often emphasized their atypical status. As a biracial transgender inmate distinguished herself from other transgender inmates when she wrote in a follow-up letter:

I am a caring, respectful, productive, self-supported member of society that developed an addiction to meth. I was clean for four years, relapsed, and ended up here. I always have a job, I graduated high school, and have parents that support me being transsexual 100%.

This constellation of factors, especially employment and the presence of social support from family members, is rare among the transgender inmates in California prisons for men.

Marital Status

As shown in Table 3, differences emerge when comparing marital status—as just one measure of social integration—as across various populations. More than half of all US adults are married and approximately one in five prison inmates in the USA and California is married (U.S. Census Bureau, 2000; U.S. Department of Justice, Bureau of Justice Statistics, 2004, respectively). In contrast, only 8.7% of transgender community members reported being married in a survey of over 250 transgender community members in Washington, D.C. (Xavier, 2000). Over 20% of these respondents were reportedly partnered, but unmarried, perhaps due to legal limitations on same-sex marriage and the complications of legal sex change documentation. Approximately 40% of transgender inmates in California prisons reported being currently married or partnered, which is considerably more than transgender people in the community outside of prison (30.1%). Of course, these numbers should be interpreted through the lens of what it means to be partnered for transgender inmates and the degree to which the term signifies something distinct for transgender inmates.

22. The presence or absence of children, another conventional measure of social integration, is also an important consideration. Unfortunately, data along these lines are typically collected with "household" as the unit of analysis, thus comparisons to the transgender inmates in California prisons are problematic.

23. Related work in progress suggests that for some transgender inmates, a partner is simply someone with whom a transgender inmate is currently having sexual relations, while for others it can be operationalized as equivalent to legally recognized marriage. In other words, there is considerable variability in how transgender inmates make sense of the word "partner." This kind of difference in understandings associated with the word partner in prison and among members of the transgender community may very well account for this large discrepancy.
Table 3  A comparison of marital status of the transgender inmate population in California prisons for men and various other populations

<table>
<thead>
<tr>
<th></th>
<th>US population</th>
<th>CA population</th>
<th>US prison population (men’s prisons only)</th>
<th>CA prison population (men’s prisons only)</th>
<th>Transgender community</th>
<th>Transgender inmate population in CA men’s prisons(^1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Married</td>
<td>54.3(^2)%</td>
<td>52.4(^2)%</td>
<td>19.5(^3)%</td>
<td>21.4(^3)%</td>
<td>8.7(^4)%</td>
<td>13.3%</td>
</tr>
<tr>
<td>Partnered (not married)</td>
<td>1.9(^2)% (unmarried partner household members)</td>
<td>2.0(^2)%</td>
<td>2.0(^2)%</td>
<td>21.4(^4)%</td>
<td>28.7%</td>
<td></td>
</tr>
<tr>
<td>Separated</td>
<td>2.2(^2)%</td>
<td>2.5(^2)%</td>
<td>6.6(^3)%</td>
<td>7.9(^3)%</td>
<td></td>
<td>4.7%</td>
</tr>
<tr>
<td>Single</td>
<td>27.1(^2)%</td>
<td>30.1(^2)%</td>
<td>53.6(^3)%</td>
<td>51.0(^3)%</td>
<td>68.7(^4)%</td>
<td>40.7%</td>
</tr>
<tr>
<td>Divorced</td>
<td>9.7(^2)%</td>
<td>9.5(^2)%</td>
<td>18.0(^3)%</td>
<td>17.7(^3)%</td>
<td></td>
<td>8.3%</td>
</tr>
<tr>
<td>Widowed</td>
<td>6.6(^2)%</td>
<td>5.6(^2)%</td>
<td>2.0(^3)%</td>
<td>2.1(^3)%</td>
<td></td>
<td>2.0%</td>
</tr>
</tbody>
</table>

\(^1\)Population \(N = 332\) (includes 16 refusals and one unusable interview).

\(^2\)U.S. Census Bureau (2000).

\(^3\)U.S. Department of Justice, Bureau of Justice Statistics (2004).

\(^4\)Xavier (2000).
Health

Far more revealing than demographic comparisons, however, are the differences shown in Table 4 between the transgender population and the larger population with regard to health, most notably mental health, substance abuse, and HIV/AIDS status. Over 60% of respondents in a San Francisco survey of 362 male-to-female transgender people reported that they were currently suffering from clinical depression (Clements-Nolle et al., 2006)—a figure more than twice the rate of mental illness as a whole for the US population in a given year and over twice the lifetime prevalence of a mental illness diagnosis for male prisoners. Furthermore, estimates of transgender individuals in the community who have had suicidal ideation or who have attempted suicide range from 30% to over 50% (Kenagy, 2005 and Herbst et al., 2008, respectively). Among the incarcerated transgender population in California, over 70% reported having had a mental health problem at some point in their lives, most of whom (66.3%) reported experiencing mental health problems since being incarcerated (Table 4).

Alcohol and drug abuse are similarly overrepresented among transgender populations. Over one-third of transgender people in the community suffer from drug and alcohol abuse problems (Xavier, 2000). The level of alcohol abuse among the non-incarcerated transgender population is slightly higher than among prisoners in general, but the estimate of drug abuse among transgender inmates falls short of the levels for prisoners in general. For the incarcerated transgender population, however, these numbers rise precipitously, with estimates that exceed those of the larger California men’s prison population (see Table 4).

The prevalence rates for HIV are even more disparate. While an estimated .5% of the US population is HIV-positive (McQuillan & Kruszon-Moran, 2008), an estimated 1.6% of inmates in men’s prisons in the US are HIV positive (Maruschak, 2006). The figure for California’s transgender inmates in prisons for men far exceeds that number. According to Dr. Lori Kohler, the founder of California’s only health clinic for transgender inmates (located at the California Medical Facility (CMF) in Vacaville): “Anywhere from 60-80 percent [of transfeminine prisoners] at any given time are HIV-infected. And many are also Hep-C infected. The next greatest problem is addiction” (Alpert, 2005). To worsen the situation, most health care professionals have had little to no exposure to transgender people. Dr. Kohler explained: “Care of transpeople is not something that most medical people understand. As far as I know of, CMF and now CMC [California Men’s Colony] are the only two prisons in the country that actually have a physician who’s dedicated to providing good care [for transgender inmates], including cross-hormone therapies.”

Table 4  A comparison of health status of the transgender inmate population in California prisons for men and various other populations

<table>
<thead>
<tr>
<th></th>
<th>US population</th>
<th>CA population (men’s prisons only)</th>
<th>US prison population (men’s prisons only)</th>
<th>CA prison population (men’s prisons only)</th>
<th>Transgender community</th>
<th>Transgender inmate population in CA men’s prisons¹</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mental health</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mental health problem</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mental health problem</td>
<td>26.2%² (suffer from a diagnosable mental disorder in a given year)</td>
<td>16.3%³ (self-reported current need for mental health treatment)</td>
<td>25.3%⁴ (ever diagnosed)</td>
<td>26.0%⁴ (ever diagnosed)</td>
<td>60.2%⁵ (currently meet criteria for depression)</td>
<td>66.3% (mental health problem since incarcerated)</td>
</tr>
<tr>
<td>Serious mental illness</td>
<td>5.9%² (serious mental illness in a given year)</td>
<td>6.5%⁶ (serious mental illness in a given year)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Substance abuse</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alcohol abuse</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alcohol abuse</td>
<td>7.6%¹⁰ (dependence or abuse of alcohol in past year)</td>
<td>8.2%¹⁰ (dependence or abuse of alcohol in past year)</td>
<td>33.4%¹¹ (current alcohol abuse &quot;high need&quot;)</td>
<td>33.0%¹¹ (current alcohol abuse &quot;high need&quot;)</td>
<td>34.1%⁸ (self-reported current alcohol problem)</td>
<td>37.0% (ever had alcohol problem)</td>
</tr>
<tr>
<td>Drug abuse</td>
<td>2.9%¹⁰ (dependence or abuse of illicit drugs in past year)</td>
<td>2.9%¹⁰ (dependence or abuse of illicit drugs in past year)</td>
<td>40.6%¹¹ (current substance abuse &quot;high need&quot;)</td>
<td>53.0%¹² (drug dependence/abuse)</td>
<td>36.1%⁸ (self-reported current drug problem)</td>
<td>59.3% (ever had drug problem)</td>
</tr>
</tbody>
</table>
Table 4  (Continued)

<table>
<thead>
<tr>
<th>HIV status</th>
<th>US population</th>
<th>CA population</th>
<th>US prison population (men’s prisons only)</th>
<th>CA prison population (men’s prisons only)</th>
<th>Transgender community</th>
<th>Transgender inmate population in CA men’s prisons¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>HIV positive</td>
<td>0.5%³⁴⁵⁶⁷⁸⁹</td>
<td>0.4%¹⁰¹¹</td>
<td>1.6%¹²¹³</td>
<td>10.0%⁷</td>
<td>27.7%⁹ (weighted mean of prevalence across 4 studies)</td>
<td>32.0%⁸</td>
</tr>
</tbody>
</table>

¹Population N = 332 (includes 16 refusals and one unusable interview).
²National Institute of Mental Health (2005).
³Lund (2005).
⁵Clements-Nolle et al. (2006).
⁶California Department of Mental Health (2000).
⁷Kenagy (2005).
⁸Xavier (2000).
⁹Herbst et al. (2008).
¹¹Petersilia (2006). “High need” is defined as reporting at least eight alcohol-related issues across several areas (out of 25 possible areas) or at least 10 drug-related issues (out of 34 possible areas). In short, responding positively to at least 30% of substance-need criteria qualified an individual as “high need.” These criteria were adapted from Prisoner Reentry and Crime in America (Petersilia, 2005).
¹⁵U.S. Census Bureau (2007).
¹⁷Alpert (2005).
you’d want people to understand about being transgender in prison, what would it be?":

I would like to see a lot more of certain staff in here that aren’t too familiar with transgenders to be more familiar and not be prejudiced towards us. I’d like to see some sensitivity training. I wish they knew that being transgender is hard. Going from prison to the community is hard. We need drug treatment that is HIV- and transgender-friendly.

Sex Work

By their own account, over 40% of transgender inmates in California prisons for men have participated in sex work (see Table 5). It is difficult to put this number into context by making comparisons to the US population, the California population, or other prison populations because comparable data for these populations do not exist, but qualitative data suggest this feature of transgender inmates’ lives is relevant to understanding their marginalization insofar as it often forms a nexus with drug use, health and well-being, engagement with law enforcement, and victimization. It is telling that this self-reported rate approximates the rate estimated by Herbst et al. (2008) in their analysis of 29 studies of HIV prevalence and risk behaviors of transgender persons in the USA; to be exact, our study estimates 42.7% and Herbst et al.’s (2008) study estimated 41.5%. It is difficult to imagine a higher prevalence of sex work in the US population, the California population, or the population in men’s prisons.

Compatible with these numbers, it is not surprising that transgender inmates in this study who reported engaging in sex work often did so in a matter-of-fact way, such that the taken-for-grantedness of selling sex was emphasized and the problematic nature of prostitution understood to be an unfortunate part of sex work. When asked about the frequency of engaging in "sexual things against one’s will" or "sexual things one would rather not do," some transgender inmates could not recall exact numbers, but frequently told accounts of prostitution in response to these inquiries. When they were prompted to estimate a number, the response was often some version of "too many times to count" or "more times than I can remember." On occasion and without prompting, some transgender inmates compared working on the streets to serving time in prison. For example, an African-American transgender inmate who reported engaging in prostitution for decades while coming in and out of prison explained: "I was prostituting for 20 years, more than 20 years. It’s [the violence is] much worse on the streets than in prison." Similarly, a recently incarcerated young White transgender inmate who recently tested positive for HIV described being stabbed in the chest while engaging in street prostitution: "I did prostitution for drugs to support myself, my habit. It was easy and fast money, but then there’s the risk. I’m going to die. That’s the risk." Also revealing a theme of life-threatening risk, another transgender
<table>
<thead>
<tr>
<th></th>
<th>US population</th>
<th>CA population</th>
<th>US prison population (men’s prisons only)</th>
<th>CA prison population (men’s prisons only)</th>
<th>Transgender community</th>
<th>Transgender inmate population in CA men’s prisons¹</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sex work</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participated in sex work</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>36.0%² (past 30 days)</td>
<td></td>
<td>41.5%³ (average across 29 studies)</td>
<td>48.0%⁴ (past 6 months)</td>
<td>80.0%⁴ (lifetime prevalence)</td>
<td>42.7% (lifetime prevalence)</td>
</tr>
<tr>
<td><strong>Homelessness</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Homeless</td>
<td>.5%⁵ (sheltered homeless in a given year)</td>
<td>.4%⁵ (sheltered homeless in a given year)</td>
<td>9.0%⁶ (ever homeless)</td>
<td>12.4%⁶ (ever homeless)</td>
<td>6.4%⁷ (current)</td>
<td>10.0%⁸ (current)</td>
</tr>
<tr>
<td></td>
<td>.82–1.2%⁹ (homeless in a given year)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

¹Population N = 332 (includes 16 refusals and one unusable interview).
²Reback and Lombardi (1999).
³Herbst et al. (2008).
⁴Clements and Clynes (1999).
⁷Xavier (2000).
⁸San Francisco Bay Guardian and Transgender Law Center (2006).
inmate explained the circumstances in which engaging in prostitution led to being raped on the streets by a local law enforcement officer:

Transgender inmate: He [a municipal police officer] penetrated me with a foreign object. It was a routine stop in a prostitution area. He arrested me and took me to a secluded area.

Interviewer: What foreign object?
Transgender inmate: His billy club.
Interviewer: Did you report it?
Transgender inmate (mildly laughing): No, god no. Why?

The frequency and severity of violence associated with prostitution notwithstanding, a handful of transgender inmates described engaging in prostitution as a rite of passage of transgender people. As a transgender inmate serving a life sentence who reported engaging in prostitution “for about four months... just to fit in” explained:

It just wasn’t me. I’d rather go get a credit card—someone else’s credit card—and go shopping. I didn’t have to prostitute to survive like some of the girls in here. I got money from credit cards and then told some of the other girls I made it as a prostitute. I’d tell them I had a date for $200. They would be impressed.

In a similar vein, a Mexican-American transgender inmate who reported coming from a wealthy family explained the importance of engaging in prostitution this way:

No matter how much money I had, I wanted to know how much I was worth. How much would a guy pay for me. I went to prostitution to see how much I could get—I got $1,000 once. I’m not joking. A $1,000—and I could have got more.

This is not to say that transgender inmates routinely took pride in engaging in prostitution, nor did they deny the physical harm associated with prostitution. Rather, most frequently, transgender inmates who reported engaging in prostitution described sex work as a way to survive in light of their limited prospects for employment. As one of the oldest transgender inmates interviewed for this study, a biracial transgender inmate who reported engaging in prostitution both inside and outside of prison, explained: "Prostitution. It’s something I have to do to survive. Of course I’d prefer to not do it. I’d prefer to not be in here. But, I am. You just make the best of it. That’s all you can do, really.” Elaborating along these lines, another older African-American transgender inmate who reported engaging in prostitution off-and-on since becoming a teenage runaway said:

I was a sex worker beginning when I was 18. But, I stopped when I was 40 once I got SSI. When I was a prostitute, there would be dates I really didn’t want, but I did it for the money. I didn’t want to do it, but it wasn’t against my will. I did it willingly, but I didn’t want to.

These and other comments by transgender inmates point to the multiple ways in which engaging in sex work and being transgender outside prison intersect in
the lives of transgender inmates. At the aggregate level, these are lives defined by considerable economic and social marginalization, including exceptionally high rates of homelessness.

Homelessness

Estimates of homelessness for transgender people who are not incarcerated range from 6.4% to 25.5% of the population reporting being currently homeless (Xavier, 2000 and Reback & Lombardi, 1999 respectively). The prevalence of homelessness among transgender people, according to a meta-analysis of 29 studies, averaged almost 13%—a figure over 10 times as high as the largest estimate for the US population (Herbst et al., 2008). This number increases further still when considering the incarcerated transgender population. Nearly half (47.7%) of California’s transgender inmates experienced homelessness at some point in their adult lives, and over 20% reported being homeless right before their most recent incarceration (Table 5).

Transgender inmates in California prisons described homelessness as an outgrowth of not being able to work, lacking social support in the form of dependable family and friends, and being confronted with no viable alternatives upon parole. An African-American transgender inmate described daily life prior to coming to prison this way: “I was a girl on the street. I can’t read well enough to get a job. I lived homeless and panhandled to eat every day. I go to the mission to shower and change my clothes.” This transgender inmate went further to express a desire to learn to read past the sixth-grade level, a concern about having no place to live upon release, a defeatist attitude about any prospects for improvement in her life, and an acceptance of the inevitable: that upon release from prison, life outside prison would be ”all the same” as it was before being incarcerated due to a lack of programming in prison and a lack of alternatives outside of prison. In this case, ”all the same” includes prostitution and considerable victimization in the form of verbal harassment and sexual assault on the street.

Others are beginning to document the ways in which the consequences of being homeless are exacerbated for transgender people, including acting as a catalyst for criminal behavior and attendant incarceration (see, e.g., the Sylvia Rivera Law Project, 2007). As Raschka (2008) recently explained to a national audience after examining the lives of homeless transgender youth: ”Transgender people face—often bravely—hostility and other obstacles that complicate their homelessness” (p. C08). Homelessness, like many of the other dimensions of marginalization associated with being transgender, correlates with victimization.

Victimization

In terms of physical victimization, transgender individuals do not fare well—and transgender inmates worse still. Compared to the 2.3% of the US population who...
were victims of a violent crime in a given year (Rand & Catalano, 2006), an estimated 37% of transgender people reported having experienced physical abuse because of their gender identity or presentation (Clements & Clynes, 1999) and 43%, 51.3%, and 59.5%, respectively, report lifetime violent victimization (Xavier, 2000), lifetime physical abuse (Kenagy, 2005), and lifetime harassment or violence (Wilchins, Lombardi, Priesing, & Malouf, 1997). While reports from a single year cannot be directly compared to lifetime prevalence rates, the sheer magnitude of the difference suggests that transgender people are differentially vulnerable to victimization. As compared to inmates in US and California men’s prisons—by all reports, populations that have also suffered high rates of physical abuse—transgender people experienced more than five times as many incidents of non-sexual physical victimization. Even when compared to other relatively vulnerable populations, transgender people are perilously situated. When examining a population that is doubly vulnerable—transgender inmates—lifetime prevalence of physical assault while presenting as female outside of prison is 67.3%, a number that rises to 88% when considering assault both in and out of a carceral setting (Table 6). Statistics are just as revealing for sexual victimization. While approximately one in 10 Americans—and one in six American women—has experienced rape or attempted rape (Tjaden & Thoennes, 1998), numerous estimates for the transgender population range from 13.5% to nearly 60% (Clements & Clynes, 1999; Kenagy, 2005; Wilchins et al., 1997; Xavier, 2000). The corresponding figure for transgender inmates in California prisons is higher still, with over 75% of the population reporting a lifetime prevalence of sexual victimization (Table 6).

Discussion and Conclusion

The demographic profile of transgender inmates presented in this article reveals multiple dimensions of social and economic marginality. Although transgender inmates constitute a diverse group in terms of continuity of gender presentation, gender identity, sexual orientation, and sexual attractions,25 it is nonetheless useful to consider “transgender” an umbrella term that encompasses multiple non-normative identities, sexual orientations, and presentations of self. With regard to the social, economic, and experiential status of transgender inmates, the larger picture is clear: with the possible exceptions of having a partner (in the interpersonal sense of the word) and educational attainment, transgender inmates are marginalized in ways that are not comparable to other prison populations.

25. Work in progress reveals that transgender inmates are a diverse prison population in terms of four important dimensions of self and identity—continuity in terms of female presentation, gender identity, sexual orientation, and sexual attraction(s)—as well as the considerable variation among transgender inmates in California prisons for men in terms of collective identity and collective efficacy.
Table 6  A comparison of victimization among the transgender inmate population in California prisons for men and various other populations

<table>
<thead>
<tr>
<th></th>
<th>US population</th>
<th>CA prison population (men's prisons only)</th>
<th>CA prison population (men's prisons only)</th>
<th>Transgender community</th>
<th>Transgender inmate population in CA men's prisons¹</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Physical victimization</strong></td>
<td>2.3%² (victims of violent crime [including sexual victimization] in a given year)</td>
<td>11.9%³ (lifetime physical abuse)</td>
<td>12.4%³ (lifetime physical abuse)</td>
<td>37.0%⁴ (lifetime physical abuse because of gender)</td>
<td>67.3% (ever been physically assaulted outside of prison)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>13.4%⁵ (lifetime physical abuse)</td>
<td></td>
<td>43.0%⁶ (lifetime violent victimization)</td>
<td>88.0% (ever been physically assaulted)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>13.4%³ (lifetime physical abuse)</td>
<td>51.3%⁷ (lifetime physical abuse)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>59.5%⁸ (lifetime harassment or violence)</td>
<td></td>
</tr>
<tr>
<td><strong>Sexual victimization</strong></td>
<td>10.5%⁹ (lifetime rape/attempted rape)</td>
<td>5.7%³ (lifetime forced sexual contact)</td>
<td>5.6%³ (lifetime forced sexual contact)</td>
<td>13.5%⁶ (lifetime sexual assault)</td>
<td>42.7% (ever had to do sexual things against will outside of prison)</td>
</tr>
<tr>
<td></td>
<td>17.6%⁹ (females only)</td>
<td>5.8%⁵ (lifetime sexual abuse)</td>
<td></td>
<td>14.0%⁸ (lifetime rape or attempted rape)</td>
<td>59.3 (ever had to do sexual things would rather not have done outside prison)</td>
</tr>
<tr>
<td></td>
<td>3.0%⁹ (males only)</td>
<td></td>
<td></td>
<td>53.8%⁷ (lifetime forced sex)</td>
<td>75.3% (ever had to do sexual things against will)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>59.0%⁶ (lifetime forced sex or rape)</td>
<td></td>
</tr>
</tbody>
</table>

¹Population N = 332 (includes 16 refusals and one unusable interview).
⁴Clements and Clynes (1999).
⁵Harlow (1999).
⁶Xavier (2000).
⁷Kenagy (2005).
⁸Wilchins et al. (1997).
As the focus shifts from the transgender population outside of prison to the incarcerated transgender population, these multiple sources of marginalization continue—and along some dimensions are exacerbated. Most significantly, transgender inmates fare far worse in terms of their health, participation in sex work, homelessness, and history of sexual victimization. It is not surprising that these factors cluster together. Homelessness has dire consequences for both physical and mental health (a relationship which is often reciprocal) and can be intimately linked to sex work as a means of survival—a means that carries with it a high risk of victimization. Stories of violence recounted by transgender inmates were common both as they related to living on the streets and, more generally, simply living as transgender—prompting the vast majority of transgender inmates to report sexual assault in the community and/or while incarcerated. These accounts not only reveal drastically disproportionate marginalization at multiple turns, but also highlight the interconnectedness of these marginalities inside and outside of prison.

Taken together, the findings presented in this article illustrate the familiar point attributed to the philosopher de Tocqueville: “It is well known that most individuals on whom the criminal law inflicts punishment have been unfortunate before they become guilty” (Beaumont & de Tocqueville, 1964, p. 172). This quote is perhaps nowhere more true, as an empirical matter, than with regard to transgender inmates in California prisons. Related, it is shocking that volumes of research on prisons and prison populations have heretofore not put forth a basic understanding of the demographic, health, and welfare related characteristics of transgender inmates and systematically discerned the degree to which they are similar to or dissimilar from other populations of inmates and the larger communities from which they derive. Having done so, this article is a first.

The final issue to be addressed in this article is criminal justice policy. First and foremost, the findings presented in this work suggest that it would behoove law enforcement officials, especially corrections officials charged with providing custody and care to transgender inmates, to understand that this population is a uniquely marginal one, both inside and outside prison. As an empirically discernable population above and beyond just being transgender, transgender inmates are uniquely stigmatized, are less advantaged in terms of “life chances,” and have comparatively few resources to draw upon to navigate prison life such that their experiences in prison are conducive to safety, rehabilitation, and successful reentry into their—and our—communities.

The incarceration of transgender women in prisons for adult males poses a range of managerial challenges to correctional officials charged with ensuring the safety and security of all inmates, including transgender inmates. As others are beginning to document, managerial challenges emerge in light of considerable ambiguity surrounding what it means to be transgender; unique medical concerns for transgender inmates, especially those related to initiating and sustaining hormone therapy; complicated questions about where best to house transgender inmates—in the general population or in segregated housing assignments—in light of their amplified vulnerability to assault (both sexual and
non-sexual); and an array of dilemmas related to the physical appearance and grooming standards for transgender inmates, including the wearing of female clothing, especially bras and other underwear, the use of cosmetics that accentuate femininity, and the ability to wear long hair and be respectfully referenced by female names and pronouns in men’s prisons (Mann, 2006; Petersen et al., 1996; Rosenblum, 2000; Sumner, 2009; Tewksbury & Potter, 2005). With these and other concerns in mind, the development of correctional policies for transgender inmates is, at best, in the incipient stages.26

It would be premature to use this one study and the central finding it advances—that being transgender and being incarcerated is “where the margins meet” in discernable ways—as the basis for recommending specific managerial policy directives to corrections officials. However, it is entirely reasonable to encourage those charged with providing custody and care to the transgender population to be sensitive to what others have called “the dilemma of difference.” As Minow (1990) succinctly explained in Making All the Difference: Inclusion, Exclusion, and American Law:

The stigma of difference may be recreated both by ignoring and by focusing on it. Decisions about education, employment, benefits, and other opportunities in society should not turn on an individual’s ethnicity, disability, race, gender, religion, or membership in any other group about which some have deprecating or hostile attitudes. Yet refusing to acknowledge these differences may make them continue to matter in a world constructed with some groups, but not others, in mind. These problems of inequality can be exacerbated both by treating members of minority groups the same as members of the majority and by treating the two groups differently (p. 20).

With regard to transgender inmates, a population that certainly exists on an important axis of differentiation and related inequality in modern life, this comes down to developing correctional policy that finds a balance between treating them the same as other inmates and recognizing their minority differences and the implications of those differences. The dilemma of difference

26. For example, in the USA there is no clear and definitive legal standard for determining the placement of transgender prisoners in particular types of prisons or housing units within prisons. Most states routinely assign convicted felons to male or female prisons on the basis of their genitalia even as it is both rare and increasingly common for jails and prisons to segregate inmates by sexual orientation and, to some degree, gender (Tarzwell, 2006). Although still rare, an increasing number of states are developing policies related to hormonal treatment for transgender inmates; the modal method is one of treatment “maintenance” that continues treatment existing prior to incarceration but does not further it (Tarzwell, 2006). A few recent progressive policies and practices for transgender inmates in correctional systems throughout the USA have begun to provide a multi-dimensional approach to the management of transgender inmates that not only addresses housing placement and medical treatment but also gender expression and identification in the form of attention to and respect for chosen name and pronoun use as well as clothing, makeup, and hygiene items (Kates, 2008; Najafi, 2009). In other words, although the issues related to transgender issues are increasingly clear, there is little agreement on how to resolve them and even less social science research to be utilized in the resolve. This, then, presents a challenge to correctional officials who embrace an “evidence-based corrections” approach to developing and implementing correctional policy.
evokes a tension between recognizing the unique characteristics and vulnerabilities associated with the transgender population, and, at the same time, remaining true to the value of fairness, which often is most recognizable as avoiding the temptation to single out various types of inmates for treatment that might inadvertently increase vulnerability and amplify disadvantage in prison and beyond.

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