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The Carceral Production of Transgender Categorical Precarity

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ABSTRACT OF THE THESIS

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by

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Master of Arts in Social Ecology
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This study draws on document analysis and in-depth interviews to explore California's Transgender Respect Agency and Dignity Act—a pathbreaking policy that creates legal and administrative pathways for transgender prisoners to be housed with the gender of their preference. I examine the policy as it emerged—the ways in which it understands and rhetorizes gender and safety and strategizes to resolve the crises facing incarcerated transgender people—and its implementation—and the strategies and logics used to do so—and identify common elements across these domains. I identify four reoccurring methods used to contest transness and gender-nonconformity—the superimposing of gender-nonconformity and criminality, discursive laundering, recentering the needs of other populations, and mythmaking—that ultimately serve as a form of institutional social control which I refer to as *categorical precarity*. In conclude with what *categorical precarity* implies about prison reform and transgender futurity.

INTRODUCTION

As a part of the *transgender criminal legal system nexus*—a framework which describes the cultural criminalization, in which criminal—legal institutions construct gender-nonconforming people as illegible, suspicious, and criminal, resulting in disproportionate contact with systems not designed for them (Jenness and Rowland, In Press)—trans women, especially poor, Black trans women, are swept from the streets and caged in "sex-segregated" facilities according to genital configuration. "Cruel and unusual" (Baus, Hunt, and Williams (2006), "soul murder" (Lyseggen 2015), "like a war zone" (Stohr 2015): these are the words offered by scholars and advocates to describe the experiences of trans woman forcibly boarded in facilities for men. Its undeniable ghastliness is reflected in numbers—studies have consistently shown that the annual prevalence of sexual assault for incarcerated trans women is over 33% (compared to 4% of their cisgender counterparts) (Beck 2014), and lifetime rates are nearly 60% (Jenness et al. 2007; 2019). Further, they are routinely denied gender-affirming medical and mental healthcare (Hughto et al. 2018), gender recognition or even basic humanity by staff and other prisoners (Clark et al. 2017).

In an attempt to affect a "safe, humane, respectful and rehabilitative environment" (CDCR 2023) for transgender, nonbinary, and intersex (TGNBI)[1] people in the custody of the California Department of Corrections and Rehabilitation (CDCR), California passed the Transgender Respect, Agency, and Dignity Act (TRADA; 2020)—a pathbreaking law, that

[1] I use "Transgender, nonbinary, and intersex" only when specifically referring to the class intended as described by the law. These three labels and their individual meanings are highly contested, even more so their relation to one another. To avoid asserting spurious relationships, throughout this study I endeavor to use terms only as they are relevant to data under analysis (e.g., transgender, transgender and nonbinary, gender-nonconforming, transgender and non-conforming) or a specific policy, as terms such as TGNBI have a tendency to flatten and erase the complexity of queer experience.

among other rights, created legal and administrative pathways for transgender prisoners to be housed with the gender of their preference. In recognizing that trans bodies are incoherent to and thus made vulnerable by binary and essentialist categorizing and sorting and processes of prisons (Jenness and Rowland, In Press), it also attempts to bring trans ontology into institutional coherence through administrative and epistemological reforms. This study orients to the pervasive history of failure of transgender rights reforms to secure meaningful change for transgender prisoners by examining the penal complex's relation to the moral orders in which it is embedded. I ask what can be learned about the possibilities of carceral resistance and trans futurity using TRADA as a key case study of policy that challenges those structures, even when they, as one interviewee opined, are "a fucking catastrophe."

This paper begins by positioning this literature within sociolegal, policy, queer, post-structuralist literature. I provide necessary background information about the history and variation of transgender housing policy and contextualize them with work on the social construction of gender-nonconformity and danger. This analysis uses 14 in-depth interviews with policy stakeholders and an exhaustive collection of institutional documents produced during TRADA's legislative process to explore the policy as it emerged—the ways in which it understands and rhetorizes gender and safety and strategizes to resolve the crises facing incarcerated trans people—and its implementation—and the strategies and logics used to do so. I describe several reoccurring methods used to contest transness and gender-nonconformity—superimposing of gender-nonconformity and criminality, discursive laundering, recentering the needs of other populations, and mythmaking. In doing so, the analysis locates the moments and tactics in which the symbolic resources required for these contestations are laundered into the policy arena and are brought into tension with institutional actors' desire to end the suffering of

trans prisoners. I argue that the methods of reconciliation (re)produce the social order in which anti-trans prison violence is made possible, and demonstrate that they, in turn, transform the policy into a technology of social control. In the discussion I explain these findings and propose a theoretical framework, which I use to diagnosis the policies' failure to affect transgender safety as structural, the result of the prison's relation with the broader moral order in which it is embedded. I end by discussing the implications of this study on trans rights and futurity and broader applications of the new theoretical framework.

In thinking about how marginalized classes are managed through a combination of discursive destabilization and bureaucratic discretion, this work draws from Miriam Ticktin's studies of *regimes of care* (2011), Judith Butler's notion of precarity as an ontological state (2004), and Foucauldian inspired scholarship on discipline and the management of penal subjects through the use of categories (Dowling and Inda 2013; Feeley and Simon 1992; Garland 1985; Kanstroom 2007; Reiter and Coutin 2017). I propose a theory of *categorical precarity* to describe how social positions are translated into the grammars of law. I show how, when institutionalized, precarity is a method of social control that exploits the bifurcated social frame that views marginalized classes as they undergo rights expansion—simultaneously as a denigrated/worthy class and one permissible/worthy of rights. Precarity denotes the ease with which these competing frames allows those in positions of authority to shuttle individuals between categorizations to circumvent the institutional complications of rights expansion. Under TRADA, California legislators and CDCR overcome the complications posed by the prohibition of genital-based segregation through imposition of gender onto trans prisoners, recategorizing them from rape victim to rapist; woman to man; worthy of care to unworthy; authentic to manipulator.

Trans ontology has been socially and legally constructed as sets of contested binaries (Sharpe 2006)—Man/Woman, pre-opt/post-opt, authentic/manipulator, victim/assailant, sick/healthy—and because of the ways in which these various statuses are regulated by institutions and policy, trans prisoners render *categorical precarity* particularly visible. In this way, trans prisoners are a vivid lens for researchers to explore how the power relations that structure the treatment of and management of prisoners are particular articulations of "fundamental points of anchorage […] found outside the institution" (Foucault 1982: 791) thus categorical precarity might allow us to theorize about how other classes of penal subject take on new institutionally actionable identities: deportable, excludable, expendable, malingering, executable etc. Rosenblum (2000) observes that trans prisoners "signal the grave dangers facing all of us in a wide array of social structures, elucidating the apparently intractable problems of gender" (pp. 502–503), referred to the population as a type of "minors canary," (p. 502) and this works theoretical contributions explain why this is particularly true in the carceral context. A part of this theoretical work, this study draws from the sociolegal theories of critical trans studies. Fundamentally the trans critique is one in which legal epistemology—which trans people lie outside of—circumscribe the limitations of transgender policy reform (Spade 2015; Beauchamp 2019; Currah 2022) and instead calls upon abolitionist politics (Stanley and Smith 2015; Dangaran 2021; Martins and Coelho 2022; Reed 2022). By producing empirical explanations regarding the relationship between trans laws and their perverse outcomes, I also offer a theoretical intervention that brings the possibilities of trans resistance into focus, complicating the maximalism-incrementalism dichotomy, which situates reform as simply trading harm between the short and long term.

BACKGROUND AND LITERATURE

Gender Essentialism's Necessary Trans Deviance

I use gender essentialism here to refer to a culturally foundational ideology built upon the belief that men and women possess distinctly, immutably different constitutive essences which reflect categories of order found in nature. This belief is so pervasive and naturalized, one is always immersed in the evidence of its fundamental organizing influence. Critical trans scholars theorize gender-nonconformity as in an ontological and epistemological tension with gender essentialist institutions that "centers less on their identification as transgender per se than it does on the perceived deception underlying transgressive or non-normative gender presentation" (Beauchamp 2009: 356). In this way "legal, medical, and criminological discourses have produced a particular deviant image of gender-nonconformity—one that is sexually predacious, diseased/contagious, mentally ill, deceitful, and socially destabilizing" (Jenness and Rowland 2023, In Press). Beauchamp (2009: 33) asserts that these cultural images are naturalized through "the constant repetition of this narrative structure […]" which "[…]locates violence not in the institutional practices of media, medicine, or law, or in the rigidly gender-normative behaviors and relationships they uphold, but instead in individual transgender people's fraudulent bodies and identities."

Gender essentialism produces a specifically carceral conception of safety which is ontologically dependent upon sex segregation[2]. Sex-segregation in prison, and its various purported rationale—to protect women from violence and abuse, to gendered treatment and

[2] Importantly, while I prefer to use "sex" and "gender" interchangeably in recognition that both terms are socially constructed indicators of gendered performance and legibility, neither elucidating a discrete truth, when I refer to "sex segregation" in this article, I refer to its normative biopolitical usage. Sex segregation projects attempt to order according to a mythic biological "Truth."

programming (including less physically demanding tasks for women), and to attempts to keep them from "sexual mischief" (Sumner an Sexton 2016:619)—reinforce a gender-essentialist social order, wherein "women prisoners were 'good girls' who were generally not regarded as morally culpable for their crimes because they were the victims of bad men" (McCorkel 2013) whom they need to be protected. This unnatural framework casts trans women as immutably and essentially male, and thus perpetrators of violence against females, or at least, trans inclusive housing policies as creating the circumstances that allow men to opportunistically pose as trans women and gain access to assault women. Notably this persists despite research demonstrating that trans inclusive policies are not associated with increased crime (Hasenbush et al. 2019; Fradella 2023). Summarizing the available data, Rowland and Fradella (2023) write, "There is one reasonable conclusion to take away from the available criminological research: trans-exclusionary laws do not protect cisgender women and girls from sexual violence or harassment, but they do result in dramatic increases in sexual and lethal violence for transgender and gender-nonconforming adults and children." In the interest of maintaining safety and security in prison, sex-segregation serves as a technology to control the "threat," particularly that posed to incarcerated women by gender nonconformity by hypervisibilizing and contain non-normative bodies. Isolation then "reiterates a legitimized gender configuration" (Sanders et al. 2022: 11) and contributes to naturalization of normative gender categories that justify trans exclusion (Pemberton 2013).

This growing literature on transgender prison housing policy and the criminalization of gender-nonconformity reveals that regardless of whether it be through solitary confinement, fully integrative practices, strategic segregation, or gender-identity based housing, safety is ultimately pursued through sex-segregation. We might understand this consistency as an institutional

crystallization of higher external power relations and as an encounter with the "carceral imagination" (Harcourt 2005). This is to say trans prison policies are a key site for the imposition of a White cisheterosexist moral order, which, in turn, serves as the fundamental limit to reform.

A History of Trans Incarceration Policy

I begin by connecting a pivotal moment in both trans history and prison rights to show that the issue that TRADA intends to solve, and in turn, trans prisoners, are embedded in much more complex matrix of institutional reform and political action. In 1994[3], the U.S. Supreme Court unanimously held that prison officials are liable under the Eighth Amendment for the conditions of confinement should they possess the knowledge that said conditions pose a substantial risk of injury (*Farmer v. Brennan* 1994). Farmer's reconsideration of deliberate indifference would become the cornerstone of contemporary prison litigation "[…] not only for transgender prisoners, but all prisoners" (Iyama 2012:35–36). That the platonic victim of prison's deliberate indifference, Dee Farmer, was, in fact, an incarcerated transgender woman, however, speaks to the ways in which transgender women specifically are at the center of the problem of prison sexual violence. It is significant to understanding the trajectory of penal institution's address of sexual violence that future reforms are a response to tensions of transgender and incarceration. Tellingly, despite their centrality, institutions have, until recently, chosen not to interrogate the gendered underpinnings of the *dilemma of difference* (Sumner and

[3] It goes without saying that transgender people have been in prison prior to Dee Farmer—trans and gender non-conforming people have been in prisons as long as there have been prisons to put them in. 1994 is significant not only because of Farmer, but because Farmer, at least the way in which the case was articulated, was not possible without the language and politics of the budding trans rights movement of the early 90s (see Stryker 2008 for history of the early trans rights movement).

Sexton 2016) posed by genital based housing practices and continue to house trans women in facilities for men in one of three ways:

> 1) in a way that integrates them with other populations of incarcerated people, 2) in a way that segregates them from other people who are incarcerated, and [or] 3) in a way that isolates them from others (Jenness 2021: 9).

In the years following *Farmer*, a series of human rights groups' investigations on prison sexual assault set into motion a broad coalition of reformers demanding the state intervene to prevent sexual abuse in detention. Prisoner rights organizers advocating on behalf of human rights were joined by Christian fundamentalists who endeavored to stop sex in prison—especially the nonheteronormative variety—with both factions enjoying the bipartisan support of congress (Arkles 2014). Their compromise resulted the most widely known intervention aimed at preventing prison sexual assault, The Prison Rape Elimination Act, or PREA (2012). PREA is a set of and "zero-tolerance" standards for the "detection, prevention, reduction, and punishment" (2012) of sexual violence and attempts to fully-integrate prisoners who are at higher risk of sexual violence into general population. Nearly a decade after the initial federal legislation was passed, the PREA commission released a set of national standards that states could adopt to be compliant with the federal statute[4]. Notably, the standards included several mandates specifically intended to address transgender sexual victimization, including: staff training on searching and interacting with LGBT and gender-nonconforming prisoners; case-by-case housing and searching decisions that balance institutional management and security concerns with the health

[4] As of 2020, 21 states have been certified as PREA compliant, 29 states have filed assurances that they are in the process of becoming compliant, and two states had not adopted PREA (BJA 2020).

and safety of the prisoner; opportunities for transgender and intersex prisoners to shower apart from other prisoners. The U.S. Department of Justice (DOJ) has clarified that PREA compliance prohibits facilities from housing practices which would, in effect, result in genital-based segregation, in theory, allowing trans prisoners to be housed congruently with their gender modality (2021). However, in 2020, one report estimated that "out of 4,890 transgender state prisoners tracked in 45 states and Washington, D.C., NBC News was able to confirm only 15 cases in which a prisoner was housed according to their lived gender were confirmed" (Sosin 2020).[5] Oberholtzer's report on PREA auditing and enforcement suggests this failure, in part, is a result of pervasive insouciance by auditors toward trans prisoners and audits that selectively choose which provisions require investigation and compliance (2017). Further underscoring the problem is Carillo's (2022) article, tellingly titled, *PREA Is a Joke': A Case Study of How Trans PREA Standards Are(n't) Enforced* (2022); however, other critiques suggest its failure is of a more fundamental nature.

Even under PREA-compliant prison regimes, sexual victimization, especially that of transgender women, continues (Carillo 2022), but PREA's conflicting reporting procedures (that with existing and expected procedures) and complicate both the process of filing complaints and their interpretation by courts, creating even more opportunities for survivors' legal claims to be easily dismissed (Arkles 2014). These contradictions constitute more than a barrier to justice. Prisoners are placed in a cruel and impossible position when they must choose between being retaliated against for reporting (Surrell and Johnson 2020), being penalized for "failing to

[5] According to Carrillo (2022), Sosin's estimate, "… is not entirely accurate, as seven states refused to disclose where trans PCIs [people currently incarcerated] were housed, and five states did not respond to requests for information" (2020:71) and should be understood with those data limitations in mind.

report," and being subjected to solitary confinement for "protection" (Arkles 2014). More fundamentally, however, PREA is the culmination of centuries of U.S. penological entanglement with Christian fundamentalism, wherein moral panics about sexuality and gender non-conformity have been institutionalized, wherein the heated discourses of sex, gender have congealed as threats to prison security (Borchert 2016). To legitimate the punishment of all sexual contact, one must frame all sex as non-consensual. To do so, PREA relies upon the logics of sex-segregation—incorrectly assuming it achieves cisheterosexual single gender populations—and criminalizes those falling outside its normative lens (Sumner and Sexton 2016).

One widely proposed policy alternative to protect transgender prisoners is the use of specialized units for gender and sexual minorities (GSM), or *strategic segregation*. Following the same logic as sex-segregation, these arrangements assume that safety can be achieved by segregating gender and sexual minorities from the general population. While Dolovich's study (2011) of Los Angeles County jails' strategic segregation units is uncertain as to whether LA's segregation model decreased rates of violent victimization for trans prisoners, it found that prisoners in the unit reported feeling safer. Another case study at Riker's Island, however, observed that because admission was based solely upon GSM (Gender and Sexual Minority) status and did not assess for other indicators of vulnerability, both predacious GSM and non-GSM prisoners who fraudulently gained access were included in strategic segregation housing and were able to continue to exploit vulnerable prisoners. As a result, officials closed the unit, choosing to "instead house vulnerable inmates who ask for protective custody in a similar fashion to solitary confinement for which gay and transgender inmates would be locked down for twenty-three hours a day" (Blackburn, Fowler, and Mullings 2014: 109). Like both the full-

integration model of PREA and solitary confinement, strategic segregation is oriented only toward prisoner-on-prisoner assault, ignoring that fact that some estimates suggest that the majority of all prison sexual assault that occurs in facilities designated for men is perpetrated by staff (Beck 2014). Other critics assert that strategic segregation models are demoralizing and dangerous (Dolovich 2011); expensive and contribute to carceral expansion (Spade 2015); expose detainees to neglect and exclude them from essential services and rehabilitative opportunities—recreational, educational, occupational (Peek 2004)—and serve as a degrading and symbolic rejection of identity.

Observing agency-level policies, one would expect much of the U.S. to allow trans prisoners to be housed in sex-segregated facilities according to their gender-identity on a case-by-case basis, but the limited available data suggests this to be largely nominal (Oberholtzer 2017). In a trend-breaking decision, Connecticut became the first U.S. state to make gender-identity-based housing a matter of statute, passing An Act Concerning Fair Treatment of Incarcerated Women (2018). The law states that qualifying transgender prisoners are to "presumptively be placed in a correctional institution with inmates of the gender consistent with the inmate's gender identity" (p. 7), with a caveat that allows administrators to override the presumptive placement should it "present significant safety, management or security problems" (p. 7), Despite its originality, it has received little attention from scholarship, news media, and advocacy, and thus little is known about its efficacy; however, research into other countries' policies is instructive.

In 2018 Israel Prison Service's (IPS) implemented a series of reforms regarding its treatment of transgender and gender-nonconforming prisoners (TGNC) to allow for the possibility of gender-identity based housing on a case-by-case basis. In Yonat and Katri's (2020)

research of the law's implementation, they found that the lived experiences of TGNC prisoners were not improved, rather they continued to be primarily placed in administrative segregation despite the directive's explicit prohibition of it. Their analysis found that its failure was "rooted in the logic of carceral systems themselves, which relies upon gender segregation and isolation as means for protection and rehabilitation" (Yonat and Katri 2020: 201)—an incompatibility between systems of safety which require discrete mutually exclusive categorization, and "the heterogeneity and intersectionality of lived experiences" (p. 247). The tension between transgender prisoners and prison's taken-for-granted dependance upon sex-segregation for safety are also noted by Hébert's analysis of Correctional Service of Canada's (CSC) 2017 reforms.

According to Hébert (2020), prison administrators, front-line staff, and trans prisoners, struggled to navigate the law's "nebulous policy principles" (p. 223), revealing that "rights and risks are caught in an ambivalent and co-constitutive relationship in Canada's regime of prison governance" (p. 223).

The Transgender Respect Agency and Dignity Act

TRADA was first conceived of in 2018 by a coalition of organizations, advocates, activists, and service providers pursuing transgender and prisoner justice referred as the "S.B. 132 Coalition." The bill was officially introduced into California legislature on January 1, 2019, by Senator Scott Wiener, a democrat from the eleventh district, and was debated and revised over two years, ultimately being signed into law September 26, 2020. Its implementation officially began January 1, 2021. This article focuses on this period and year following implementation but includes data and information as recent as April 2023.

California's model includes six major provisions: 1) During intake, prison staff are required to elicit prisoner's gender identity, gender modality[6] and pronouns. 2) Prisoners that are identified as trans must be addressed in a manner consistent with the incarcerated individual's gender identity. 3) Staff are to search Transgender, nonbinary, and intersex (TGNBI) prisoners in a manner consistent with their gendered search preference. 4) Incarcerated TGBNI people are to "be housed at a correctional facility designated for men or women based on the individual's preference" (TRADA § 2606(a)). Preference here is understood as an individual's perception of their health and safety. 5) An antidiscrimination provision that explicitly states that housing and search requests cannot be denied based on "a factor present among other people incarcerated at the preferred type of facility" (TRADA § 2606(c)). This provision anticipates and attempts to prevent arbitrary rejections based on logics that understand "risk" differently when contextualized by different gender-modalities (e.g., that which is posed by a transgender woman with a "violent" charge, or woman victim, as different than that of a similarly situated cisgender woman). 6) The law leaves housing decisions to the discretion of each facility's classification committee, but decisions are to be made balancing "management and security concerns" with perceptions of health and safety (TRADA § 2606(b)).

TRADA shares much in common with other models, such as PREA, Israel's, Canada's, and Connecticut's but diverges in important ways. While there is variation in language between policies, versions of TRADA's provisions 1–4 have precedent. For example: Connecticut's policy is compulsory in that housing decisions are "presumptive" based on gender identity,

[6] Per Ashley (2019: 22), "gender modality refers to how a person's gender identity stands in relation to their gender assigned at birth. It is an open-ended category which includes being trans and being cis and welcomes the elaboration of further terms which speak to the diverse experiences people may have of the relationship between their gender identity and gender assigned at birth".

whereas Canada and California provide individuals with a choice as to where they will be housed; Canada and California do not include bio-medical language requiring a diagnosis of gender dysphoria, whereas Connecticut does so explicitly. Additionally, California and Connecticut's provisions are mandated in statutory law, whereas other U.S. jurisdictions that nominally make prison housing decisions "case-by-case" do so as a matter of agency-level policy, even if, as in the case with Colorado, said agency-level reforms are mandated by legislation (DOC Policies For Transgender Inmate Safety 2018). TRADA's antidiscrimination provision is, however, entirely unique, and is a response to observing the complexities faced by its predecessors during implementation. Accounting for the nuances of these variations fall outside the scope of this article, it is sufficient to know that in addition to responding to one another, they respond to factors driving the "variable speed federalism in transgender policymaking" (Mezey 2020: 508) more broadly (also see Taylor, Haider-Markel, and Lewis 2018), as well as local policy innovation and litigation affecting the "legal, financial, and reputational risks…[they] represented for correctional authorities" (Hébert 2020: 226).

METHODS

Drawing methodological inspiration from past scholarly investigations of state-level penal developments (Lynch 2009; Schoenfeld 2010; Reiter 2016; Seeds 2018), I employ both document analysis methods and semi-structured in-depth interviewing (IDI). Document analysis included a collection of over 260 documents from early 2018 through the end 2022 from a broad range of sources including: statute texts, recordings of legislative hearings, news media, organizational documents, correctional audits, social media, advocacy publications, and filings related to *Chandler v. CDCR* 2021(litigation attempting to repeal TRADA). I identified legislative sessions that involved discussion of TRADA through California's online legislative

information website, leginfo.legislature.ca.gov, and by searching keywords "S.B. 132" and "Transgender" in the state legislature's daily journals and manually removing false positives. I then retrieved audio/video recordings of sessions from the California state senate and house representatives' online media archives. Documents not readily available through online government resources were obtained through the state archive in Sacramento, interview subjects, and records requests. Requests from the state archive and public records requests were submitted early 2021 and fulfilled July and April of 2021 respectively.

TRADA's official legislative analysis documents, and the organizations and public figures it cited as sources, guided the initial interview sampling frame. I conducted (and recorded) 14 interviews between April 2021 and February 2022; each averaged 71 minutes in length. The sampling frame targeted every organization within the S.B. 132 coalition—TRADA's authors, negotiators, as well as those who remain "on the ground" navigating complications arising from implementation. Respondents from these six organizations were asked to provide a list of contacts whom they felt had significant knowledge of TRADA's time in legislation; their responses expanded the initial list to include nine organizations and several legislative actors. The resulting sample was comprehensive including a least one representative from each of these organizations as well as key peripheral actors and organizations and achieved saturation.[7] Interview schedules probed four primary domains—1) TRADA's legislative story—charting its various twists and turns from inception chaptering; 2) the legal and social contexts from which it emerged; 3) how stakeholders understand gender and safety, and 4)

[7] As an exception, I was unable to interview respondent(s) from Equality California—one of several large organizations behind the bill. However, I was able to construct an understanding of their role through archival sources, online publications, interviews with news media, and through my own targeted interview questions with other members of the coalition and still achieved saturation.

Implementation. Importantly, several of the participants occupy other positions of relevance such as attorneys that represent trans prisoners; in-prison program providers; formerly incarcerated trans people and offer unique insight into the ways in which the policy has impacted the lived experience of those on the inside.[8] After I had completed the formal interviews, I was approached by three separate journalists that had been referred to me by interviewees for both on the record and informal conversations. These occasions provided additional informal opportunities to collect information regarding implementation as it emerged over the course of 2022 and 2023.

Document analysis and in-depth interviewing (IDI) were used both independently of one another for their unique data collection and analytical potentials as well as in tandem (Small 2011). Inspired by the *constant comparative method* (Glaser and Strauss 1967), transcribed interviews and documents were analyzed as they were collected which informed future research decisions. Data sources were contextually positioned (Ralph, Birks, and Chapman 2014) such that documents triangulated interview data and interview data allowed administrative documents to be read as situated institutional communications (Lynch 2015: 275). For both data types, I produced analytical memos oriented toward juxtaposing the law as it emerged—the ways in which it understands and rhetorizes gender and safety and strategizes to resolve the crises facing incarcerated trans people—and its implementation—and the strategies and logics used to do so—

[8] This study focuses on how a complex of legal and penal institutions understand gender-nonconformity, and while transgender prisoners are the greatest experts on the experience of that understanding's consequences, institutional actors ultimately employ the referent social frame and translate it into law. In analyzing the objects that produce this population's precarity rather than the population itself, I eschew their exploitation (which has historically dominated transgender inclusion in social science; Schilt and Lagos 2017) and better serve the community (for discussion of this perspective see Zuberi and Bonilla-Silva 2008).

to develop a window into the ways the various stake holders orient themselves to trans prisoners and the consequence of said orientations.

THE MAINTENANCE OF CATEGORICAL PRECARITY

Discursive Laundering

The rights-based victim framing of transgender prisoners that is used by S.B. 132 (TRADA) is rarely directly contested throughout the legislative process. Rather, the specter of gender-nonconformity is laundered into discourses by critics, serving to (re)produce and maintain categorical precarity. On May 23rd, 2019, at 2:54 PM, Senator Scott Wiener, TRADA's lead author, provides S.B. 132's Third Reading to the house, the 85th item on Daily Journal. He speaks for less than two minutes, touching on rates of assault, abusive solitary confinement practices, the indignity of having one's identity denied, and plainly lays out the bill's provisions. Senator Borgeas, a Republican from the eighth district, stands to say (4:36:39), "I'll just pose my direct question to you. Does this create a scenario, in your opinion, of individuals artificially expressing a risk or a danger to shop places where they will be held so they can move from point A to point B?" Here Senator Borgeas does not directly contest Senator Wiener's framing of transgender prisoners as at risk, the issue the bill attempts to solve, or claim it may result in material harm, rather, Borgeas is making a general appeal to a sense of fairness—society should tolerate the guarantee of certain harms to avoid the possibility that someone at some point might game the system—and on the surface resembles logic routinely used in rulemaking procedures in subjects ranging from welfare benefits (Chunn and Gavigan 2004) to sports injuries (Slater 2019). Embedded within this routine policy argument, however, is the message that gender-nonconformity necessarily enables deception—reifying the belief that gender-nonconforming

people are potentially dishonest/dangerous as well as the normative linkages between safety and sex-segregation.

Cultural fears of gender-nonconformity and anti-trans rhetoric are also laundered through a more complex interplay between external stakeholders and lawmakers where resources are borrowed from oppositional actors, and act as a substitute for policy maker's own beliefs. During TRADA's hearing before the standing Assembly Subcommittee on Public Safety, June 25th, 2019, Abigail Lunetta speaks on behalf of "gender critical"[9] (or trans-exclusionary radical feminist organization; TERF; for discussion see Fradella 2023), Women's Liberation Front's (WoLF) in opposition of the bill. She asserts that in passing S.B. 132,

> The State of California will sanction the desire of male rapists to share quarters with female inmates [...] This bill permits male inmates to be housed with female inmates at the mere request of a male inmate. Even though males commit violent crimes three times more often than women. And there are no studies to show that males who self ID as trans commit less violent crimes relative to the general male population." (0:13:01)

In referring to transgender women "males who self ID as trans" she forecloses the very existence of trans people, removing transgender women as the subject of victimization, and recasts them a predators. Assemblymember Bauer-Kahan, Democrat from the 16th district, responds, telling Senator Wiener, "I think the opposition raises a serious concern because there are a lot of people

[9] "Gender critical" ideology, or *trans-exclusionary radical feminism* (TERF), is a conservative bioessentialist offshoot of dominance feminism that understands womanhood as immutable and constituted by sexual objectification irretractable from the genitals one is born with. This perspective necessarily understands trans women as "mentally ill" men at best, and at worst, rapists. In addition to being logically incoherent and ascientific, critics point to how its ultimately genocidal conclusions (Lemkin Institute 2022) are drawn from a host of racist colonialist and neo-fascist thought (Fradella 2023).

in our prison population that are not honest actors. And how do we prevent from wrongdoing on those parts? Have you thought about that?" (4:31:10). Tellingly, she does not refute any the oppositions claims, rather she repackages them, drawing on the stigma of incarcerated people as untrustworthy, manipulative, violent (Chenault 2010) making the issue about "bad actors," without clarifying precisely to whom she refers.

Superimposing Gender-Conformity and Criminality

In a similar exchange Assemblymember Mathis, a Republican from the 26th district, asks: "do we need to look at doing, like, a separate prison for transgender [people]?" (4:49:20). Senator Wiener replies, "Well, because trans women are women, trans men are men… What we're saying is that if you're a trans woman, you're a woman, you should be able to be housed as a woman" (4:50:19). Mathis interjects, stating, "I understand that that's your feelings on it, but were talking about prison populations and subcultures that all have their own very different feelings" (4:50:39). Here, Mathis dismisses the bill's epistemological understanding of sex, similarly drawing on the stigma of incarceration as Bauer-Kahan did, but to instead suggest that prison culture is fundamentally different than the free world such that transness simply does not exist inside. Like Abigail, Mathis removes transgender people from the discourse all together. In both entertaining the need for a separate facility for trans prisoners and asserting they do not exist, he produces something of a paradox, which is only reconciled through superimposing transness with criminality. In both exchanges, prisoners' precarity is co-constituted by the relation of both their status as trans and prisoner through a set of interlocking logics: (1) the debioligization of sex is dangerous because it renders prison staff incapable of determining who is "really" a woman and who is "truly" dangerous. (2) Incarcerated people are habitual manipulators and will always take advantage of these systems.

Mythmaking

Categorical precarity is maintained not only through political discourses, but through the circulation of gender myths; narratives that give the illusion of empirical evidence supporting the gendered normative order. It is not enough to for legislators to independently invest in gender-essentialist myth, rather it must be maintained across time and empirical site. According to a recent report by The Moss Group (TMG)—a D.C. based correctional consulting firm contracted by CDCR to assess the implementation of S.B. 132 in Central California Women's Facility (CCWF): "before SB 132, 'transgender women were treated like women' and generally settled in well. It is likely that the pace and uncertainty surrounding implementation of SB 132 complicated the transition process for transgender and cisgender women" (pg. 26). The TMG report suggests that "bias, anticipatory anxiety, and fear of manipulation […] (pg. 23)" and unclear communication which left "[…] staff at all levels and in all disciplines, as well as incarcerated individuals, referred[ing] to SB 132 as men moving to the women's institution" (p. 23) contributed to "concerns and anxieties prior to implementation, including physical and sexual safety concerns, contraband, and cultural changes that would shift to that of a male institution" (p. 24). Although, the TMG report's function is not to document the discourses and resources that contributed to a challenging implementation, it nonetheless shows how gender-essentialist myths that link gender-nonconformity to concealment, and perceived maleness to dangerousness impact the reality of integrating these populations.

Throughout the interviews, participants described a set of competing narratives around the removal of trees at Central California Women's Facility (CCWF). I use these tree stories here to illustrate the function of gendered myths in the early months of TRADA's implementation, and their destabilizing effect behind prison walls. Though various versions of tree story exist,

two elements remain consistent across them: (1) many years ago the town of Chowchilla donated trees to the Central California Women's Facility (CCWF) with the condition that they could only be removed for reasons pertaining to security, and (2) when TRADA transfers began, CCWF removed a number of these trees. One participant, an attorney who works closely with women seeking transfer under the new law, explained the institution's motivation for removing the tree as drawing on "the stereotypes of having men in the facilities and their ability to escape," and "saying, like, essentially that trans people [trans women] are so strong that they can climb up them [trees] and escape as if cis folks couldn't climb up them." Indeed, Woman II Woman—another "gender critical" organization that works closely with WoLF, and co-plaintiff in Chandler v. CDCR 2021 have been disseminating another version of the tree story in their online newsletter, that claims the trees were removed "because the men will use them as weapons…these women are worried that with the trees gone, the birds will go too. These women are locked in cages – some of them for the rest of their lives – and you want to cut off their only connection to nature because you have locked them in there with men who can't be controlled?" In this version of the narrative trans women are explicitly linked to male violence and worsening prison conditions, and participants reported that "they've been very influential in terms of personally persuading folks who are incarcerated in the women's facility, and people who have been recently released to believe that trans women are a threat to them." While I was not able to confirm either version of the story by contacting municipal agencies in the Chowchilla township, the material status of trees does not bear on the reality that that these narratives reified gender essentialist social boundaries amongst incarcerated people at CCWF. One participant, an attorney close to many of the women who have transferred, reported:

> There was a lot of effort that was happening in terms of rumors, I don't know why they were actually cut down, if they were cut down because S.B. 132. It does seem like a concerted effort, it really was in the water that trans people coming in, [and that] the President was going to take things away from these women and including the trees there. They were literally trying to manipulate from the get-go, these were people in high power positions at the women's facility.

By reframing a salient symbol such as the trees in a prison yard with a "common sense" understanding of sex and gender—and the associated myths about concealed inborne dangerousness—stakeholders with a vested interested in controlling/eliminating gender-conformity position transwomen as objects of suspicion and surveillance.

More than half of the respondents described a campaign of misinformation originating from detention staff, targeting those boarded in facilities designated for women about who would be transferred under TRADA. One respondent—an attorney for several incarcerated woman—reported those in Central California Women's Facility (CCWF) were told, "like this lady's coming over. She's six foot five. Do you really want her around you? Oh, imagine what you can do, six foot five," and "they're coming to rape you". One rumor centered on the recent installment of condom dispensers in prisons pursuant to a 2014 health initiative, Prisoner Protections for Family and Community Act, which was framed by right wing media as a "tacit admission by [CDCR] officials that women should expect to be raped when housed in prison with men," (WoLF 2021).[10] Another rumor, circulated by gender critical newsletters, was that

[10] According to Stemple et al.'s review of federal surveys on prevalence and incidence of female sexual perpetration in the U.S., "Despite the common assumption that, for [cisgender] women prisoners, male staff members pose the greatest sexual threat, BJS studies have consistently shown instead that women are much more likely to be abused by other women

trans women were desisting hormone replacement therapy (HRT) to restore their ability to have penetrative sex. Such misinformation draws on the cultural image of deceptive transexuals, reifying existing fears, priming prisoners and the public, to view transgender transfers as suspect.

Re-centering Other Populations

The social frames that are produced through these competing discourses about transgender prisoners and gender non-conformity provoke an ambivalence characteristic of categorical precarity. Actors must somehow reconcile an impossible set of binaries: that trans women are authentic, victims, and deserving of care and accommodation, but also manipulative, criminal, men who are predacious and unworthy of care. One interviewee—a legislative aid—describes this process:

> It was only behind in these closed-door meetings that I think people felt comfortable enough to be like…I mean, let's be real, like it was, um, an election year, too. And so, I think a lot of people politically were like: "is this gonna hurt me...what happens if like a cis woman just does not want to room with a trans woman… it's really just men who are like, quote unquote, gaming the system, going to pretend to be trans to come in and like attack cis women?" Fear, I think, played into so many [legislator's] perspectives. The opposition, all they had to do kind of, like, speak it out into one policy committee analysis one time, and then legislators would constantly have that to point to.

This excerpt provides two important details about the ways legislators were approaching the bill: 1) legislators appeared to be morally compelled to help end the suffering of transgender

inmates than by male staff" (2017: 306). Indeed, "data suggest that trans-inclusive access to sex-segregated spaces poses a near zero-risk scenario" (Rowland and Fradella 2023).

prisoners; 2) legislators launder gender essentialist myths introduced into legislation through oppositional actors to legitimize their own anxiety about the destabilizing effects of gender non-conformity. When this tension comes to the fore in legislation, proponents appeal to the authority of CDCR to manage the perceived risk of rights expansion. In one example, during the Third Reading to the house, Senator Wiener responded to concerns of fraud, saying "CDCR does have flexibility to make a security assessment specific to that individual. So, there is that flexibility built into the law." (4:37:38). During a hearing before the standing Assembly Subcommittee on Public Safety, Assemblymember Bauer-Kahan responds to similar concerns of "bad actors" by also emphasizing CDCR's "flexibility," saying, "I think you're doing the right thing…and I appreciate that there is flexibility on the part of CDCR. So, if there is someone as described by the first opposition witness who is not an honest actor, then they won't act" (4:41:56). While institutional "flexibility" appears able to resolve legislator's competing frames, hearings do not explicate what this flexibility entails, or its mode of resolution; rather it is articulated as opaque gestures toward CDCR's ability to deny housing requests based on management or security concerns.

A closer look into the history of the textual changes of the bill, contextualized with interview data, provides insight into the precise meaning and function of "flexibility" as it relates to reconciling competing frames about gender nonconformity. It bears noting that, save the comments by Senator Borgeas during the senate's Third Reading, recordings of senate hearings reveal them to be largely non-events, rather much of the resistance appeared in the state Assembly. Indeed, the first complete draft of the bill, completed March 14th, 2019, remained virtually untouched in the house of origin. It was not until after the June 25th Assembly Subcommittee on Public Safety meeting—in which legislators began expressing concerns about

the need for sex segregation—that substantively altering amendments were introduced. Interview data and legislative recordings suggest that bill iterations between June 25, and next draft on August 24th reflects legislative anxieties about the possible dangers introduced by self-determinative housing.

According to interviews, CDCR was the most influential party when it came to amendments to the bill, especially those which moved its provisions further from the coalition's vision. One respondent describes the bill's status from the perspective of the coalition at end of the 2019 legislative cycle accordingly:

> We had a version of the bill that we were told that, um, that CDCR would support, and the governor would sign if we would just cut out, um, what to me was one of the key provisions, a kind of specific nondiscrimination clause… then conversations that I wasn't a part of happened with CDCR and it kind of came back that like, um, basically, that, like all of our fallback positions had been implemented. And when I like kind of looked at what was left, I was like, what the hell are we doing here?

When asked about these specific "fallback positions," respondents cited several proposed items. The first, which does not appear in any officially published iteration of bill text, was a feature which placed restrictions on length of time CDCR had to make TRADA-related determinations. Additionally, respondents cited the anti-discrimination provision—prohibiting accommodation requests on the basis a factor present among the population in the requested facility designation—multiple times as pervasively threatened for removal by CDCR. Subtler textual edits to the bill similarly contested the degree and scope of institutional discretion. In one version of the text, the class intended was defined with language pursuant to gender self-determination: "gender identity that differs from their sex assigned at birth, with or without a diagnosis of

gender dysphoria or any other physical or mental health diagnosis" but was later changed to permit for bio-medical determinations, simply "transgender, nonbinary and intersex."

Although the history of these textual changes does reveal a consistent tension between the DOC attempting to increase the legally permissible discretion of their sorting processes and coalition members looking to decrease it, both parties pursued risk-centered screening procedures for those seeking transfer under TRADA. One coalition member described the contradiction as a matter of solidarity:

> The filtering system came about, because inside advocates were concerned that some system or [cis] men would try to go over, specifically to harm folks and that was the biggest feedback we got from folks inside, not outside advocates. We hear that argument all the time and it mostly comes from conservative folks, right? Saying that, like, if we allow trans people to use locker room they want they're just gonna… like, cis people are just gonna be coming and start assaulting people, right? Um, and yeah, cause it actually was a serious concern for a lot of our folks inside. So that's why we were allowing, um, CDCR to create screening mechanisms, even though we have a strong concern about, um, you know, continued gender policing and scrutiny, um, for people going through.

Unlike the ideology espoused in opposing witnesses' testimony, which framed cis and trans rights as mutually exclusive, or legislative discourse that demands a zero-risk expansion of rights, the bill's authors grappled with the real possibility that someone could fraudulently transfer under S.B. 132. But the authors sought to do so without decentering the needs of trans people. Another, respondent, a formerly incarcerated transgender woman, describes the need for screening in the following way:

> This is designed to keep people safe until, our people [are able to] live according to their gender identity. If you don't identify [as TGNBI] under this law… then why do we need these people to creep through the backdoor cracks and they come over and mess it up for us?

The importance of the screening process, then, is constituted by the precarity of trans rights in prison. In that hegemonic safety discourses render trans rights mutually exclusive to cis safety, especially cis women's safety, "creeps" in "backdoor cracks" could have serious consequences for the futurity of TRADA and the safety of incarcerated trans people more broadly. In this sense, cisgender and transgender safety are bound together, not mutually exclusive.

In these examples, fears about the destabilizing effects of gender-nonconformity in non-sex-segregated prisons are then resolved not through the belief that CDCR has infallible risk detection technology. Under normative logics, gender-conforming people cannot simply be assessed as safe or unsafe because gender non-conformity is itself understood as a threat; safe bodies are those that do not conceal an essential truth, and thus are men or women, authentic inauthentic, victims or predators. It follows then that this fear is resolved because CDCR has the authority to assign *what* prisoners are—inextricably entangling the logics of dangerousness and gender: this is the "flexibility" that legislators refer to, and the institutional utility served by categorical precarity.

Using Categorical Precarity

Reports of experiences taking place under the post-implementation prison regime afford us an opportunity to interrogate how categorical precarity—operationalized through discursive laundering, superimposition of criminality, mythmaking, re-centering cisgender needs—is

institutionalized as a means of population management. The newfound need for prisons to directly address the perceived danger of non-conformity without genital-based determinations requires institutions to adopt new formal vision technologies intended to identify, assess, and track trans bodies.

The bright orange "Transgender Access Cards" (Figure 2) distributed as a part of TRADA implementation are one such example. This formal marker permits individuals to possess gender congruent goods and services from the Transgender Inmates Authorized Personal Property Schedule (CDCR 2019). Respondents report that lost, stolen, expired, or revoked ID cards have resulted in correctional officers punishing, or otherwise preventing people from possessing clothing, hygiene, and grooming products to which they are legally entitled or to which they would have previously had access. Ostensibly, ID cards attempt to ensure that only authorized people have access to otherwise restricted items; however, the ID cards highlight the normative logics that dictate which combinations of items, spaces, and bodies constitute security threats. Under this new regime, people in facilities designated for men require what is effectively a license to possess eye shadow, a pumice stone, and feminine hygiene wash, and the license is restricted to individuals who have been officially assessed to be transgender, demonstrating a new strategy of control that attempts to authenticate and hypervisabilize transgender prisoners, extricating them from dangerous nebula of gender-nonconformity.

By further examining the prison property schedules across gender categories I bring the incoherence of the logics underlying the ID cards into focus. Current policies permit people in facilities designated for women (those in general population and Community Prisoner Mother Programs) to possess two lightbulbs and one 32oz bottle of fabric softener, permit transgender woman in facilities designated for men only one lightbulb and the fabric softener, and permit

cisgender men one lightbulb and no fabric softener at all (CDCR 2023). Such variance underscore the absurdity of this gendered-risk calculous and demonstrates that the regime has not brought transgender ontology into institutional coherence but rather imposes an “arbitrary coherence” (Yoant and Katri 2020) onto them.

This imposition is not merely symbolic but TRADA’s visibilizing technology endeavors to affect gendered behavioral change in identified subjects. Introduced at the start of TRADA’s implementation as a pre-requisite for transfer under, Right Person – Right Prison (RPRP) was one such technology. The program’s gender essentialist functions are foreshadowed by the list of slurs "to avoid” provided in its facilitator materials: “tranny, she-male, he-she, it, shim, trap.” Program providers are to use RPRP’s curriculum to assess participants for the advisement of the review board. The facilitator and participant program materials include topics such as “Female versus Male, how they do ‘their time’ is different” and “the different communication styles,” the curriculum for which includes the following: “Women are emotional beings,” “Women are communicative and talk to staff.” Echoing legislative discourses centering cisgender women’s safety, RPRP also encourages participants to “reinvent” themselves by adjusting their gender expression via “mannerisms, the way you dress, voice, etc.” as to avoid “frightening and threatening” their cis counterparts. Interviewees reported that RPRP facilitators had told their clients that “non-binary people will not be transferred.” Participants were unsure as to the degree this prohibition reflected official policy—whether it was an unwritten but shared rule or the discretion of select facilitators (importantly, however, such a prohibition would be illegal under TRADA)—but like transgender ID cards, it demonstrates an institutionalized attempt to reduce the dimensionality of gender-nonconformity to that which can be managed by the prison’s sex-segregated architecture through normalization. Further, RPRP illustrates how prison

programming extends the carceral imagination and behaves as a means of imposing normative moral orders.

The now entangled logics of dangerousness and gender fracture the institutional authority to assess gender, removing authority from the exclusive domain of Institutional Classification Committee (per agency policy) and diffusing it, as a facet of all interactions between trans prisoners and correctional staff. Under the law, detention staff do not have the authority to deny transfers, rather their authority pertains to assessing and maintaining safety and security; but because these tasks are entangled, detention staff, in effect, act in both capacities.

Recent litigation offers a window into how this entanglement plays out in the lives in incarcerated transgender people. Katie Brown—a woman in CDCR custody, boarded in facilities designated for men—requested to be transferred to a facility designated for women shortly after TRADA went into effect. She was told she had to complete the prerequisite program before the classification committee would tend her request [RPRP], which she did. According to her deceleration associated with the recently filed motion to intervene in Chandler v. CDCR (2021: 4),

> An SVSP [Salinas Valley State Prison] staff member refused to take me to the hearing because he refused to acknowledge or accept that I am a transgender woman. I filed a grievance about this incident…. Because I will not be eligible for parole until 2044, I am scared that I will have to serve the rest of my time alongside the same men who have repeatedly harassed me.

Here the effect of individual staff's assessment of identity is tantamount to that of formalized administrative processes such as the classification committee. In that these assessments of

gender/dangerousness have been democratized, the role of the facilitator and correctional officer are the same. This fracturing is not necessarily the result of a lack of official process, but the entanglement of dangerousness and gender, and the denial of transfer is not a result of the presence of policy but of categorical precarity.

For those incarcerated transgender prisoners who have successfully transferred to another facility under TRADA, their categorical precarity represents a constant vulnerability that cisgender women do not contend with. Take for example, the story of Kelli Blackwell—a trans woman who transferred to CCWF (a prison designated for women) from Mule Creek (prison designated for men) under TRADA—from her declaration in the recently filed motion to intervene in Chandler v. CDCR (2021: 4):

> I appreciate that I am no longer being punched or beaten by fellow incarcerated people on a regular basis…[or] feel pressured to enter into a relationship with a cisgender man just so that he can help me try to stay safe from physical and sexual violence [however]….Many staff members have made it clear that they are uncomfortable with the presence of transgender women in this women's facility. I have seen and experienced disproportionate discipline directed towards transgender women, while cisgender women routinely suffer no consequences for the same behavior. The warden has also threatened to send me back to a men's prison.

Ms. Blackwell's troubling experience of unequal consequences for equivalent behaviors should not be understood simply as anti-trans prejudice. By observing the interconnectedness of penal proportionality with gendered punishment, she describes the carceral utility of categorical precarity. The disproportionality appears unrelated to the staff's assessment of her particular behavior, but rather what staff believed it confirmed about her—that she was inauthentic, a man,

undeserving of care—which is communicated by the specific punishment threatened: to be sent back to a facility for men. By forcing Ms. Blackwell to return to Mule Creek, the prison practices a reversion to previous modes of sex-segregation for addressing gender-nonconformity.

TRADA also opens new iterations of segregation, particularly the use of solitary confinement to separate transgender women from cisgender women in facilities designated for women. Interviews emphasized how pervasive these practices are. One estimated that, at one point, more than half of all the transfers were in Ad Seg, with almost 75% having been in Ad Seg at some point since their transfer and for disproportionally long durations. In one case, an interviewee reported that a client had spent eight of the nine months in a facility designated for women in solitary. Categorical precarity enables the swift segregation from incarcerated population based on perceived gender fraud. One respondent remarks about their clients at CCWF…

> They're all Black women, and they are all in Ad Seg for very similar reasons. That they're [allegedly] "attempting to get people pregnant," that they're engaged in consensual sex with cisgender people in the facilities, and the people who they're allegedly engaged in consensual relationships with are not in Ad Seg—only the trans women are….Yeah, they're being sent for reasons that are bullshit, false rules violations….[Client's name], they said that she's been very verbal wanting to get someone pregnant and sue CDCR… like, I don't... I don't understand how that even makes sense? But that's the charges she's facing. [CDCR alleged] She was [allegedly heard] saying [this] to people over a monitored phone or something.

In mapping normative assumptions about anatomy, gender roles, sexual acts, gender/dangerousness onto this woman's alleged personal conversation, prison staff alert to the

repro-discursive content of the call, assessing that she may be a sexual predator, and that her consensual cisgender partner a victim. While under investigation, trans women are placed into solitary confinement, which, in turn, functions as an interrogation of the trans body itself. A volunteer service provider working in the California Institution for Women (CIW) and CCWF remarks on these investigations:

> There's been a clear pattern of…CCWF, sending women coming into Ad Seg for really petty, or totally fabricated reasons….Then the guards use that to feed into the all the violent bullshit that they're spreading about who's being transferred….quote unquote, men coming to rape them or whatever, and then like, depriving people of what they need…being misgendered a certain way with the addition of being deprived what they need to…to be who they are and look how they want. It just seems, yeah. Seems intentional.

For context, individuals in Ad Seg are prohibited from possessing many items they might normally have access to, specifically this excerpt is referring to the deprivation of gender affirming medication and grooming products (i.e., razors and cosmetics). Most transfeminine people who do not undergo permanent hair removal treatments—a painful, time-consuming, and expensive process that many people, incarcerated or otherwise, do not have access to—continue to grow facial hair regardless of hormonal or surgical intervention. Interviewees observe that prolonged isolative housing forcibly detransitions prisoners by depriving them of their identity kit (Goffman 1961)—the tools with which they exert control over their physical appearance and externally assert their gender—causing them to more closely resemble the bio-essentialized male image, "then after being denied all those things then [are] kind of dropped on the yard." The function of Ad Seg here is in its ability to fix the trans body within the prison's "normative ways

of knowing trans" (Sanders et al. 2022), exposing the a "concealed" biological "Truth" to determine guilt/innocence, man/woman, worthy/unworthy.

THE (CIS)GENDERED LOGIC OF CARCERAL REFORM

Methods of maintaining categorical precarity—discursive laundering, superimposing criminality, recentering cisgender women, and mythmaking—reify the cultural linkages between gender-nonconformity and concealment and bring them into tension with desires to end the suffering of trans prisoners. Penal and legislative actors put themselves in something of a double-bind by both acknowledging the harm they inflict on transgender prisoners through the prevailing methods of managing the perceived risk of gender non-conformity and endeavoring to prohibit sex-segregation. To reconcile these tensions, institutions instead came to rely on the authority to impose gender categories onto prisoners. In doing so, logics of dangerousness and gender become inextricably entangled, such that routine encounters between gender-nonconforming incarcerated people and corrections officers become opportunities for recategorization: victim to rapist; woman to man; worthy of care to unworthy; authentic to manipulator; guilty to innocent. In its endeavor to authenticate transgender bodies in order to be both law-compliant and manage the risk of gender nonconformity—through, e.g., I.D. Cards, Programming Requirements—the prison exposes that it is structurally and architecturally unable to meaningfully bring trans ontology into coherence. Rather it imposes an arbitrary coherence onto incarcerated transgender people. We can then understand that the shuttling of categorically precarious bodies between categories as a function of these same limitations, and as resubstantiating and recreating the modes of incarceration TRADA attempts to replace.

This work builds on foundational sociolegal and punishment scholarship which both understand punishment practices as a reflection of wider cultural forms in a society (Sutherland

and Cressey 1970) and endeavor to understand the specifics of these wider forms by locating penal phenomena at the micro-level—direct points of contact between power and prisoner—and tracing them to power's points of anchorage (Foucault 1982; Garland 1990). I posit that the institution's ontological reliance on segregation to achieve the penological goals of safety is but a crystallization of a fundamental carceral logic that structures notions of safety within the broader culture of the prison nation in which it is embedded (Richie 2012). Gender essentialism, co-constituting this same social order, shares this reflex to segregate, and in segregating to protect women from men it reasserts normative gender roles and their relations. This is to say, gender essentialism produces a specifically carceral conception of safety that is ontologically dependent upon sex segregation, which, in turn, serves as the limit to carceral reform for transgender prisoners.

The findings also contribute to critical trans scholarship's current explanations for the limitations of law to meaningfully improve the lives of trans people by empirically demonstrating the ways in which the fear of gender-nonconformity structures trans prison reform. They suggest that the legal means of advancement continuously fail to emancipate trans people, because legal reforms are in fact not meaningful advancements towards liberation at all, but rather gender essentialist ideology necessarily transforms them into sites of epistemic struggle that ultimately fortify cisheterosexism.

While the framework of categorical precarity is intended to shed light on the impotence of law to achieve safety for trans prisoners, I propose that it also describes trans positionality more broadly. Trans people are acutely aware of the asterisks appended to our identities; that our "authenticity" is conditioned upon others' glancing valuations of unrelated characteristics. All trans people share in these moments, whether it is in the pursuit of consensual sex (Baars 2021),

through airport security (Beauchamp 2009 or in administrative segregation in a maximum-security prison—it is, as my colleague said, “the Chelsea Manning of it all”—alluding to the social acceptance of using the decommissioned name of and misgendering the whistleblower, oft justified by negative assessments of her actions while in the army. One might suggest the utility of broadening the application of this framework further to understand the ways in which all prisoners are managed by categorical precarity through risk-assessments, housing classifications, clinical diagnoses as well as after they are released through parole requirements, financial obligations, digital records (Lageson 2020) and lingering restrictions to their civil liberties (e.g., owning/possessing firearms, voting) all of which situate criminal justice involved people as both reformed and dangerous. More broadly still, categorical precarity is useful in describing methods of social control employed against all marginal groups in the United States. The biosociopolitical discoursers that emerged during the progressive era regarding Black “criminality” can be seen as a form of categorical precarity which cast recently freed racialized subjects as predisposed toward crime, legitimizing disproportionate deprivation, surveillance, and incarceration which recreated a means for Black social control (Muhammad 2011). This same logic is present in current anti-trans political strategies (and indeed in the implementation of TRADA)—which legitimizes queer exclusion by framing it as the elimination of the perceived threat of “child grooming." In this sense, one might conclude that categorical precarity is used and maintained—both institutionally and socially—to resolve virtually all matters of safety and insecurity, though its role in the management of incarcerated trans people post TRADA represents a very explicit example of these practices in action.

There are many scholars for which these findings are predictable. Venerable topics in law and society such as legal hegemony, legal consciousness, and rights movements, have provided

ample evidence with which to base doubts about the efficacy of rights expansion projects, particularly those involving prisons. However, in investigating the emergence of TRADA and tracing trans prison policies back to *Farmer v. Brennan* (1994) I render visible the ways in which law, punishment, and gender often invisibly center incarceration and gender non-conformity. To achieve its goals of safety and security through contemporary penology practices (read: *the new penology*; see Feeley and Simon 1992), prisons attempt to address the problem of sexual violence while ignoring the very logics and processes that make vulnerable the individuals at the problem's center. In this analysis I show that we better able to understand the perverse outcomes of trans prison policies by examining the specific tensions at the intersection of gender-nonconformity and incarceration, but I also posit that the subject of incarceration and punishment more broadly benefit from this analytical lens. It is a mistake to relegate "thinking with trans" to the domain of trans studies. To "think with trans" is at the heart of law and punishment scholarship in that it creates "affinities with other struggles and inventing shared tools and techniques for diagnosing the working of power and how to swerve outside or alongside of it just in time" (Aizura et al. 2021: 129).

REFERENCES

Aizura, Aren Z., Marquis Bey, Toby Beauchamp, Treva Ellison, Jules Gill-Peterson, and Eliza Steinbock. 2020. “Thinking with Trans Now.” *Social Text* 38 (4): 125.

Arkles, Gabriel. 2014. “Prison Rape Elimination Act Litigation and the Perpetuation of Sexual Harm.” SSRN Scholarly Paper ID 2599544. Rochester, NY: Social Science Research Network. https://papers.ssrn.com/abstract=2599544.

Baars, G. 2019. “Queer Cases Unmake Gendered Law, or, Fucking Law’s Gendering Function.” *The Australian Feminist Law J.* 45 (1): 15–62. https://doi.org/10.1080/13200968.2019.1667777.

Baus, Janet, and Dan Hunt, dirs. *Cruel and Unusual*. Alluvial Filmworks and Outcast Films, 2006. 1 hr., 6 min. http://www.imdb.com/title/tt0861699/.

Bureau of Justice Assistance. 2020. *Impact of PREA on Department of Justice Grants for Fiscal Year 2020.* PREA Information Center. https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/fy2020-prea-grant-impact.pdf

Beck, Allen. 2014. *Sexual Victimization in Prisons and Jails Reported by Inmates 2011–2012-Update, (Suppl. Prevalence of Sexual Victimization Among Transgender Adult Inmates.)* Bur. Justice Statistics. Rep. NCJ 241399, Dep. Justice, Washington, DC. https://bjs.ojp.gov/redirect-legacy/content/pub/pdf/svpjri1112_st.pdf

Beauchamp, Toby. 2009. “Artful Concealment and Strategic Visibility: Transgender Bodies and U.S. State Surveillance After 9/11.” *Surveillance and Society* 6 (June): 356–66. https://doi.org/10.24908/ss.v6i4.3267.

Beauchamp, Toby. 2019. *Going Stealth: Transgender Politics and U.S. Surveillance Practices*. Durham: Duke University Press.

Borchert, Jay. 2016. "Prisoners, Prison Executives, and Correctional Officers: Three Explorations into the US Prison Experience During the Era of Mass Incarceration." Ann Arbor: University of Michigan. https://deepblue.lib.umich.edu/handle/2027.42/133451.

"CA Women's Prisons Anticipate Pregnancy After Forcing Women to Be Housed with Men." n.d. *Women's Liberation Front* (blog). Accessed May 19, 2023. https://womensliberationfront.org/news/ca-womens-prisons-anticipate-pregnancy-sb123.

California Department of Corrections and Rehabilitation. 2019. *Transgender Inmates Authorized Personal Property Schedule.* Sacramento: California Department of Corrections and Rehabilitation. https://www.cdcr.ca.gov/wp-content/uploads/sites/171/2019/06/transgender-inmates-authorized-personal-property-schedule.pdf

California Department of Corrections and Rehabilitation. 2022. *Department Operations Manual.* Sacramento: California Department of Corrections and Rehabilitation.

California Department of Corrections and Rehabilitation. 2023. *Authorized Personal Property Schedule.* Sacramento: California Department of Corrections and Rehabilitation. https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2023/03/1-25-23-APPS.pdf

California Department of Corrections and Rehabilitation. 2023. "Senate Bill 132 FAQs." Prison Rape Elimination Act (PREA). 2023. https://www.cdcr.ca.gov/prea/sb-132-faqs/.

Chenault, Scott. 2010. “An Ethnographic Examination of Correctional Officer Culture in a Midwestern State.” University of Nebraska. The Nebraska Department of Correctional Services. https://www.corrections.nebraska.gov/sites/default/files/files/46/chenault_2010_2.pdf.

Chunn, Dorothy E., and Shelley A. M. Gavigan. 2004. “Welfare Law, Welfare Fraud, and the Moral Regulation of the Never Deserving Poor.” *Social & Legal Studies* 13 (2): 219–44.

Clark, Kirsty A., Jaclyn M. White Hughto, and John E. Pachankis. 2017. “‘What’s the Right Thing to Do?’ Correctional Healthcare Providers’ Knowledge, Attitudes and Experiences Caring for Transgender Inmates.” *Social Science & Medicine* 193 (November): 80–89. https://doi.org/10.1016/j.socscimed.2017.09.052.

Currah, Paisley. 2022. *Sex Is as Sex Does: Governing Transgender Identity*. New York: New York University Press.

Dangaran, D. 2021. “Abolition as Lodestar: Rethinking Prison Reform from a Trans Perspective Student Note.” *Harvard J. Law Gendr.* 44 (1): 161–216.

Department of Justice. 2021. *Diamond v. Ward Statement of Interest.* Washington D.C.: Department of Justice, Civil Rights Division. https://www.justice.gov/crt/case-document/file/1389136/download

Dolovich, Sharon. 2011. “Strategic Segregation in the Modern Prison.” *American Criminal Law Rev.* 48 (1): 1–110.

Dowling, Julie A., and Jonathan Xavier Inda, eds. 2013. *Governing Immigration through Crime: A Reader*. Stanford, California: Stanford Social Sciences, an imprint of Stanford University Press.

Feeley, Malcolm M., and Jonathan Simon. 1992. “The New Penology: Notes on the Emerging Strategy of Corrections and Its Implications.” *Criminology* 30 (4): 449–74. https://doi.org/10.1111/j.1745-9125.1992.tb01112.x.

Foucault, Michel. 1982. “The Subject and Power.” *Critical Inquiry* 8 (4): 777–95.

Fradella, Henry F. 2023. “The Imperative of Rejecting ‘Gender-Critical’ Feminism in the Law.” SSRN Scholarly Paper. Rochester, NY. https://papers.ssrn.com/abstract=4419750.

Garland, David. 1985. *Punishment and Welfare: A History of Penal Strategies*. Farnham: Gower Publishing.

Garland, David. 1990. *Punishment and Modern Society: A Study in Social Theory*. Oxford: Clarendon Press.

Glaser, Barney G., and Anselm L. Strauss. 2009. *The Discovery of Grounded Theory: Strategies for Qualitative Research*. New Brunswick: Aldine.

Goffman, Erving. 1961. *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*. 1. Anchor Books ed. New York, NY: Anchor Books.

Harcourt, Bernard. n.d. “Carceral Imaginations.” *Carceral Notebooks* 1: 3–19.

Hasenbush, Amira, Andrew R. Flores, and Jody L. Herman. 2019. “Gender Identity Nondiscrimination Laws in Public Accommodations: A Review of Evidence Regarding Safety and Privacy in Public Restrooms, Locker Rooms, and Changing Rooms.” *Sexuality Research and Social Policy* 16 (1): 70–83. https://doi.org/10.1007/s13178-018-0335-z.

Hébert, William. 2020. “Trans Rights as Risks: On the Ambivalent Implementation of Canada’s Groundbreaking Trans Prison Reform.” *Canadian J. of Law & Society / La Revue Canadienne Droit et Société* 35 (2): 221–44. https://doi.org/10.1017/cls.2020.11.

Iyama, Karri. 2012. “We Have Tolled the Bell for Him: An Analysis of the Prison Rape Elimination Act and California’s Compliance as It Applies to Transgender Inmates.” *Tulane J. Law & Sexuality* 21: 23–48.

Jenness, Valerie. 2021. “The Social Ecology of Sexual Victimization against Transgender Women Who Are Incarcerated: A Call for (More) Research on Modalities of Housing and Prison Violence.” *Criminology & Public Policy* 20 (1): 3–18. https://doi.org/10.1111/1745-9133.12540.

Jenness, Valerie, Cheryl Maxson, Kristy Matsuda, and Jennifer Sumner. 2007. “Violence in California Correctional Facilities: An Empirical Examination of Sexual Assault.” *Bulletin of the Center for Evidence-Based Corrections* 2 (January).

Jenness, Valerie, and Alexis Rowland. In Press. “The Structure and Operation of the Transgender Criminal Legal System Nexus in the U.S.: Inequalities, Administrative Violence, and ‘Injustice at Every Turn.’” *Annual Review of Criminology* 6 (1).

Jenness, Valerie, Lori Sexton, and Jennifer Sumner. 2019. “Sexual Victimization against Transgender Women in Prison: Consent and Coercion in Context.” *Criminology* 57 (4): 603–31. https://doi.org/10.1111/1745-9125.12221.

Kanstroom, Dan. 2010. *Deportation Nation: Outsiders in American History*. Cambridge, Mass.: Harvard Univ. Press.

Lageson, Sarah. 2020. *Digital Punishment: Privacy, Stigma & the Harms of Data-Driven Criminal Justice*. New York, NY: Oxford University Press.

Lynch, Mona. 2009. "Punishment, Purpose, and Place: A Case Study of Arizona's Prison Siting Decisions." In *Studies in Law, Politics and Society*, edited by Austin Sarat, 50:105–37. Studies in Law, Politics, and Society. Emerald Group Publishing Limited. https://doi.org/10.1108/S1059-4337(2009)0000050007.

Lynch, Mona. 2015. "Penal Artifacts: Mining Documents to Advance Punishment and Society Theory." In *Qualitative Research in Criminology*, edited by Jody Miller and Wilson R. Palacios, 271–90. Advances in Criminological Theory, volume 20. New Brunswick: Transaction Publishers.

Lyseggen, Kristin Schreier. 2015. *The Women of San Quentin: Soul Murder of Transgender Women in Male Prison*. Clearwater: SFINX Publishing

Martins, Alexandre, and Caia Maria Coelho. 2022. "Notes on the (Im)Possibilities of an Anti-Colonial Queer Abolition of the (Carceral) World." *GLQ: A J. Lesbian & Gay Studies* 28 (2): 207–26.

McCorkel, Jill A. 2013. *Breaking Women: Gender, Race, and the New Politics of Imprisonment*. New York: New York University Press.

Mezey, Susan Gluck. 2020. "Transgender Policymaking: The View from the States." *Publius: The Journal of Federalism* 50 (3): 494–517. https://doi.org/10.1093/publius/pjaa009.

Moss Group Inc., The. 2022. *SB 132 The Transgender Respect, Agency, and Dignity Act Implementation Review Report.* Washington D.C.: The Moss Group Inc.

https://www.cdcr.ca.gov/prea/wp-content/uploads/sites/186/2023/03/Final-SB132-CDCR-Assessment-Report_ADA.pdf

Muhammad, Khalil Gibran. 2010. *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America*. Cambridge, Mass.: Harvard Univ. Press.

Oberholtzer, Elliot. 2017. "The Dismal State of Transgender Incarceration Policies." Northamton, MA: Prison Policy Institute. https://www.prisonpolicy.org/blog/2017/11/08/transgender/.

"Open Letter: Stop SB 132 | Woman II Woman Inc." 2021. *Woman II Woman* (blog). June 21, 2021. https://womaniiwoman.org/sb-132-demand-letter/.

Peek, Christine. 2004. "Breaking out of the Prison Hierarchy: Transgender Prisoners, Rape, and the Eighth Amendment." *Santa Clara Law Review* 44 (4): 1211.

Pemberton, Sarah. 2013. "Enforcing Gender: The Constitution of Sex and Gender in Prison Regimes." *Signs: Journal of Women in Culture and Society* 39 (1): 151–75. https://doi.org/10.1086/670828.

Ralph, Nicholas, Melanie Birks, and Ysanne Chapman. 2014. "Contextual Positioning: Using Documents as Extant Data in Grounded Theory Research." *SAGE Open* 4 (3): 2158244014552425. https://doi.org/10.1177/2158244014552425.

Reed, Alison Rose. 2022. "'We're Here! We're Queer! Fuck the Banks!': On the Affective Lives of Abolition." *GLQ: A J. Lesbian & Gay Studies* 28 (2): 227–47. https://doi.org/10.1215/10642684-9608147.

Reiter, Keramet. 2016. “Reclaiming the Power to Punish: Legislating and Administrating the California Supermax, 1982–1989.” *Law & Society Rev.* 50 (2): 484–518. https://doi.org/10.1111/lasr.12204.

Reiter, Keramet, and Susan Bibler Coutin. 2017. “Crossing Borders and Criminalizing Identity: The Disintegrated Subjects of Administrative Sanctions.” *Law & Society Rev.* 51 (3): 567–601. https://doi.org/10.1111/lasr.12281.

Richie, Beth. 2012. *Arrested Justice: Black Women, Violence, and America’s Prison Nation*. New York: New York University Press.

Rosenblum, Darren. 2000. “‘Trapped’ in Sing Sing: Transgendered Prisoners Caught in the Gender Binarism.” *Michigan J. Gendr. & Law* 6 (2): 499–571.

Rowland, Alexis, and Henry Fredella. 2023. “A Surge of Anti-Trans Laws Ignore Criminology.” *The Crime Report* (oped). May 16, 2023. https://thecrimereport.org/2023/05/16/a-surge-of-anti-trans-laws-ignore-criminology/.

Sanders, Tait, Jessica Gildersleeve, Sherree Halliwell, Carol du Plessis, Kirsty A Clark, Jaclyn MW Hughto, Amy B Mullens, Tania M Phillips, Kirstie Daken, and Annette Brömdal. 2022. “Trans Architecture and the Prison as Archive: ‘Don’t Be a Queen and You Won’t Be Arrested.’” *Punishment & Society*, March, 14624745221087058. https://doi.org/10.1177/14624745221087058.

Schilt, Kristen, and Danya Lagos. 2017. “The Development of Transgender Studies in Sociology.” *Annu. Rev. Sociology* 43 (1): 425–43. https://doi.org/10.1146/annurev-soc-060116-053348.

Schoenfeld, Heather. 2010. “Mass Incarceration and the Paradox of Prison Conditions Litigation.” *Law & Society Review* 44 (3–4): 731–68. https://doi.org/10.1111/j.1540-5893.2010.00421.x.

Seeds, Christopher. 2018. “Disaggregating LWOP: Life Without Parole, Capital Punishment, and Mass Incarceration in Florida, 1972–1995.” *Law & Society Rev.* 52 (1): 172–205. https://doi.org/10.1111/lasr.12311.

Sharpe, Alex. 2006. *Transgender Jurisprudence: Dysphoric Bodies of Law*. London: Cavendish.

Slater, Matt. n.d. “Exclusive: 10-Minute ‘Concussion Subs’ Set to Be Introduced as Football Finally Catches up with Elite Sport.” *The Athletic*. Accessed April 3, 2023. https://theathletic.com/1220947/2019/09/19/exclusive-football-set-to-introduce-10-minute-concussion-subs-as-the-game-finally-catches-up/.

Sosin, Kate. 2020. *Trans, imprisoned—and trapped.* NBC News. https://www.nbcnews.com/feature/nbc-out/transgender-women-are-nearly-always-incarcerated-men-s-putting-many-n1142436

Spade, Dean. 2015. *Normal Life: Administrative Violence, Critical Trans Politics, and the Limits of Law*. Revised and Expanded edition. Durham, [North Carolina]: Duke University Press.

Stanley, Eric, and Nat Smith, eds. 2015. *Captive Genders: Trans Embodiment and the Prison Industrial Complex*. Expanded second edition. Oakland; Edinburgh: AK Press.

“Statement on the Genocidal Nature of the Gender Critical Movement’s Ideology and Practice.” n.d. *Lemkin Institute* (blog). Accessed May 19, 2023. https://www.lemkininstitute.com/statements-new-page/statement-on-the-genocidal-nature-of-the-gender-critical-movement%E2%80%99s-ideology-and-practice.

Stohr, Mary K. 2015. “The Hundred Years’ War: The Etiology and Status of Assaults on Transgender Women in Men’s Prisons.” *Women & Criminal Justice* 25 (1–2): 120–29. https://doi.org/10.1080/08974454.2015.1026154.

Stryker, Susan. 2008. *Transgender History: The Roots of Today’s Revolution*. Berkeley: Seal Press.

Sumner, Jennifer, and Lori Sexton. 2016. “Same Difference: The ‘Dilemma of Difference’ and the Incarceration of Transgender Prisoners.” *Law & Social Inquiry* 41 (3): 616–42. https://doi.org/10.1111/lsi.12193.

Sutherland, Edwin, and Donald Cressey. 1970. *Criminology*. 8th ed. J.B. Lippincott.

Taylor, Jami K., Donald P. Haider-Markel, and Daniel C. Lewis. 2018. *The Remarkable Rise of Transgender Rights*. Ann Arbor: University of Michigan Press. https://muse.jhu.edu/book/61579.

Ticktin, Miriam Iris. 2011. *Casualties of Care Immigration and the Politics of Humanitarianism in France*. Berkeley: University of California Press.

White Hughto, Jaclyn M., Kirsty A. Clark, Frederick L. Altice, Sari L. Reisner, Trace S. Kershaw, and John E. Pachankis. 2018. “Creating, Reinforcing, and Resisting the Gender Binary: A Qualitative Study of Transgender Women’s Healthcare Experiences in Sex-Segregated Jails and Prisons.” *Int. J. Prisoner Health* 14 (2): 69–88. https://doi.org/10.1108/IJPH-02-2017-0011.

Yonat, Lihi, and Ido Katri. 2020. “The Limits of Transgender Incarceration Reform.” *Yale J. Law & Feminism* 31 (2). https://digitalcommons.law.yale.edu/yjlf/vol31/iss2/1.

Zuberi, Tukufu, Evelyn J. Patterson, and Quincy Thomas Stewart. 2015. “Race, Methodology, and Social Construction in the Genomic Era.” *The ANNALS of the American Academy of Political and Social Science* 661 (1): 109–27. https://doi.org/10.1177/0002716215589718.

CASES CITED

Chandler v. CDCR, No. 21-cv-01657, 2021 (E.D. Cal. 2021)

Farmer v. Brennan, 511 U.S. 825 (7th Cir. 1994)

STATUTES CITED

An Act Concerning Fair Treatment of Incarcerated Women, CT Gen § 18-96a (2018)

Prison Rape Elimination Act, 42 U.S.C. § 15601 (2012)

The Transgender Respect, Agency, and Dignity Act, CA PEN. § 2605–2606 (2020)

FIGURES

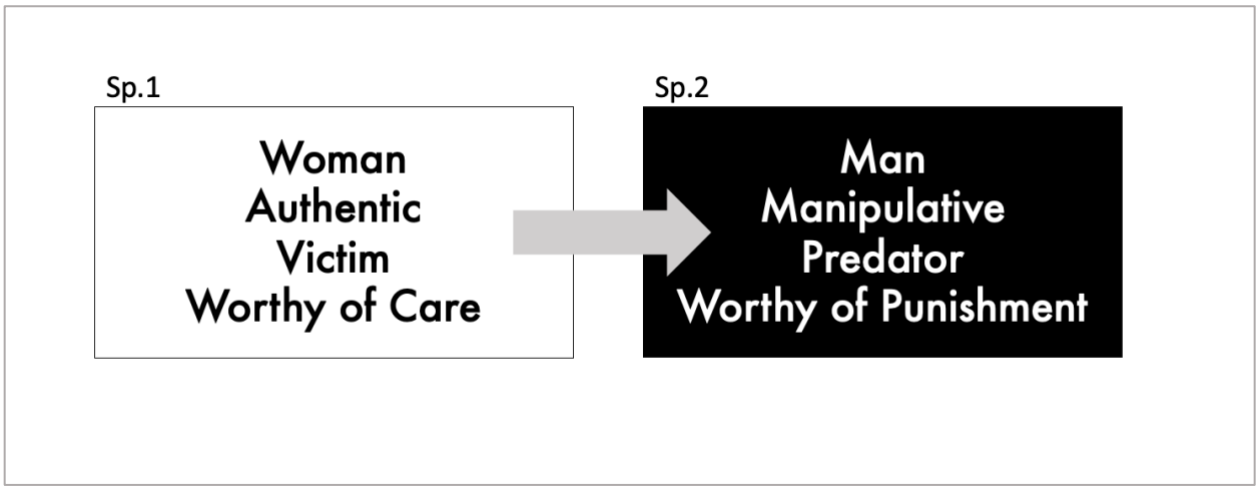

Figure 1. An illustration of recategorization as a result of categorical precarity.

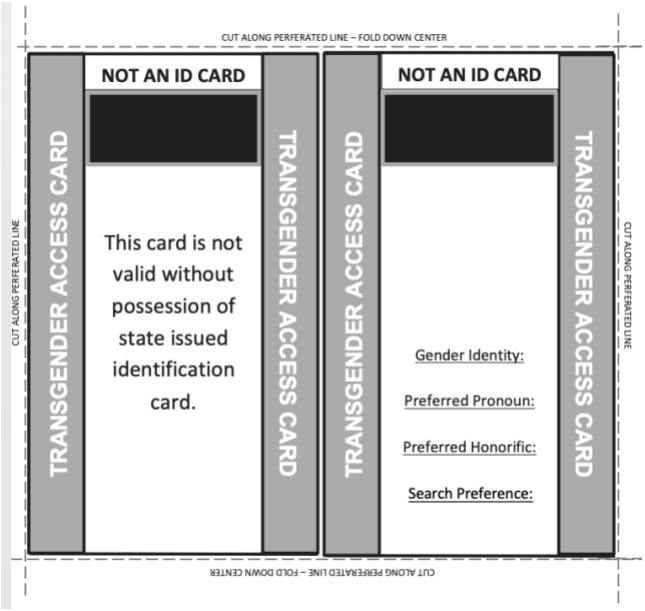

Figure 2. Printable template of CDCR's Transgender Access Card