

CHAPTER 6

# REFORMING POLICE AND ENDING ANTI-TRANSGENDER VIOLENCE



## REFORMING POLICE AND ENDING ANTI-TRANSGENDER VIOLENCE

Transgender people today face an epidemic of anti-trans violence. Whether it occurs on our streets, in our schools, in our homes, or at the hands of law enforcement or other government officials, staggering levels of violence persist even as trans equality advances. The annual Transgender Day of Remembrance serves as a somber reminder of the losses suffered because of senseless and unjust acts of cruelty against transgender people. Twenty-six percent of respondents in the National Transgender Discrimination Survey have been physically assaulted on at least one occasion because of anti-trans bias.<sup>1</sup> Transgender people of color and transgender women are disproportionately affected, with nearly 3 out of 4 of lethal anti-LGBT hate crimes committed against trans women and girls.<sup>2</sup> Transgender people also experience heightened rates of family and intimate partner violence and sexual assault and are frequently re-victimized when they seek help.

Unfortunately, law enforcement is often part of the problem. In recent years the Black Lives Matter movement and others have focused renewed public attention on discriminatory policing, from racial profiling to excessive force against Black and Latino community members, as well as people with disabilities. These concerns also affect transgender people. Half of transgender people report they are uncomfortable seeking police assistance.<sup>3</sup> More than one-fifth (22%) of transgender people who had interacted with police reported police harassment, and 6% of transgender individuals reported that they experienced bias-motivated assault by officers. Black transgender people reported much higher rates of biased harassment and assault (38% and 15%).<sup>4</sup> NCTE and transgender advocates around the country have joined national efforts to demand police accountability and end racial profiling and other forms of discriminatory policing, including the profiling of transgender people (often called “walking while trans”).

Transgender people who have done sex work or participated in underground economies often report elevated levels of police violence—this includes 16% of all trans people, 34% of Latino/a trans people, and 53% of Black trans people.<sup>5</sup> Trans people who have done street economy work are more than twice as likely to report physical assaults by police officers and four times as likely to report sexual assault by police.<sup>6</sup> NCTE believes that dangerous conditions fostered by criminalization and police abuse are the primary threat to the safety of sex workers.

NCTE advocates for oversight, training, and policy changes for law enforcement, victim service providers, the courts, and other systems that impact anti-transgender violence and survivors of violence, as well as for data collection and research on violence against transgender people. We also advocate for reforms that would reduce the violence faced by sex workers and drug users by decriminalizing their behavior and emphasizing support and harm reduction over law enforcement.

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1 Injustice at Every Turn: A Report of the National Transgender Discrimination Survey, at 80.

2 National Coalition of Anti-Violence Programs, Lesbian, Gay, Bisexual, Transgender, Queer and HIV-Affected Hate Violence in 2013. New York, NY: NCAVP (2014). Available at: [http://avp.org/storage/documents/2013\\_ncavp\\_hvreport\\_final.pdf](http://avp.org/storage/documents/2013_ncavp_hvreport_final.pdf).

3 Injustice at Every Turn: A Report of the National Transgender Discrimination Survey, at 162.

4 Injustice at Every Turn: A Report of the National Transgender Discrimination Survey, at 160.

5 Injustice at Every Turn: A Report of the National Transgender Discrimination Survey, at 64.

6 Injustice at Every Turn: A Report of the National Transgender Discrimination Survey, at 160.

## POLICY ADVANCES

- DOJ investigated police abuses against LGBT people as part of pattern and practices investigations of several law enforcement agencies around the country including in New Orleans, Puerto Rico, Cleveland, Albuquerque, and Baltimore, and included specific LGBT protections in consent decrees. (2012-2016)
- DOJ offered resources on transgender cultural competency for law enforcement agencies, including in-person training, a roll call training video, and an inclusive guidebook on policing diverse communities. (2014-2016)
- The President’s Task Force on 21st Century Policing recommended establishing LGBT-inclusive anti-profiling and anti-bias policies and training for police departments, and LGBT-inclusive research on the public’s contacts with police. (2015)
- DOJ issued guidance prohibiting profiling by federal law enforcement agencies based on race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity--though with dangerous loopholes for airport security or border or customs officials.
- DOJ issued guidance stating that VAWA grantees must respect the gender self-identification of survivors of violence, meaning that women’s shelters must accept transgender women. (2014)
- HHS prohibited anti-LGBT discrimination and other service barriers in its domestic violence services grant and made clear that individuals must be treated consistent with their gender identity (2013, updated 2016).
- Congress explicitly banned discrimination based on gender identity, sexual orientation, and sex in the Violence Against Women Act, which applies to all VAWA-funded programs. (2013)
- The FBI produced a new, trans-inclusive hate crime Training Manual and Hate Crimes Statistics Form for law enforcement agencies. (2012)
- Congress passed the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, providing federal support to state and local authorities to address hate crimes, and adding gender identity to hate crimes data collection. (2009)

## NEEDED POLICY CHANGES

- Congress should pass the End Racial Profiling Act, which would explicitly prohibit profiling on the basis of race, national origin, religion, gender, sexual orientation, or gender identity by federal, state, and local law enforcement agencies.
- Congress should fully fund the Department of Justice’s Civil Rights Division and Community Relations Service.
- Congress should pass common-sense gun safety legislation, such as closing background-check loopholes and banning assault weapons, and should fund public health research on gun violence.

- The President, the Attorney General, and other federal officials should consistently speak out against violent attacks targeting transgender people.
- The Department of Justice (DOJ) should take strong actions to implement all recommendations of the President’s Task Force on 21st Century Policing, including by encouraging stronger policies, training, data collection, and independent investigations on use of force; limiting acquisition of military equipment; and conditioning federal grants to law enforcement agencies on adopting anti-profiling and anti-bias policies that are LGBT-inclusive.
- DOJ should publish and disseminate model policies for law enforcement agencies on key topics including police sexual misconduct, interactions with LGBT people, and eliminating the confiscation and use of condoms as evidence.
- DOJ should continue to be proactive in launching pattern and practice investigations of police departments that have engaged in misconduct, including abuses towards LGBT individuals and sex workers.
- DOJ should use guidance, training, and funding criteria to promote implementation of the Prison Rape Elimination Act (PREA) Standards in police lockups and to address sexual abuse in patrol cars in other settings.
- DOJ should issue strong regulations to implement the Violence Against Women Act’s nondiscrimination provisions.
- The Departments of Justice, Health and Human Services, and others agencies should ensure that efforts to combat human trafficking prioritize harm-reduction-based services and other needs identified by affected individuals themselves over “end demand” and law enforcement-based responses.
- Congress or DOJ and the Department of Homeland Security (DHS) should commission an independent study of the effectiveness of Operation Cross Country and similar operations targeting the sex trade in addressing the needs of human trafficking survivors and of their impact on other individuals in the sex trades.
- The Centers for Disease Control and Prevention and DOJ should study the recommendation of the World Health Organization that all countries decriminalize sex work and drug use make law and policy recommendations to Congress and the states to ensure that laws and enforcement practices do not conflict with public health strategies.\*
- DOJ should require that gender identity and sexual orientation data be collected whenever demographic data is collected in programs for victims of crime.

*See Ending Mass Incarceration and Abuse of Prisoners for more on criminal justice reform.*

*See Counting Trans People in Federal Surveys for more on data collection on violence and law enforcement.*

*\* This item is also listed in another section.*