

Transgender Criminalization:



Surveilled | Neglected



A. Bennett, April 2019

Executive Summary:

Transgender people are murdered at a high rate, and when these cases are brought to the police, they are frequently neglected. Law enforcement abuses solicitation laws to stop trans people under the pretense of prostitution; during these stops, a startling number of people report mistreatment or abuse. Policymakers must adopt the President's Task Force on 21st Century Policing's 2015 guidelines¹ to increase data collection to curb the police's abuse of the transgender community.

Problematically, police profiling and abuse are hard to quantify⁶. Due to the limited and biased nature of police reports, there is no clear data set available to spur politicians into action, besides personal testimonies from trans people. Comprehensive information must be gathered in order to prove the extent that trans people are harassed and discriminated against by law enforcement.

Quick Definitions:

- **Transgender:** Describes people whose gender identity doesn't conform to what is typically associated with their sex assigned at birth².
- **Gender Identity:** A person's inherent sense of being a male, female, or an alternative gender².
- **Gender Expression:** The presentation of an individual, including physical appearance, clothing choice and accessories, and behaviors that express aspects of gender identity or role².

Myths and Misconceptions:

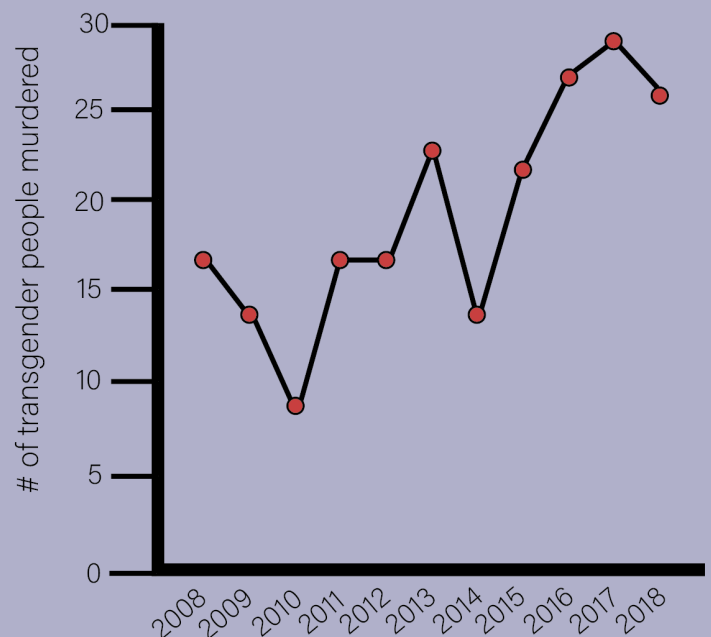
One of the most prevalent ways that law enforcement excessively polices transgender people is through pedestrian stops for suspected solicitation. This especially impacts trans women of color—15% of black trans women report being stopped by police for sex work³. This is based on a stereotyped image of the trans community, and the motives for these stops are often weak—for example, condom possession forms the basis for many "walking while trans" stops⁷.

Background:

Oppressed groups have historically had difficulties interacting with law enforcement, and the transgender community is no exception. The National Center for Transgender Equality's 2015³ report found that 58% of transgender people had experienced one or more forms of mistreatment by law enforcement within the past year. For trans people of color, numbers are far higher, with 74% of Native American trans people reporting mistreatment. This discrimination manifests itself in different forms. Fear discourages trans people from reporting crimes or cooperating in investigations, putting them at even greater risk⁴.

Even in death, transgender victims continue to be abused. Rampant victim blaming limits the scope and intensity of investigations, leaving victims and families without justice⁵.

United States Trans Murder Rates: Creeping Upwards



Graph data: Transrespect versus Transphobia Worldwide, 2018. Trans Murder Monitoring.

Most trans women are not sex workers, and many of the trans women that do become sex workers do so because discriminatory hiring prevents them from finding other jobs³.

Poor and minority people are already likely to be policed at a higher rate; even more intense scrutiny of trans people has dangerous consequences—almost nine out of ten trans people stopped while doing sex work or mistakenly suspected of sex work report mistreatment by police³. These stops, known as “quality of life policing,” feed into the systemic oppression of transgender people, forcing them into the shadows to avoid harm.

Rec. 2.12 limits quality of life policing by banning condom possession as sole evidence for solicitation; Rec. 2.13 suggests police non-discrimination laws that include gender identity and provides more reporting options for victims of abuse by police¹.

Policymakers must also work to increase data collection about discrimination by police toward the trans community. One potential solution is could draw from Philadelphia’s Directive 152, a series of complex instructions designed to obtain the gender identity of a person during a stop; however, the guidelines are often impractical and intrusive for the person being stopped⁶.

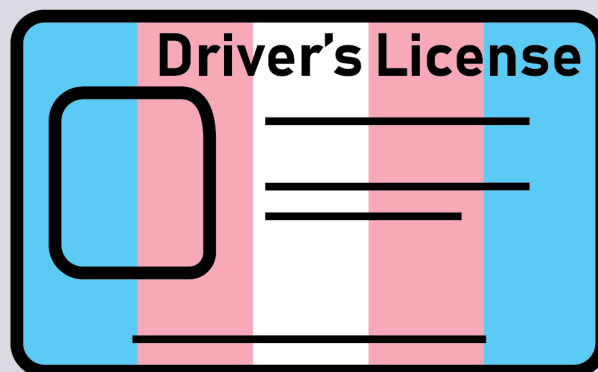
“ We found that over **38%** had called them at a police department for help but instead were **arrested**. These are the issues trans people face daily, which is why we don't trust the police departments. ”

Toni-Michelle Williams, Racial Justice Action Center⁸

Policymakers frequently conflate the lack of visibility of transgender people with a lack of need—the truth is not that trans people do not exist, but instead that they are violently erased from the public space. Due to mistrust in the system, trans people are often afraid to appear in court or pay citations for “walking while trans” offenses, leading to a vicious cycle of bench warrants and arrests. There is no escape—discrimination makes it so that transgender people can not get ahead⁶.

Solutions:

Policymakers must immediately convert the findings Final Report of the President’s Task Force on 21st Century Policing from recommendations to law. The report’s recommendation 2.12 and 2.13 are especially key.



A more practical suggestion would be a form that asks officers to describe their initial perceptions of people during stops. Perception is the root of discrimination, so the officer’s initial thoughts are more important to study than the person’s actual identity⁶. Solutions are based on sharing data with the public, but when it comes to the trans community, that data often does not exist. Therefore, it is critical that policy is implemented to gather this data to further inform future discussions.

References:

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