

CHAPTER I

Fighting Anti-Trans Violence

Violence is a plague in the lives of many transgender and gender-nonconforming (TGNC) people, with hate-motivated beatings and murders very common and often involving extra cruelty. According to the National Coalition of Anti-Violence Programs, 72% of reported hate murders against LGBT people and people living with HIV in 2013 were committed against transgender women, with 67% against transgender women of color. This terror-by-example creates the kind of fear that sends people underground, away from community services and support.

Call the cops? Police often participate in the intimidation themselves rather than providing protection. They often use abusive language, humiliate TGNC people and are widely responsible for injuries during custody and on routine patrols. In 2012, Lambda Legal's national survey on police misconduct, *Protected and Served?*, found that 32% of TGNC respondents reported that police officers' attitudes toward them had been hostile. Additionally, the National Coalition of Anti-Violence Programs found in 2013 that transgender people were 3.7 times more likely to experience police violence than the general population.

In recent years, the rash of murders has prompted an outcry. Since 1998, November 20th has been marked annually around the world as Transgender Day of Remembrance. Following years of grassroots campaigning, a U.S. federal hate

crimes law now covers TGNC victims. And protests against police brutality are beginning to bring changes in a few major American cities.

Nonetheless, there are continued reports about TGNC people being degraded, physically assaulted or sexually abused while under arrest. These harken back to one of the first and most high-profile campaigns to hold police accountable for anti-transgender violence: the murder case of transgender teen Brandon Teena. In 2001, the Nebraska Supreme Court held a local sheriff liable for both his own abusive treatment of Teena and his failure to protect him from murder after his rapists threatened his life. (Lambda Legal argued the case on appeal.)

This fact sheet describes current battles against anti-TGNC violence and mentions a variety of ways to connect with advocates and services, whether participating in community events; helping establish TGNC-friendly police policies; or reaching out for legal advice or support through Lambda Legal's Help Desk at 866-542-8336 or www.lambdalegal.org/help.

MY STORY HERE'S WHAT I'VE LEARNED ABOUT THE POLICE

LOURDES ASHLEY HUNTER

"I've always identified as gender-nonconforming. Luckily, I've always been accepted by my family and friends, but that's not the case for everyone.

"The police profile transgender individuals a lot. They think that we're all sex workers. There are cases where they harass people, disrespect them and take away their humanity. Sexual assault cases are not uncommon. They also use inappropriate pronouns, offensive language and pejorative terms.

"I've worked with the police in my capacity as a community organizer for over 20 years and my advice is: Know your rights. In New York City, for instance, you have the right not to be discriminated against for your gender identity and to be addressed by your appropriate pronoun.

"Never argue with the police. Defend yourself by knowing the law."



FAQ

Answers to Common Questions about Anti-Transgender Violence

Q: Sometimes when I'm out with friends, a police officer stops to harass me on the sidewalk, assuming I'm a sex worker. What should I do?

A: Your first step should be to get as much information as possible about the officer involved: badge number, precinct number, name, description, time of day and location. Police are required to provide their badge number and names—although make sure that you are not putting yourself in danger by collecting the information. If you are questioned by the police, ask if you are free to go. If they say you are, calmly walk away.

If you are harassed by police, it's a good idea to contact a community-based organization that works on issues of police and institutional violence such as the New York City-based Anti-Violence Project (AVP) (avp.org or 212-714-1141) or another group under the umbrella of the National Coalition of Anti-Violence Projects (NCAVP) (ncavp.org or 212-714-1184 or info@ncavp.org). These groups can advise you on where to turn not just for legal advice but for support of other kinds.

You can also contact your local police department's Civilian Complaint Review Board (CCRB) or Internal Affairs Bureau (IAB). Reporting the incident is very important for building an accurate measure of the problem overall.

Police harassment and outright brutality against transgender people are very common: Twenty-two percent of the 6,450 transgender and gender-nonconforming respondents in the 2011 National Transgender Discrimination Survey (NTDS) who had interacted with police reported being harassed by them (the rate was much higher for transgender people of color). And almost one out of two respondents said they were uncomfortable about seeking help from police. In 2012, a separate survey among 220 transgender Latinas in Los Angeles found that two out of three respondents reported verbal harassment by police and one out of four reported sexual assault.

Q: What is being done to combat police mistreatment of transgender people?

A: Lawsuits in several U.S. cities have been resolved successfully in many incidents involving police strip-searching, groping, false arrests and chaining transgender people on

DEFINITIONS

Transgender refers to people whose gender identity, one's inner sense of being male, female or something else, differs from their assigned or presumed sex at birth; **cisgender** refers to people whose gender identity is the same as their assigned or presumed sex at birth.

Gender-nonconforming people don't meet society's expectations of gender roles.

handrails in “fish tank” fashion rather than placing them in cells. Meanwhile, advocates have been working with police to implement guidelines requiring respectful treatment of transgender people on patrol and in custody. Lambda Legal filed a friend-of-the-court brief on behalf of Patti Hammond Shaw, a trans woman who was held in men's detention areas while in the custody of the Washington, DC Metropolitan Police Department and United States Marshals Service. The MPD refused to recognize the “F” on her ID and instead went by her former database records. The case was resolved through an undisclosed monetary settlement and the MPD has agreed to change its classification policy so that transgender detainees will be classified based on the gender listed on their ID, if they so wish.

There have also been significant policy improvements in Atlanta, Georgia; Cicero, Illinois; Denver, Colorado; Los Angeles; New York City; Portland, Oregon; San Francisco; and Washington, DC. In June 2013, the New York City Council passed two important bills—the End of Discriminatory Profiling Bill and the NYPD Oversight Bill—by a veto-proof majority. The End of Discriminatory Profiling Bill enforces a strong ban on profiling based on gender identity or expression and sexual orientation, among many other factors. Similar laws exist in Illinois, West Virginia and Arkansas. The NYPD Oversight Bill establishes independent oversight of the NYPD to match oversight of the FBI, CIA and LAPD, in addition to every major New York City agency.

In April 2012, The Los Angeles Police Department issued a new policy on treatment of transgender incarcerated people intended to “prevent discrimination and conflict.” Among the guidelines is this instruction:

“Treat transgender persons in a manner that reveals respect for the individual's gender identity and gender expression, which includes addressing them by their preferred name and using gender pronouns appropriate to the individual's gender self-identity and expression.”

In addition, the 2003 Prison Rape Elimination Act (implemented in 2012), is a federal law which states that consideration for someone's gender identity and safety must be taken into account when the person is searched or housed in custody. (Please see our “Transgender Incarcerated People in Crisis” fact sheet, downloadable here: lambdalegal.org/publications/toolkits.)

Q: What does it mean that anti-transgender violence is now a hate crime in the United States?

A: A hate crime is a violent act motivated by bias. The idea behind hate crime law is that such acts don't just affect the individual victim but also serve to intimidate an entire group

“ **Never argue with the police.
Defend yourself by knowing the law.** ”

—LOURDES ASHLEY HUNTER

of people—and therefore demand greater punishment than other crimes. Also, it takes much longer for victims to recover mentally from a hate crime, according to the American Psychological Association.

In 2009, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act was signed into law. It expanded the 1969 Federal Hate Crimes Law to include crimes motivated by a victim’s actual or perceived gender, sexual orientation or gender identity.

The Hate Crimes Prevention Act was historic because it extended the first-ever explicit federal protections to transgender people. Also, by requiring the government to provide grants and assistance to state and local authorities investigating and prosecuting hate crimes, it is intended to have the most practical effects possible.

On March 13, 2013, President Obama signed the reauthorized Violence Against Women Act (VAWA) into law, which for the first time prohibited any program funded by VAWA from discriminating against people due to gender identity or sexual

orientation. The VAWA also explicitly named LGBTQ communities as underserved populations.

Q: Why is suicide so common among transgender people?

A: Trans people face hostility and discrimination with such frequency and in so many aspects of life that it is easy to turn that hatred inward. Forty-one percent of NTSD respondents said they’d attempted suicide (compared to just 1.6% of the general population).

Health care failures contribute to this problem—whether that means being unable to see an accepting and knowledgeable

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41% The percentage who said they had attempted suicide among 6,450 transgender and gender-nonconforming respondents to the 2011 National Transgender Discrimination Survey, compared to 1.6% of the general population.

TRANSGENDER PRIDE VISIBILITY IS KEY

Transgender rights are LGBT rights, but sidelining of transgender issues and people has always been a problem in the LGB movement, even when they’re at the very center of what’s going on, such as during the 1969 Stonewall riots. Since 2003, there has been a movement to supplement LGBT Pride marches with trans-focused events, including the massive Trans March in San Francisco every year. The upbeat emphasis on visibility and pride also balances the mourning theme of Transgender Day of Remembrance (see below).

The activist side of Transgender Pride has exploded into a separate Transgender Day Of Action in recent years. Organized by New York City’s TransJustice, part of the Audre Lorde Project, to call attention to hate crimes, biased policing and the intersection of racism and transphobia, the Day of Action has lately spread to Washington, DC and other cities.

PUERTO RICO MURDERS ANTI-TRANS ATTACKS AND POLICE MISCONDUCT

The Civil Rights Commission of Puerto Rico recorded 17 instances of hate-motivated violence against LGBT individuals in 2013, and alarmingly, more than half of the survivors (52.94%) were trans women.

In Puerto Rico, state agencies continue to resist handling police complaints in cases of assault and violent acts as hate crimes, and instead investigate them as misdemeanors, even in cases that were evidently motivated by prejudice. The authorities’ refusal to deploy the U.S. Commonwealth’s 2002 hate crimes law in such cases has been infuriating for those seeking justice.

TRANS DAY OF REMEMBRANCE RAGE AND SADNESS EVERY YEAR

Every November 20th, communities around the world mark Transgender Day of Remembrance (TDoR) to honor those killed in the previous year due to anti-transgender prejudice: Often the event is marked by candlelight vigils, a recitation of names and a peaceful public march of some kind. The Day (and the Transgender Awareness Week leading up to it) is in November because it was Rita Hester’s November 28th, 1998 murder that inspired the “Remembering Our Dead” web project and a San Francisco candlelight vigil in 1999. Hester’s murder—like most anti-transgender murder cases—has yet to be solved.

In 2014, Lambda Legal marched in solidarity at Chicago’s TDoR March, tabled at the 6th annual Transgender Symposium and Observance of the Transgender Day of Remembrance in Rutgers and hosted a screening of “Black Is Blue,” a short film about a black transgender security guard.

doctor when ill; having no access to safe and affordable transition-related health care (such as hormone treatments or gender-affirming surgery); or despairing about these or other issues without basic psychological support. Research has shown a link between lack of health care coverage and the high suicide rate. The rate among subjects in a 2006 study dropped from 29.3 to 5.1 percent when they were given access to transition-related treatment. (Please see our “Transition-Related Health Care” fact sheet, downloadable here: lambdalegal.org/publications/toolkits.)

Discriminatory health care and insurance policies persist despite medical consensus of the “efficacy, benefit and medical necessity” of transition-related surgery and other treatment, as the American Psychological Association stated in a 2008 statement. (For a list of similar resolutions, see: lambdalegal.org/publications/fs_professional-org-statements-supporting-trans-health.)

Meanwhile, transgender people are very often poor and face double the rate of unemployment. This can make for considerable stress and contribute to suicide risk. Respondents to the NTDS were nearly four times more likely to have a total household income lower than \$10,000 per year compared to the general population. (Please see our “Workplace Rights & Wrongs” fact sheet, downloadable here lambdalegal.org/publications/toolkits.)

If you or someone you know is at risk for suicide, there is support out there. The Trevor Project provides a suicide hotline for LGBT youth at 866-488-7386; or call 1-800-suicide, which serves the general population.

Q: What is being done about anti-TGNC bullying in schools?

A: Unfortunately, even TGNC young people are the targets of harassment. Bullying is an especially widespread problem: Seventy-eight percent of NTDS respondents who had expressed a transgender identity or gender-nonconformity while in grades K-12 reported being harassed; 35% attacked; and 12% sexually assaulted.

Forty-nine states now require that schools have policies against discrimination and bullying, although only a third of those explicitly mention gender identity and/or expression. In October 2010, the Department of Education issued a guidance that explained educators’ legal obligations to protect students from student-on-student racial and national origin harassment, sexual and gender-based harassment, and disability harassment, including gender and sexual harassment of LGBT individuals. Additionally, in April 2012, the Obama Administration voiced its support for the proposed Student Non-Discrimination Act (SNDA) and the Safe Schools Improvement Act (SSIA), which would put some federal muscle into the fight against bullying.

If you are bullied at school, check out the Know Your Rights for Teens and Young Adults section of Lambda Legal’s website (<http://www.lambdalegal.org/know-your-rights/youth>) and Lambda Legal’s “What to Do if You’re Bullied,” in *Out, Safe & Respected*, which is available here: <http://www.lambdalegal.org/publications/out-safe-respected>.

Resources

HATE CRIMES & POLICE MISCONDUCT

If you have faced or witnessed anti-transgender violence, there is help! Call the police. Contact Lambda Legal’s Help Desk toll-free at 866-542-8336 or go to www.lambdalegal.org/help.

Also reach out to organizations that deal specifically with problems of violence, such as:

ANTI-VIOLENCE PROJECT (AVP)

The New York City-based AVP (www.avp.org or 212-714-1141) works to empower lesbian, gay, bisexual, transgender, queer and HIV-affected communities and allies to end all forms of violence through organizing and education, and supports survivors through counseling and advocacy.

The National Coalition of Anti-Violence Projects (NCAVP) (www.ncavp.org or 212-714-1184 or info@ncavp.org) is a coalition of 20 community-based LGBTQH anti-violence organizations.

SUICIDE

1-800-suicide This round-the-clock hotline serves the general population.

Trans Lifeline (1-877-565-8860 and translifeline.org) is a nonprofit hotline staffed by transgender people for transgender people currently experiencing a crisis.

The Trevor Project (866-488-7386 and www.thetrevorproject.org) provides crisis intervention and suicide prevention services to LGBTQ youth.

lambdalegal.org/publications/out-safe-respected. If you’re bullied in out-of-home care, also check out Know Your Rights for Teens and Young Adults: <http://www.lambdalegal.org/know-your-rights/youth>

Also see Lambda Legal’s *Bending the Mold* at lambdalegal.org/publications/bending-the-mold and “Survival Tips for Trans Youth” at lambdalegal.org/publications/toolkits. And see the *Model District Policy for Transgender and Gender Nonconforming Students* created in 2011 by the Gay, Lesbian and Straight Education Network (GLSEN) and downloadable here: glsen.org/article/transgender-model-district-policy.

FOR MORE INFORMATION: Contact Lambda Legal at 212-809-8585, 120 Wall Street, 19th Floor, New York, NY 10005-3919. If you feel you have experienced discrimination, call our Legal Help Desk toll-free at 866-542-8336 or go to www.lambdalegal.org/help.