


REPORT ON THE UNITED STATES

RACIAL DISCRIMINATION AGAINST SEXUAL MINORITIES IN THE UNITED STATES OF AMERICA

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MINI-REPORT

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INTRODUCTION

This Report focuses on the structural, physical, racial and sexual violence of Black gender non-conforming Americans in the United States and, the perpetrators of such violence. Based on reliable data, Black gender non-conforming Americans are subject to disproportionately higher rates of homicide. They also face pervasive discrimination and persecution in the public sphere to the highest levels of representative governments (Aultman, 2021).

DEFINITIONS

VIOLENCE World Health Organization, describes violence as “the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation” (WHO, 2002).

GENDER NON-CONFORMING An umbrella term that describes those who do not fit into traditional gender expectations (Erickson-Schroth, 2014).

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VIOLENCE AGAINST THE GENDER NON-CONFORMING COMMUNITY

Violence against the gender non-conforming community is a disconsolate reality in the United States. Despite legislative and judicial successes in America, those who violate the gender binary find themselves at risk of discrimination and violence. Scholars have also found being visibly trans, either by gender expression or disclosure in the United States, provides an avenue for anti-trans bias to emerge (Stotzer, 2021) (Lund, Burgess, & Johnson, 2021, p. 204). Thus, visibility increases the likelihood of gender non-conforming individuals being subject to violence (Stotzer, 2021).

THE CASE OF KAYLA MOORE (CALIFORNIA, 2013)

Kayla Moore's friend called for mental health assistance for Ms. Moore, a transgender woman living with mental illness. The officers who responded checked a database and found someone with Ms. Moore's birth name, though 20 years older. Instead of responding to the request for mental health assistance, officers arrested Ms. Moore. They threw her, face down, onto a futon to handcuff her after she said she would make a phone call to clear up the mistaken identity issue. She died of asphyxiation. No medical aid was sought. **Aftermath:** The Ninth Circuit Court of Appeals upheld the dismissal of the Moore family's lawsuit (Commission, 2021, p. 48, para. 147).

PERPETRATORS OF VIOLENCE

I. VIOLENCE AGAINST TRANSPERSONS

The first aspect to point out is the force used to kill trans people. Multiple studies suggest that the amount of force used far exceeds the amount needed to cause their deaths. This phenomenon is called "overkill," where trans murder victims are destroyed or obliterated, rather than simply killed (Stotzer, 2021). Evidence of over-kill includes a person being shot or stabbed multiple times or being beaten to death, as in the case of India Clarke.

A greater proportion of anti-trans violence involve groups of perpetrators, rather than someone acting alone (Stotzer, 2021). While this is not always the case, the perpetrators of violence against trans people have been disproportionately male (Stotzer, 2021).

Evidence establishes that perpetrators of anti-trans violence conflate sexuality and gender identity (e.g., accusing trans women of being gay men) and, express multiple biases (such as race/ethnicity, sexuality, and gender identity biases) in their verbalizations during an attack (Stotzer, 2021). Furthermore, it has been suggested that perpetrators find glee in harming trans people as a form of entertainment or sport (Stotzer, 2021). One should note here that the perpetrators of violence against trans people do so for social reasons (e.g., to reinforce a binary gender system, to “punish” transgressors) (Stotzer, 2021).

THE CASE OF INDIA CLARKE (FLORIDA, 2015)

India Clarke was found beaten to death in Tampa, Florida. A park employee found Clarke’s body just before 9am. According to investigators, she died due to blunt force trauma. “Mom, I love you. Dad, I love you,” were Clarke’s last words before leaving the house the day of the incident. In the wake of her death, local media and officials have gone against journalistic standards around reporting on transgender people, by using pronouns the victim did not use to refer to herself. Initial reports have stated that Clarke was a “man in a dress” and the Hillsborough county spokesman Larry McKinnon said officials will not be categorizing Clarke as transgender (Stafford, 2015).

15%

of Black transwomen reported being physically abused by American police.

7%

of Black transwomen reported being sexually assaulted by American police.

Black women, including those who identify as transgender, are not only victims of deadly police violence, they are also vulnerable to sexual and physical abuse at the hands of law enforcement (Commission, 2021, p. 74, para. 237). Indeed, the Commissioners found Black trans women are often targeted by police for prostitution arrests and then subjected to sexual harassment and assault by police.

While there is no data on transgender arrest rates in the United States, research shows police are extremely biased against trans people, especially Black trans people (Jones, 2021). According to the National Center for Transgender Equality and the National Gay and Lesbian Task Force's [*Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*](#), 6 % reported that police have physically assaulted them and 2% reported that police have sexually assaulted them. Assault rates were even higher for Black trans people, with 15% reporting physical abuse and 7% of them reporting sexual assault by police. (Jones, 2021).

II. VIOLENCE AGAINST HOMOSEXUAL MEN

Homosexual men also underreport homophobic-related hate crimes to police because of real or perceived maltreatment or stigma from law enforcers (Lund, Burgess, & Johnson, 2021, p. 140). As an example, survivors of homophobic violence in the United States report being subjected to police misconduct after the incident of violence, including excessive force, unjustified arrests, entrapment, and raids (Lund, Burgess, & Johnson, 2021, p. 140). Among those who do report homophobic victimization, Black American gay men are 2.8 times more likely to experience excessive force from police than those who do not identify as Black (Lund, Burgess, & Johnson, 2021).

SYSTEMIC DISCRIMINATION IN THE UNITED STATES

Systemic discrimination disproportionately affects Black gender non-conforming persons given the societal inequities related to racial, sexual orientation, and gender identity oppression (Lund, Burgess, & Johnson, 2021, p. 204). Researchers found the legacies of slavery and anti-Blackness that constitute policing has unsurprisingly spilled over into the gender non-conforming community (Natividad, 2022). It is clear from this observation that Black trans people are hyper-incarcerated in relation to white trans people, given white people are incarcerated less than Black people (Natividad, 2022). Thus, Black gender non-conforming Americans are overrepresented in prison populations as a result (Mahowald, 2021).

25%

of Black gender non-conforming reported experiencing discrimination when interacting with law enforcement.

40%

of Black gender non-conforming reported avoiding law enforcement to avoid experiencing discrimination.

I. EMPLOYMENT

Black gender non-conforming individuals in the United States are also more likely than their white counterparts to experience discrimination within LGBTQ spaces (Mahowald, 2021). For example, 78 % reported discrimination that has affected their ability to be hired to some degree, 56 % reported that discrimination has affected their ability to retain employment to some degree, and 40 % made specific decisions about where to work in order to avoid discrimination (Mahowald, 2021). In another study, half of Black respondents reported experiencing workplace harassment (Lund, Burgess, & Johnson, 2021).

In 2021, Representative David Cicilline sponsored the Equality Act, which acknowledged that transgender people and women are economically disadvantaged and at a higher risk for poverty compared with other groups of people in the United States (Cicilline, 2022). However, the Act does not implement structural reforms in the institutional systems of security and justice to counter historical racialized discrimination and institutional racism (Commission, 2021) that Black gender non-conforming Americans face (see Appendix).

CONCLUSION

This Report focused on the structural, physical, racial and sexual violence of Black gender non-conforming Americans in the United States. While this Report did not identify all the perpetrators of anti-Black gender non-conforming violence, it identified law enforcement as perpetrators of such violence. This Report also cited reliable data which demonstrated that Black gender non-conforming Americans are subject to disproportionately higher rates of homicide. That data further showed they face pervasive discrimination and persecution in the public sphere to the highest levels of representative governments. Yet, their struggle for equality in the United States persists.

APPENDIX

ANTI-TRANSGENDER BILLS

- [SC H4799 - Critical Race Theory](#)

Amend The Code Of Laws Of South Carolina, 1976, By Adding Chapter 35 To Title 1 So As To Define Terms, Prohibit The State, All Political Subdivisions, All Public School Districts, Public Schools, And Public Institutions Of Higher Education From...

03/08/2022: House E.P.W. Full Committee (00:00 3/8/2022 Blatt Room 110)

- [ID H0675 - Amends existing law to provide for the crime of genital mutilation in certain instances and to provide certain exemptions.](#)

GENITAL MUTILATION OF A CHILD -- Amends existing law to provide for the crime of genital mutilation in certain instances and to provide certain exemptions.

03/07/2022: Reported out of Committee with Do Pass Recommendation, Filed for Second Reading

- [LA HB570 - Prohibits certain procedures to alter the sex of a minor child](#)

AN ACT To enact Part VIII of Chapter 5-A of Title 40 of the Louisiana Revised Statutes of 1950, to

03/04/2022: First appeared in the Interim Calendar on 3/4/2022.

- [UT HB0127 - Medical Practice Amendments](#)

This bill prohibits a physician or surgeon from performing a transgender procedure on a minor.

03/04/2022: House/ filed in House file for bills not passed

- [AL HB266 - Public health, medical procedures for minors intended to alter appearance of gender prohibited, exceptions provided, criminal penalties provided](#)

Public health, medical procedures for minors intended to alter appearance of gender prohibited, exceptions provided, criminal penalties provided

03/02/2022: Pending third reading on day 18 Favorable from Judiciary with 1 amendment

- [AL SB184 - Public health, medical procedures for minors intended to alter appearance of gender prohibited, exceptions provided, criminal penalties provided](#)

Public health, medical procedures for minors intended to alter appearance of gender prohibited, exceptions provided, criminal penalties provided

03/02/2022: Pending third reading on day 18 Favorable from Judiciary

- [AZ HB2161 - Parental rights; schools; educational records](#)

Parental rights; schools; educational records

03/02/2022: Senate read second time

- [**AZ SB1138 - Irreversible gender reassignment surgery; minors**](#)

Irreversible gender reassignment surgery; minors

03/02/2022: House read second time

- [**OK SB1100 - Vital records; limiting sex or gender designation on certificate of birth to male or female; prohibiting nonbinary designation. Emergency.**](#)

An Act relating to vital statistics; amending 63 O.S. 2021, Sections 1-311, 1-313, 1-316 and 1-321, which relate to certificates of birth; limiting sex or gender designation on certificate of birth to male or female; prohibiting nonbinary designation...

03/02/2022: Coauthored by Senator Jett

- [**TN HB2633 - AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 6, relative to student pronouns.**](#)

As introduced, specifies that a teacher or other employee of a public school or LEA is not required to refer to a student using the student's preferred pronoun if the pronoun does not align with the student's biological sex; insulates a teacher...

03/02/2022: Placed on s/c cal K-12 Subcommittee for 3/8/2022

- [**TN HB2835 - AN ACT to amend Tennessee Code Annotated, Title 8; Title 9; Title 14; Title 33; Title 63 and Title 68, relative to health.**](#)

As introduced, enacts the “Youth Health Protection Act.” - Amends TCA Title 8; Title 9; Title 14; Title 33; Title 63 and Title 68.

03/02/2022: Placed on s/c cal Health Subcommittee for 3/8/2022

- [**TN SB2696 - AN ACT to amend Tennessee Code Annotated, Title 8; Title 9; Title 14; Title 33; Title 63 and Title 68, relative to health.**](#)

As introduced, enacts the “Youth Health Protection Act.” - Amends TCA Title 8; Title 9; Title 14; Title 33; Title 63 and Title 68.

03/02/2022: Placed on Senate Health and Welfare Committee calendar for 3/9/2022

Source: <https://freedomforallamericans.org/legislative-tracker/anti-transgender-legislation/>

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