

*CLE Program*

# CRIMINAL LEGAL ISSUES AND THE LGBTQ+ COMMUNITY

*Thursday, July 18, 2019 | 6:30-8:00 p.m.  
New York Law School*

## PRESENTERS

**Jaclyn Quiles**, Investigative Attorney, NYC Dep't of Investigation,  
Office of the Inspector General for the NYPD

**Jared Trujillo**, President, Association of Legal Aid Attorneys (U.A.W. 2325)

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## **Criminal Legal Issues and The LGBTQ+ Community (CLE)**

**July 18, 2019 | 6:30 – 8:00 p.m. | New York Law School**

*A CLE Program presented by LeGaL & the Hispanic National Bar Association*

### **SUMMARY**

*This program will discuss the issues facing the LGBTQ+ community in the criminal legal system from both the prosecutor and defense counsel perspective. It will highlight particular considerations for litigating those cases and presenters will discuss client or victim-centered practices and considerations for plea negotiations, alternative sentencing, and trial.*

### **AGENDA**

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|-------------------------|---|
| <b>6:30 – 6:45 p.m.</b> | Introduction  |
| <b>6:45 – 7:15 p.m.</b> | The Criminalization and Victimization<br>of the Queer Community |
| <b>7:15 – 7:50 p.m.</b> | Practical Skills  |
| <b>7:50 – 8:00 p.m.</b> | Questions and Answers   |

## **PRESENTERS**

### **JACLYN QUILES**

*Investigative Attorney, NYC Dep't of Investigation, Office of the Inspector General for the NYPD*

Jaclyn Quiles is an Assistant District Attorney at the Kings County District Attorney's Office, Domestic Violence Unit where she prosecutes misdemeanor and felony cases involving intimate partner violence. While in the Domestic Violence Bureau, Jaclyn has created a specialty in prosecuting LGBTQ intimate partner violence cases and helped create an office-wide policy for prosecuting cases involving LGBTQ Defendants and/or victims. Jaclyn now trains the office on LGBTQ cultural competency, the relationship between law enforcement and the LGBTQ community, and challenges for prosecution. Jaclyn Quiles received her Juris Doctor from the Maurice A. Deane School of Law at Hofstra University and received her B.A. with Honors in Government and Law at Lafayette College. During law school, Jaclyn was a clinical student for Hofstra Law's Occupy Wall Street Clinic and interned with the New York Civil Liberties Union. While at Hofstra Law, Jaclyn also served as the President of Hofstra LaLSA, served as Secretary and a Delegate for MetroLALSA, Inc., and as a Regional Director for the National Latino/a Law Student Association. Jaclyn was the inaugural recipient of the Justice Sallie Manzanet-Daniels "Dare to Dream" scholarship and a "Rising Star" Flor de Maga Award Recipient from the Puerto Rican Bar Association Women's Committee. Jaclyn is also currently a Co-Chair of the LGBTQ+ Committee of the Puerto Rican Bar Association and is a member of the NYC Bar Association's LGBT Committee. <http://legal.podbean.com> or on itunes. She blogs on legal issues at *artleonardobservations.com*.

### **JARED TRUJILLO**

*President, Association of Legal Aid Attorneys (U.A.W. 2325)*

Jared Trujillo serves as President of the Association of Legal Aid Attorneys (ALAA), a union of 1500 legal professionals at 8 non-profits that represent low-income New Yorkers in criminal defense, immigration, housing, juvenile rights, parent rights, and employment matters. He lobbies for legislative reforms, drafts legislation, and advocates for policy changes at City agencies and District Attorney offices. Previously, he was a criminal defense and a juvenile rights attorney at Legal Aid, and helped coordinate the organization's LGBTQ+ working group. Jared is a Steering Committee member of DecrimNY, an organization that advocates for the decriminalization and destigmatization of sex work in New York.



# CIVILIAN COMPLAINT REVIEW BOARD

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## PRIDE, PREJUDICE AND POLICING: An Evaluation of LGBTQ-Related Complaints from January 2010 through December 2015

# **CCRB MISSION AND VALUES**

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The New York City Civilian Complaint Review Board (the “CCRB” or the “Board”) is an independent agency, created by Chapter 18-A of the New York City Charter. The Board is empowered to receive, investigate, mediate, hear, make findings, and recommend action on complaints against New York City police officers alleging the use of excessive or unnecessary force, abuse of authority, courtesy, or the use of offensive language.

**In fulfillment of its mission, the Board has pledged:**

To report apparent patterns of misconduct, relevant issues and policy matters to the Police Commissioner and the public.

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# PRIDE, PREJUDICE AND POLICING: An Evaluation of LGBTQ-Related Complaints from January 2010 through December 2015

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## EXECUTIVE SUMMARY

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In June of 1969, the New York City Police Department’s (NYPD) Public Morals Squad raided the Stonewall Inn nightclub in order to enforce laws that criminalized being lesbian, gay, bisexual, transgender, and gender non-conforming. The protests and riots that followed initiated a long journey to reform the laws and societal mindset that marginalized lesbian, gay, bisexual, transgender, and queer or questioning (LGBTQ) identities.<sup>1</sup> Despite recent legal gains ranging from overturned sodomy laws to legalized same-sex marriage, some in the New York City LGBTQ community argue that LGBTQ individuals have endured discrimination often imposed by institutions positioned to protect them.<sup>2</sup>

Forty years after the Stonewall riots, City Council Speaker Christine Quinn and Police Commissioner Raymond Kelly announced the formation of the LGBT Advisory Committee to the NYPD. Comprised of LGBTQ advocates and community stakeholders, the LGBT Advisory Committee worked with NYPD officials to develop recommendations that would ensure that members of service would treat the LGBTQ citizens they encountered with dignity and respect.<sup>3</sup> In 2012, the NYPD adopted some of the LGBT Advisory Committee’s recommendations, which required, amongst other things, that police officers address individuals according to their gender identity, refer to individuals by their preferred pronouns, refrain from profiling individuals simply because of their gender expression or sexual orientation, and stop searching individuals in order to make gender determinations. Some LGBTQ advocates and stakeholders argue that, despite these Patrol Guide changes, NYPD members continue to profile and unfairly police LGBTQ individuals, particularly transwomen of color and homeless LGBTQ youth.<sup>4</sup>

For many years, the CCRB did not rigorously monitor police misconduct in the LGBTQ community. Previously, there was a lack of capacity to monitor allegations of misconduct related specifically to the LGBTQ community. Only recently, in December 2015, did the CCRB add an option for complainants and/or victims to voluntarily disclose their sexual orientation or gender identity when filing a complaint. For gender identity, complainants can choose between male, female, transman (FTM), transwoman (MTF), or not described. There is also space provided for transgender individuals who would like to indicate a preferred name if it is different than the

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<sup>1</sup> While the term “queer” is controversial, it is one of the myriad ways that an individual may choose to describe their attractional identity.

<sup>2</sup> Ryan Houlihan, “GLAAD Joins LGBTQ Orgs to Urge NYC Council to Ban Discriminatory Profiling, Despite Bloomberg Veto,” *GLAAD*, July 29, 2013, <http://www.glaad.org/blog/glaad-joins-lgbtq-orgs-urge-nyc-council-ban-discriminatory-profiling-despite-bloomberg-veto>; Center for Constitutional Rights. 2012. *Stop And Frisk: The Human Impact*. <https://ccrjustice.org/sites/default/files/attach/2015/08/the-human-impact-report.pdf>.

<sup>3</sup> The term Member of Service (MOS) refers to a NYPD sworn officer.

<sup>4</sup> Carl Charles, “NYPD Needs More than Rainbows to Show its Support for LGBT Rights,” *ACLU*, July 1, 2015, <https://www.aclu.org/blog/speak-freely/nypd-needs-more-rainbows-show-its-support-lgbt-rights>; Urban Institute. Surviving the Streets of New York: Experiences of LGBTQ Youth, YMSM, and YMSW Engaged in Survival Sex. 2015. <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000119-Surviving-the-Streets-of-New-York.pdf>.

name provided on their identification. For sexual orientation, complainants can choose between heterosexual or straight, gay or lesbian, bisexual, or other. While these options are not exhaustive, expanding categories of gender identity and sexual orientation beyond binary classifications can enhance tracking allegations of misconduct within the LGBTQ community. Additionally, in 2015, the CCRB increased efforts to work with communities that feel the Agency has been unresponsive. In recognizing the specific policing challenges that members of the LGBTQ community face, the CCRB's Outreach team expanded its reach to LGBTQ organizations in 2015, and in the same year, the CCRB hosted an event entitled "Let's Talk About It" which was a candid conversation between the CCRB leadership and members of LGBTQ advocacy groups. Therefore, the CCRB has taken recent steps to address allegations of police misconduct in the LGBTQ community.

On June 15, 2016, the CCRB hosted a symposium entitled, "The Rainbow Crossing: Police Accountability and the LGBTQ Community" at the Lesbian, Gay, Bisexual, Transgender Community Center in New York City. With four panels on Policy, Law Enforcement, Grassroots, and a Debrief session, this well-attended event produced a number of civilian-generated recommendations for improving LGBTQ community and police relations, including that: 1) local precincts make CCRB flyers visible and readily apparent, 2) the CCRB investigate allegations of sexual misconduct by members of the NYPD against civilians, 3) the Patrol Guide include a section specifically prohibiting sexual misconduct by members of service against civilians, 4) training on implicit bias be included within the NYPD's LGBTQ-specific training, 5) the NYPD training include particular attention to appropriate member of service responses to complaints of intimate partner violence within the LGBTQ community, 6) the NYPD and the CCRB capture and make available more data specifically on the LGBTQ community and issues related to police encounters, and 7) oversight bodies accept anonymous complaints in order to address LGBTQ complainants' fear of retaliation and/or outing.

It is against this backdrop that the CCRB presents the first quantitative and qualitative assessment performed by a police oversight agency in the United States, analyzing data regarding allegations of misconduct in the LGBTQ community. Using CCRB data from 2010 through 2015, this report has five goals: 1) to analyze complaint data regarding the New York City LGBTQ-community; 2) to assess characteristics of allegations regarding police misconduct; 3) to identify subgroups that may have a heightened risk of being subjected to police misconduct; 4) to delineate if NYPD efforts to address policing practices disproportionately impact LGBTQ individuals; and 5) to make recommendations to the Department and the CCRB based on these data assessments and findings.

The scope of investigation includes 466 complaints filed from 2010 through 2015 wherein members of the public reported experiencing police misconduct that involved discrimination or harassment based on sexual orientation, gender identity and/or gender expression. These complaints include either a) a CCRB allegation related to misconduct involving sexual orientation, or b) the use of slurs specific to sexual orientation, gender identity or gender expression.

The 466 complaints filed from 2010 through 2015 included 1,959 allegations in total. Nine hundred and fifty allegations were fully investigated and resulted in 74 substantiated

allegations of police misconduct, while 559 were unsubstantiated, 196 exonerated, and 121 unfounded. Examination of all LGBTQ-related complaints revealed overarching patterns that suggest some members of the LGBTQ community may experience misconduct due to their sexual orientation or gender expression. Many of the LGBTQ-related complaints examined specifically involved the use of slurs specific to sexual orientation, gender identity or gender expression that fall under CCRB's Offensive Language or Courtesy jurisdictions. The presence of audio, rather than or in addition to, video is particularly important for verifying whether or not misconduct actually occurred. Of the substantiated allegations that contained independent verification, those that included audio were able to provide a more definitive account of the incident in question.

**Among the CCRB's key statistical findings in this study:**

- Between 2010 and 2015, the CCRB received 466 distinct complaints (with 1,959 allegations) related to or from members of the LGBTQ community. These complaints include either a) an allegation related to misconduct involving sexual orientation, or b) the use of slurs specific to sexual orientation, gender identity or gender expression. Text-based queries were used to identify complaints related to the use of slurs specific to sexual orientation, gender identity or gender expression, or a MOS disregarding of complainant's preferred gender pronoun and/or name.
- Out of the total 466 LGBTQ-related complaints examined from 2010 through 2015, 192 were fully investigated. These 192 fully investigated complaints included 950 allegations. The CCRB unsubstantiated 559 (59%) allegations, out of which courtesy and offensive language allegations were most numerous – both types of allegations are difficult to prove without independent verification. The CCRB exonerated 196 (21%) allegations, while 121 (13%) allegations were unfounded. The CCRB substantiated 74 (8%) allegations of misconduct.
- Public space was the most common location for alleged police misconduct. An LGBTQ-related complaint was most likely to be filed after an encounter that occurred on the street/highway, with 57% of all complaints originating from this location.
- Similar to overall CCRB complaint data, Black people and Hispanics composed a disproportionate number of victims and alleged victims in LGBTQ-related complaints. When data on victims or alleged victims with unknown ethnicity is removed, 49% are Black, 34% Hispanic, 16% White, 1% Asian and less than 1% American Indian.<sup>5</sup>
- Prior to December 2015, CCRB complaint forms included a gender identification question that used a binary gender categorization. From 2010 through 2015, 64% of

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<sup>5</sup> This data pertains only to victims or alleged victims, not complainants or witnesses who are not victims.

victims or alleged victims within the complaints examined identified as male, while 19% identified as female. Sixteen percent of victims provided no gender information which could have been due to a variety of factors. When data on victims or alleged victims with unknown gender is removed, then the gender split is 77% who identified as male, and 23% who identified as female.<sup>6</sup>

- Members of service at the rank of police officer at the time of incident accounted for 72% of the subject officers in the LGBTQ-related allegations under examination. Subject officers had an average of nine years on the force at the time of incident.
- The distribution of complaints by borough is similar to overall CCRB trends. Brooklyn accounted for a third of the LGBTQ-related complaints examined (33%), followed by 31% from Manhattan, 20% from the Bronx, 13% from Queens, and 3% from Staten Island.
- For the period under examination, a greater number of complaints were generated in some precincts known to have visible LGBTQ populations.<sup>7</sup> Precinct 6 encompasses the West Village and experienced the highest number of LGBTQ-related complaints between 2010 and 2015 (22 complaints). Precincts 73, 75 and 77, all located in Brooklyn, also generated a high number of complaints (17 complaints per precinct from 2010 through 2015), similar to CCRB complaint data overall.
- Video evidence continues to aid CCRB investigations. However, the presence of audio is important to prove the conclusiveness of allegations related to the use of LGBTQ-related slurs.

To address LGBTQ-related complaints of police misconduct, a summary of the CCRB's recommendations follow:

1. **Recommendation:** The Department's expansion of its body-worn camera program in 2016 should place a great emphasis on audio as well as video recordings. Independent verification can be critical to meeting a preponderance of the evidence standard used in CCRB determinations. Video has been especially instrumental in corroborating allegations of misconduct or exonerating the subject officer for using an appropriate response. However, not all video is equal when analyzing LGBTQ-related complaints, many of which involve the use of a slur. In several of these cases, capturing what is said via audio can be just as important, if not more important, than video. Therefore, video with audio capacity can be a useful tool to determine whether or not misconduct actually

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<sup>6</sup> This data pertains only to victims or alleged victims, not complainants or witnesses who are not victims.

<sup>7</sup> The CCRB recognizes that there are many LGBTQ population and cultural centers throughout the city, other than those listed here, including Chelsea, Hell's Kitchen, and Downtown Brooklyn.

occurred. Specifically, the CCRB recommends that a) officers activate body-worn cameras early (before contact if possible) to allow for any buffer time to pass well in advance of any civilian interaction whenever possible, b) body-worn cameras be placed on an officer's body to ensure that all audio recordings are properly captured, and c) that a minimum volume should be standardized for audio.

2. **Recommendation:** The Office of the Inspector General for the NYPD (OIG), along with expert advisers, should conduct audits of the Department to ensure that the changes in the Patrol Guide regarding the treatment of transgender individuals are being properly and consistently implemented. In 2012, the NYPD became one of the first police departments in the United States to make changes to its Patrol Guide to include clearly defined procedures for interacting with transgender and gender non-conforming individuals. Without an assessment on implementation, there is no way to verify if the widely praised changes have been adopted in practice. Independent appraisals should assess officers' awareness of Patrol Guide changes on an individual level, and reviews at the precinct-level would ensure that procedures have been followed with respect to how transgender individuals are processed, housed, and treated.
3. **Recommendation:** The Department should increase the LGBT Liaison Unit's capacity to engage both the community and police officers. LGBTQ outreach is needed to increase trust within the community, as well as to raise the awareness of correct procedures when interacting with members of the LGBTQ community. We understand the need for the unit to be directed to work on other topics as needed by the Department, and recommend that the NYPD LGBT Liaison Unit be more autonomous so that it can focus more on the needs and concerns of LGBTQ individuals. This would allow the Department to have a consistent presence within the LGBTQ community. It also allows for more opportunities to conduct cultural competency trainings and refresher courses for police officers who may not have attended the Police Academy in recent years, or who may have been promoted before the 2012 Patrol Guide changes took effect.
4. **Recommendation:** The CCRB should continue to expand its investigative and outreach capacity to better serve the LGBTQ community. In 2015, the CCRB began specialized training for investigative staff in order to assist recognition of characteristics often associated with LGBTQ-related complaints. Investigators who are equipped with the skills to more readily detect patterns where subject officers profile individuals due to their actual or perceived LGBTQ status can more accurately classify police misconduct related to sexual orientation, gender identity or gender expression. In addition to recognizing patterns and courses of conduct where members of service are concerned, training should also include best practices in how to interact with individuals who have been victimized due to their sexual orientation or gender identity. Therefore, it is recommended that the CCRB continue to regularly provide this training. Additionally, the CCRB will continue to further its outreach efforts in the LGBTQ community.

5. **Recommendation:** The NYPD's new LGBTQ sensitivity training curriculum should be vetted by LGBTQ organizations such as the Anti-Violence Project, GLAAD, Lambda Legal, National LGBTQ Task Force, and the Sylvia Rivera Law Project for accuracy and best practices. There should also be an assessment of what Academy students have actually learned about their own biases, how seriously these students are taking the trainings, and whether these students have effectively identified the ways in which they need to put aside their own biases in order to comply with the Patrol Guide and professionally interact with LGBTQ individuals as a result of the training. The CCRB also recommends Department-wide training.

After an introduction to the CCRB, Section One of this report provides a historical and current context regarding the LGBTQ-community, both nationally and in New York City. Section Two reviews legal sources and procedural guidelines for the NYPD when interacting with members of the LGBTQ community. Section Three offers basic statistics on relevant CCRB complaint activity from 2010 through 2015, the type and disposition of allegations, and the methodology of the study. Section Four analyzes relevant characteristics of the LGBTQ-related complaints under examination, including the location of complaint by borough, precinct and setting, characteristics surrounding complaint activity, and demographic information of both victims or alleged victims, and subject officers. Section Five presents a qualitative description of substantiated complaints with a distinction made between complaints that contain independent verification and those that do not. Section Six provides a qualitative description of unsubstantiated and exonerated allegations. Finally, Section Seven outlines recommendations provided by this study.

# INTRODUCTION: BACKGROUND OF CCRB AND GLOSSARY

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The Charter of the City of New York establishes the Civilian Complaint Review Board and empowers it to receive and investigate complaints from members of the public concerning misconduct by officers of the NYPD. *See* NYC Charter § 440(a). The CCRB is required to conduct its investigations “fairly and independently, and in a manner in which the public and the police department have confidence.” *Id.* Under the City Charter, the CCRB has jurisdiction to investigate the following categories of police misconduct: Force, Abuse of Authority, Courtesy, and Offensive Language, collectively known as “FADO.” *Id.* § 440(c)(1). The CCRB will also note “**other misconduct**” when it uncovers certain conduct by NYPD officers during the course of its investigation that falls outside its jurisdiction, but that the Department has requested be noted or remains important to bring to the Department’s attention. Examples of “other misconduct” include failures by officers to enter necessary information in their activity logs (memo books), failures to complete required documentation of an incident, and evidence suggesting that officers have made false official statements.

The “**Board**” consists of thirteen individuals. Of the 13 members, five are chosen by the Mayor, five are chosen by the City Council, and three members with experience as law enforcement professionals are chosen by the Police Commissioner. Apart from the members selected by the Police Commissioner, none of the Board members may have experience as law enforcement professionals or be former employees of the NYPD. The Mayor selects one of the thirteen members to serve as Board Chair.

The Executive Director is appointed by the Board and is the Chief Executive Officer, who is responsible for managing the day-to-day operations of the Agency and overseeing its 180 employees. The Agency consists of an 110-member Investigations Division responsible for investigating allegations of police misconduct within the Agency’s jurisdiction (“FADO”), and for making investigative findings. The most serious police misconduct cases are prosecuted by a 16-member Administrative Prosecution Unit. The prosecutors within the Unit are responsible for prosecuting, trying and resolving the most serious misconduct cases before a Deputy Commissioner of Trials at One Police Plaza. The Agency also includes a Mediation Unit with trained mediators who may be able to resolve less serious allegations between a police officer and a civilian. The Outreach Unit acts as a liaison with various entities, and is responsible for intergovernmental relations, outreach presentations, and community events throughout the five boroughs of New York City.

Members of the public who file complaints regarding alleged misconduct by NYPD officers are referred to as “**complainants**.” Other civilians involved in the incident are categorized as “**victims**” or “**witnesses**.” Officers who commit the actions that are alleged to be

misconduct are categorized as “**subject officers**,” while those who witnessed or were present for the alleged misconduct are categorized as “**witness officers**.” The CCRB’s **Intake** team receives the complaints filed by the public in-person, or by telephone, voicemail, an online complaint form, or referred to the agency by the NYPD’s Internal Affairs Bureau.

When a complaint is filed with the CCRB, the CCRB assigns it a unique complaint identification number. The CCRB also refers to “**complaints**” as “**cases**.” A single complaint or case may contain multiple “**allegations**” relating to force, abuse of authority, courtesy, and/or offensive language. Each allegation is reviewed separately during an investigation.

During an “**investigation**,” the CCRB’s civilian investigators gather documentary and video evidence and conduct interviews with complainants, victims, civilian witnesses, subject officers and witness officers in order to determine whether the allegations occurred, and whether they constitute misconduct. At the conclusion of the investigation, a closing report is prepared summarizing the relevant evidence and providing a factual and legal analysis of the allegations. The closing report and investigative file is provided to the Board for disposition. A panel of three Board members (a “**Board Panel**”) reviews the material, makes findings for each allegation in the case, and if allegations are substantiated, provides recommendations as to the discipline that should be imposed on the subject officers.

The “**Disposition**” is the Board’s finding of the outcome of a case (i.e. if misconduct occurred). The Board is required by its rules to use a “preponderance of the evidence” standard of proof in evaluating cases. Findings on the merits result when the CCRB is able to conduct a full investigation and obtain sufficient credible evidence for the Board to reach a factual and legal determination regarding the officer’s conduct. In these cases, the Board may arrive at one of the following findings on the merits for each allegation in the case: “**substantiated**,” “**exonerated**,” or “**unfounded**.” Substantiated cases are those where there was a preponderance of evidence that the acts alleged occurred and constituted misconduct. Exonerated cases are those where there was a preponderance of the evidence that the acts alleged occurred but did not constitute misconduct. Unfounded cases are those where there was a preponderance of the evidence that the acts alleged did not occur. “**Unsubstantiated**” cases are those where the CCRB was able to conduct a full investigation, but there was insufficient evidence to establish whether or not there was an act of misconduct. In many cases, the CCRB is unable to conduct a full investigation or mediation and must “**truncate**” the case.<sup>8</sup>

A complainant may “**mediate**” his or her case with the subject officer, in lieu of an investigation, with the CCRB providing a neutral, third-party mediator.

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<sup>8</sup> Fully investigated cases comprise complaints disposed of as “substantiated,” “unsubstantiated,” “exonerated,” “unfounded,” “officers unidentified,” or “miscellaneous.” Miscellaneous cases are those where an officer retires or leaves the Department before the Board receives the case for decision. Truncated cases are disposed of in one of the following ways: “complaint withdrawn,” “complainant/victim uncooperative,” “complainant/victim unavailable,” and “victim unidentified.”

The CCRB's **Administrative Prosecution Unit (APU)** prosecutes cases in which the Board has substantiated misconduct and recommended discipline in the form of Charges and Specifications. The APU began operating in April 2013, after the CCRB and the NYPD signed a Memorandum of Understanding establishing the unit.

## SECTION ONE: CONTEXT OF LGBTQ CONCERNS

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***Twentieth Century New York City and the LGBTQ Community.*** On June 28, 1969, police raided the Stonewall Inn nightclub in Greenwich Village, New York City. Although police raids of bars frequented by LGBTQ members were routine during this period, this particular raid involved people who refused to provide identification, as well as transgender individuals who refused to allow NYPD officers to use searches in order to make gender assessments.<sup>9</sup> The police began to make arrests as a crowd gathered outside, and it was not until force was used against a lesbian woman in custody that onlookers began to protest. Several days of rioting followed the raid, which many in the LGBTQ community and activists felt was provoked by collective police abuse and repression due to sexual orientation and gender expression.<sup>10</sup> A year after Stonewall, the Christopher Street Liberation Day Committee planned the first Gay Pride March to commemorate the event in New York City. San Francisco, Los Angeles, and Chicago simultaneously held similar marches in solidarity.<sup>11</sup> Two years after Stonewall, Boston, Dallas, Milwaukee, London, Paris, West Berlin, and Stockholm followed with similar marches, and the annual tradition of Gay Pride Parades became firmly established. This visibility brought LGBTQ rights from non-sanctioned gatherings at the Stonewall Inn to the forefront of public conversation, and helped to begin shift policies that criminalized LGBTQ identity.

***The Shift to Decriminalize LGBTQ Identity.*** Judicial systems in the United States have long policed perceived deviant behavior thought to be associated with LGBTQ identity.<sup>12</sup> One of the first steps to decriminalize previously viewed nonconforming behavior was to repeal anti-sodomy laws that classified certain sexual acts as crimes. In 1955, when the American Law Institute, a group comprised of legal scholars, practitioners, and judges, drafted the Model Penal Code, they voted to decriminalize consensual sodomy.<sup>13</sup> Illinois later became the first state to adopt these changes, and repealed anti-sodomy laws in 1961.<sup>14</sup> In New York, the decision of *People v. Onofre* in 1980 made it the 27<sup>th</sup> state to repeal anti-sodomy laws.<sup>15</sup> Anti-sodomy laws would not be repealed nationally until the 2003 Supreme Court case of *Lawrence v. Texas*.

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<sup>9</sup> Dennis Hevesi, “Seymour Pine Dies at 91; Led Raid on Stonewall Inn,” *The New York Times*, September 7, 2010, [http://www.nytimes.com/2010/09/08/nyregion/08pine.html?\\_r=1](http://www.nytimes.com/2010/09/08/nyregion/08pine.html?_r=1).

<sup>10</sup> Amnesty International. *Stonewalled: Police Abuse And Misconduct Against Lesbian, Gay, Bisexual, And Transgender People In The United States*. 2005. <https://www.amnesty.org/en/documents/AMR51/122/2005/en/>.

<sup>11</sup> “1969 Stonewall Riots,” *San Francisco Pride*, 2012, <http://www.sfp pride.org/heritage/1969.html>.

<sup>12</sup> Joey Mogul, Andrea Ritchie, and Kay Whitlock, *Queer (In)Justice: The Criminalization of LGBT People in the United States* (Beacon Press, 2012).

<sup>13</sup> Richard Weinmeyer, “The Decriminalization of Sodomy in the United States,” *American Medical Association Journal of Ethics* 16, no. 11 (2014): 916–22, doi:10.1001/virtualmentor.2010.12.8.medul1-1008.

<sup>14</sup> George Painter, “The History of Sodomy Laws in the United States,” Last modified August 10, 2004. <http://www.glapn.org/sodomylaws/sensibilities/illinois.htm>.

<sup>15</sup> PEOPLE V. ONOFRE, 51 N.Y.2d 476 (N.Y. 1980) | Casetext (1980).

Although these were the first steps to bring about equal treatment under the law, the LGBTQ community continued to be denied full equality.

The end of enforcement for New York anti-sodomy-era laws in the 1980s shifted to policing the LGBTQ community through the administration of “quality of life” statutes in the 1990s.<sup>16</sup> While credited for reducing the crime rate throughout New York City, vague lewdness statutes that criminalized “public indecency”, “loitering with intent to solicit”, and “lewd conduct” provided wide latitude for the NYPD to selectively crack down on any behavior deemed to be sexually deviant by mainstream societal norms.<sup>17</sup> A 2005 report by Amnesty International found that members of the LGBTQ communities in New York, Chicago, Los Angeles, and San Antonio continued to be targeted for police abuse and misconduct due to their sexual orientation.<sup>18</sup> In a 2012 report, the Center for Constitutional Rights found LGBTQ and gender non-conforming communities were “heavily impacted by stops and frisks” carried out by the NYPD.<sup>19</sup> Many in the LGBTQ community in New York City felt that they were victims of discriminatory policing that targeted sexual orientation and non-conforming gender expression.

On August 22, 2013, the New York City Council’s passage of the Community Safety Act created an independent Inspector General to review and recommend changes in operations, policies, programs and practices of the NYPD.<sup>20</sup> The legislation, which included sexual orientation and gender expression as protected classes, also amended the City’s Human Rights Law to ban bias-based profiling.<sup>21</sup> This was considered a needed measure to end profiling that lead to initial police encounters.<sup>22</sup>

The same year also involved a retreat from treating the possession of condoms, without anything more, as evidence of prostitution.<sup>23</sup> Prior to 2013, police could use the possession of

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<sup>16</sup> Make the Road New York. 2014. *Transgressive Policing: Police Abuse Of The LGBTQ Communities Of Color In Jackson Heights*.

[http://www.maketheroad.org/pix\\_reports/MRNY\\_Transgressive\\_Policing\\_Full\\_Report\\_10.23.12B.pdf](http://www.maketheroad.org/pix_reports/MRNY_Transgressive_Policing_Full_Report_10.23.12B.pdf).

<sup>17</sup> Joey Mogul, Andrea Ritchie, and Kay Whitlock, *Queer (In)Justice: The Criminalization of LGBT People in the United States* (Beacon Press, 2012).

<sup>18</sup> Amnesty International. 2005. *Stonewalled: Police Abuse And Misconduct Against Lesbian, Gay, Bisexual, And Transgender People In The United States*. <https://www.amnesty.org/en/documents/AMR51/122/2005/en/>.

<sup>19</sup> Center for Constitutional Rights. 2012. *Stop And Frisk: The Human Impact*.

<https://ccrjustice.org/sites/default/files/attach/2015/08/the-human-impact-report.pdf>.

<sup>20</sup> David Goodman, "City Council Votes To Increase Oversight Of New York Police". *New York Times*, June 27, 2013, [http://www.nytimes.com/2013/06/27/nyregion/new-york-city-council-votes-to-increase-oversight-of-police-dept.html?\\_r=0](http://www.nytimes.com/2013/06/27/nyregion/new-york-city-council-votes-to-increase-oversight-of-police-dept.html?_r=0).

<sup>21</sup> The Official Website of the City of New York. 2016. *Mayor De Blasio Announces City Ending Lawsuit Challenging Racial Profiling Law*. <http://www1.nyc.gov/office-of-the-mayor/news/077-14/mayor-de-blasio-city-ending-lawsuit-challenging-racial-profiling-law>.

<sup>22</sup> Andrea Ritchie, “Unfinished Business: Community Safety Act Needed to End Discriminatory Policing of LGBT New Yorkers,” *Gay City News*, October 22, 2012, <http://gaycitynews.nyc/unfinished-business-community-safety-act-needed-to-end-discriminatory-policing-of-lgbt-new-yorkers/>.

<sup>23</sup> Marc Santora, “New York Police to Limit Seizing of Condoms in Prostitution Cases.” *New York Times*, May 12, 2014, [http://www.nytimes.com/2014/05/13/nyregion/new-york-police-to-limit-seizing-of-condoms-in-prostitution-cases.html?\\_r=0](http://www.nytimes.com/2014/05/13/nyregion/new-york-police-to-limit-seizing-of-condoms-in-prostitution-cases.html?_r=0).

condoms alone as evidence to charge prostitution-related offenses that only required circumstantial evidence to support a criminal prosecution.<sup>24</sup> In 2012, Human Rights Watch surveyed around 197 current and former sex workers in four U.S. cities, including 77 in New York City, about their experiences being harassed and arrested by police for the possession of condoms. Many of the respondents were Latina transgender women living in Jackson Heights, Queens, an area that had the third highest rate of stop and frisk in New York City at the time of the report.<sup>25</sup>

According to these respondents, transgender women of color are often profiled by police as engaging in sex work for simply being outside and going about their daily routines, generating the phrase come to be known as “walking while trans.” According to Make the Road New York’s 2012 report, “walking while trans” has become a common descriptor for the pattern of arbitrary stops, purportedly on suspicion of prostitution, which are frequently accompanied by physical, sexual and verbal harassment. In addition to Make the Road New York’s report, Amnesty International released a study almost a decade before. In its study, Amnesty International found that subjective and prejudiced perceptions of transgender women as sex workers often play a significant role in officers’ decisions to stop and arrest transgender women. As an example, Amnesty International cited a New York attorney who reported that 80% of transgender women of color he worked with had experienced police harassment or false arrest based on unfounded suspicions of engagement in sex work. Many of these arrests were based solely on gender identity and/or expression with possession of condoms as evidence of prostitution as the justifiable pretext. In January 2013, the New York State Assembly addressed the “walking while trans” issue when it passed a limited measure that prohibited law enforcement from using possession of condoms as the sole evidence of criminality in prostitution arrests, which was signed into law by the Governor.<sup>26</sup> This measure amended the criminal procedure law relating to the admissibility of condoms as trial evidence.<sup>27</sup>

Although New York City has made progress to end discriminatory policing against the LGBTQ community, some studies have shown remaining concerns. For example, after surveying 305 outreach workers, volunteers and community members in Jackson Heights, Queens in 2011 and 2012, Make the Road New York released a report in 2013 stating that 51% of LGBTQ respondents in the study who were stopped by police reported experiencing verbal or physical harassment by officers, as opposed to only 33% of non-LGBTQ respondents in the study.<sup>28</sup>

**NYPD’s Shift to LGBTQ-Competent Policing.** Although, institutionally, the NYPD has made significant strides in adopting LGBTQ sensitive practices and procedures, this progress

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<sup>24</sup> Human Rights Watch. 2012. *Sex Workers At Risk: Condoms As Evidence Of Prostitution In Four US Cities*. [https://www.hrw.org/sites/default/files/reports/us0712ForUpload\\_1.pdf](https://www.hrw.org/sites/default/files/reports/us0712ForUpload_1.pdf).

<sup>25</sup> Ibid.

<sup>26</sup> Senate Bill S1379, accessed February 14, 2016; Assembly Bill A2736, accessed February 14, 2016; Assembly Bill A3007B, accessed February 14, 2016.

<sup>27</sup> Governor’s bill A3007B <http://www.nysenate.gov/legislation/bills/2015/A3007B>.

<sup>28</sup> Make the Road New York. 2014. *Transgressive Policing: Police Abuse Of The LGBTQ Communities Of Color In Jackson Heights*.

[http://www.maketheroad.org/pix\\_reports/MRNY\\_Transgressive\\_Policing\\_Full\\_Report\\_10.23.12B.pdf](http://www.maketheroad.org/pix_reports/MRNY_Transgressive_Policing_Full_Report_10.23.12B.pdf).

was a result of a long internal struggle. In 1982, a handful of NYPD members of service formed the Gay Officers Action League (GOAL) – a fraternal organization for active, retired, and allied law enforcement personnel to advocate for LGBTQ issues both within the Department and for the public. The Department initially prohibited GOAL from wearing official, Department-issued uniforms while marching in NYC gay pride parades, despite the reality that NYPD fraternal organization members were allowed to wear Department-issued uniforms in other NYC parades, such as the St. Patrick’s Day parade. As a result, GOAL filed suit and won a settlement in April 1997. That settlement not only allowed GOAL members the privilege to march in official uniform during the New York City Gay Pride Parade, but authorized June as Pride Month at 1 Police Plaza and allowed the opportunity for GOAL to conduct LGBTQ training to Police Academy recruits at the discretion of the Commissioner of Training.

The Department’s recruit training materials were drafted with the input and cooperation of the GOAL, and are constantly reviewed by GOAL to ensure the material is accurate and relevant. The new curriculum has also been reviewed and approved by the court-appointed Federal Monitor. As the only fraternal organization to conduct a workshop at the Academy, GOAL members who teach the course have been certified by the New York State Division of Criminal Justice Services as General Topics Instructors, with their certification in the Departments Methods of Instruction Course funded by the NYPD. The training is done for each recruit class and includes discussions, lectures and role-play scenarios to ensure recruit officers understand the needs of the LGBTQ community and to personally evaluate each recruit officers’ grasp of the materials. The training also includes sensitivity exercises, as well as instruction on the 2012 Patrol Guide changes related to the treatment of transgender individuals. GOAL’s facilitation of the Workshop gives recruit officers the opportunity to hear from and interact with LGBTQ individuals. This training has now developed into an accredited 4.5 hours of instruction. Since 2013, the Department has incorporated LGBTQ training into all three of its promotional classes (to the ranks of sergeants, lieutenant, and captains), including guest speakers from the Anti-Violence Project and the NYPD Liaison Unit.

The NYPD has also taken official steps to encourage more positive and supportive interactions between the NYPD and the LGBTQ community with an LGBT Liaison Unit. Operating out of the West Village under the jurisdiction of the Community Affairs Bureau, the unit has three officers assigned to improve relations between the NYPD and LGBTQ community. The assignment includes working with investigators when a victim is targeted due to sexual orientation or gender expression, visiting precincts to update officers on current LGBTQ guidelines upon request, and assisting with the LGBTQ training at the Police Academy. Additionally, there is an NYPD Police Commissioner’s LGBT Liaison Unit that comprises one individual who conducts similar community outreach and is also responsible for teaching a 1.5-hour LGBTQ refresher course each time an officer gets promoted.

Other departments throughout the country, such as Los Angeles, Chicago and New Orleans, to name a few, have enacted similar changes to their version of a Patrol Guide regarding the treatment of transgender individuals.<sup>29</sup> The Atlanta Police Department has also expanded guidelines on how to interact with transgender individuals. For example, personal items associated with a person's gender identity, including prosthetics, clothing and wigs, are subject to search, but can be retained by the individual if "reasonable safety concerns" are resolved.<sup>30</sup>

***Increased Recognition of LGBTQ-Identifying Individuals.*** A 2015 study by Gallup showed that individuals who identify as LGBTQ comprise 4% of the New York-Newark-Jersey City metro population.<sup>31</sup> This accounts for an estimated 800,000 LGBTQ-identifying persons living in the region when compared to U.S. Census Bureau.<sup>32</sup> As such, New York City has taken strides to expand inclusion to all members of society. In 2004, New York City became one of the first municipalities to recognize same-sex marriage and civil unions performed in other state and country jurisdictions, which resulted in the extension of pension benefits to recognized partners.<sup>33</sup> In 2011, New York became the seventh state to legalize same-sex marriage.<sup>34</sup> Steps taken to institute marriage equality in New York came years before the June 14, 2015 decision of the United States Supreme Court ruling that same-sex marriages must be recognized in every state in the U.S.<sup>35</sup>

Although same-sex marriage was a large step for increased recognition of LGBTQ identity, true equality requires that LGBTQ individuals be able to access rights in many other realms, such as healthcare, the workplace, housing, and education. In many instances, New York adopted policies for increased equality in the LGBTQ community before it was nationally mandated. In 2004, New York State granted domestic partners the right to visit each other in public and private hospitals and nursing homes, which was not mandated nationally for public

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<sup>29</sup> "Police Interactions with Transgender Individuals," 2012, <https://learningtrans.files.wordpress.com/2012/04/lapd-transgender-policies.pdf>; "Interactions with Transgender, Intersex, and Gender Nonconforming (TIGN) Individuals," December 31, 2015, <http://directives.chicagopolice.org/directives/data/a7a57b38-1394a4ae-75313-94a4-b606a68cfab99615.html?hl=true>; "New Orleans Consent Decree," *City of New Orleans*, 2016, <http://www.nola.gov/nopd/nopd-consent-decree/>.

<sup>30</sup> "Transgender Interactions," 2014, <http://posting.clatl.com/images/blogimages/2014/10/14/1413321985-transsop.pdf>

<sup>31</sup> Frank Newport and Gary Gates, "San Francisco Metro Area Ranks Highest in LGBT Percentage," *Gallup*, March 20, 2015, <http://www.gallup.com/poll/182051/san-francisco-metro-area-ranks-highest-lgbt-percentage.aspx>. "Metropolitan and Micropolitan Data," *U.S. Census Bureau*, 2014, <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

<sup>32</sup> "Metropolitan and Micropolitan Data," *U.S. Census Bureau*, 2014, <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

<sup>33</sup> Michael Cardozo, "Letter to Mayor from Law Department," November 17, 2004, [http://www.nyc.gov/html/om/pdf/letter\\_samesex.pdf](http://www.nyc.gov/html/om/pdf/letter_samesex.pdf).

<sup>34</sup> Assembly Bill A8354, accessed February 15, 2016.

<sup>35</sup> Adam Liptak, "Supreme Court Ruling Makes Same-Sex Marriage a Right Nationwide," *New York Times*, June 26, 2015, <http://www.nytimes.com/2015/06/27/us/supreme-court-same-sex-marriage.html>.

hospitals until 2010.<sup>36</sup> In 2002, New York passed the Sexual Orientation Non-Discrimination Act, which prohibited employment, housing, public accommodations, education, credit, and the exercise of civil rights discrimination based on sexual orientation.<sup>37</sup> That same year, the New York City Human Rights Law was amended to expand protections against discrimination on account of gender identity and expression. By January 2015, New York expanded discrimination protections to transgender individuals and became the first state to ban public and private workplace discrimination due to gender expression.<sup>38</sup> New York City has furthered policies of inclusion for transgender individuals and an Executive Order came into effect in March 2016 that provided employees and members of the public access to City single-sex facilities consistent with their gender identity.<sup>39</sup>

Although the LGBTQ community has gained certain rights, there is a lack of trust that the NYPD will protect their existing rights, particularly when it comes to intimate partner violence. In New York City, a 2014 survey by the Anti-Violence Project of LGBTQ individuals affected by intimate partner violence found that out of those who shared information on their police encounter, 50% responded they involved the police in their situations, and out of these, 29% reported police misconduct stemming from the incident.<sup>40</sup> The primary complaint was that responding police officers misidentified the primary aggressor of violence and arrested the wrong individual. Respondents asserted that they did not want to involve law enforcement in intimate partner complaints because officers would arrive on the scene and make erroneous arrest decisions solely based on the gender expression and/or identities of the involved parties. For example, masculine-of-center cis-women lesbian complainants who suffered intimate partner abuse at the hands of their feminine-of-center cis-women lesbian partners were more often the subjects of criminal investigations, arrests and prosecutions, further subjecting them to victimization, despite overwhelming, objective, non-gender-based evidence that they were victims, not perpetrators, of criminality. Such negative perceptions of and experiences with law enforcement can hinder reporting and increase the risk of victimization.

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<sup>36</sup> This mandate only applies to facilities that receive federal Medicare and Medicaid payments. Al Baker, “New Law Gives Gay Partners Visiting Rights in Hospitals,” *New York Times*, October 2, 2004, <http://query.nytimes.com/gst/fullpage.html?res=9A00EED61338F931A35753C1A9629C8B63>; Susan Donaldson James, “Obama Orders Hospitals to Allow Gay Visitation, Medical Rights,” *ABC News*, April 16, 2010, <http://abcnews.go.com/Health/HealthCare/obama-orders-hospitals-gay-partners-rights/story?id=10393478>.

<sup>37</sup> “The Sexual Orientation Non-Discrimination Act (“SONDA”),” New York State Division of Human Rights, last modified 2015, <http://www.ag.ny.gov/civil-rights/sonda-brochure>.

<sup>38</sup> New York State Division of Human Rights. 2015. *Governor Cuomo Announces New Regulations Protecting Transgender New Yorkers from Discrimination*. [http://www.dhr.ny.gov/gender\\_identity\\_regulations](http://www.dhr.ny.gov/gender_identity_regulations).

<sup>39</sup> The Official Website of the City of New York. 2016. *Mayor de Blasio Mandates City Facilities Provide Bathroom Access to People Consistent with Gender Identity*. <http://www1.nyc.gov/office-of-the-mayor/news/223-16/mayor-de-blasio-mandates-city-facilities-provide-bathroom-access-people-consistent-gender#/0>.

<sup>40</sup> Anti-Violence Project. 2014. *Intimate Partner Violence In 2014: Lesbian, Gay, Bisexual, Transgender, Queer, And HIV-Affected*. [http://www.avp.org/storage/documents/NCAVP\\_IPV\\_2014\\_Report.pdf](http://www.avp.org/storage/documents/NCAVP_IPV_2014_Report.pdf).

## **SECTION TWO: NYPD'S EFFORTS TO ADDRESS DISCRIMINATORY POLICING PRACTICES**

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While New York penal laws are facially neutral, some officers may make enforcement decisions based on homophobic and transphobic biases and intolerance. Individual prejudices held by some officers can lead to more frequent use of police action against LGBTQ individuals when compared to non-LGBTQ persons. Consequently, New York City LGBTQ advocates have looked to local law enforcement guidelines to eradicate unfair policing practices that have a disproportionately adverse impact on LGBTQ civilians. Those local law enforcement guidelines include the NYPD Patrol Guide and the NYPD Student's Guide.

***History of LGBT Advisory Committee and NYPD Patrol Guide.*** For decades, the relationship between NYPD Department officers and the New York City LGBTQ communities that they serve has been the subject of public scrutiny and debate. In response to concerns regarding discriminatory policing within the LGBTQ community, Mayor Edward Koch created the LGBT Advisory Committee. Although this committee was dissolved in the 1990s, concerns about policing within the LGBTQ community remained a frequent lightning rod for allegations of anti-gay, lesbian, and transgender prejudice.<sup>41</sup> In August of 2009, City Council Speaker Christine Quinn trumpeted that she and Police Commissioner Raymond W. Kelly were taking steps to reactivate the defunct LGBT Advisory Committee to the NYPD.<sup>42</sup>

The Committee, comprised of community stakeholders, would work with the NYPD's LGBTQ Community Liaison in order to "strengthen the working relationship between the NYPD and the LGBTQ community."<sup>43</sup> The aim was to ensure that lesbian, gay, transgender and gender non-conforming individuals were treated with dignity and respect during every police interaction. In order to accomplish this goal, the Committee was charged with recommending changes to the Department's Patrol Guide. In 2012, after years of work between the LGBT Advisory Panel and senior police officials, changes were made to the Patrol Guide.<sup>44</sup>

***NYPD Patrol Guide Defines Gender.*** The Department's Patrol Guide section 203-10 defines "gender" as "actual or perceived sex," rather than sex assigned at birth.<sup>45</sup> It goes on to define "gender identity" as a person's "self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the legal sex assigned to that person at birth."<sup>46</sup> The Patrol Guide

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<sup>41</sup> Amnesty International. 2005. *Stonewalled: Police Abuse And Misconduct Against Lesbian, Gay, Bisexual, And Transgender People In The United States*. <https://www.amnesty.org/en/documents/AMR51/122/2005/en/>.

<sup>42</sup> A LGBT Advisory Committee was in place during Mayor Edward I. Koch's term, but later dissolved in the 1990s. Al Baker. "An Advisory Panel's Rebirth, Crime Statistics and Shoes," *The New York Times*, September 23, 2010 <http://cityroom.blogs.nytimes.com/2010/09/23/an-advisory-panels-rebirth-crime-statistics-and-shoes/>.

<sup>43</sup> August 14, 2009 <http://meetadamandsteve.blogspot.com/2009/08/from-office-of-speaker-quinn.html>

<sup>44</sup> Meet Adam and Steve Blog Spot. 2009. *From the Office of Speaker Quinn: NYPD to Reactivate LGBT Advisory Committee*. <http://meetadamandsteve.blogspot.com/2009/08/from-office-of-speaker-quinn.html>

<sup>44</sup> Julie Bolcer. "Transgender Reforms Announced for NYPD," *The Advocate*, June 13, 2012, <http://www.advocate.com/politics/transgender/2012/06/13/transgender-reforms-announced-nypd-patrol-guide>

<sup>45</sup> NYPD Patrol Guide section 203-10, Public Contact - Prohibited Conduct. (eff. 07/01/2015).

<sup>46</sup> Id.

mandates that members of service respect the gender identities of the individuals they encounter by instructing that gender and identity are determined by the civilian, not by the state-issued identification possessed by the civilian or the officer's perception of the civilian's sex. These definitions of gender and gender identity are important to note, as they are used throughout the Patrol Guide.

**NYPD Members Shall Not Use Anti-LGBT Slurs.** Members of service are prohibited from using offensive language regarding "gender" and "gender identity/expression," as well as sexual orientation.<sup>47</sup> From 2010 through 2015, 856 non-distinct CCRB complaints have included allegations that police officers used anti-LGBTQ epithets, such as "faggot", "queer", "homo", "tranny", "dyke", and the misuse of a gender pronoun against them.<sup>48</sup> Because the Patrol Guide expressly prohibits officers from using these slurs, the CCRB is able to investigate and prosecute offensive language allegations that relate to gender identity, gender expression and sexual orientation.

**At All Times, NYPD Members Shall Use Preferred Pronouns.** Sometimes, LGBTQ civilians report being referred to as a "he-she" or with a pronoun that inaccurately reflected their gender identities and/or expressions. These verbal assaults against their identities not only made them feel devalued as people, but also victimized by persons employed to protect and serve them. Patrol Guide section 203-10 specifically requires that members of service "address the public using pronouns, titles of respect, and preferred name appropriate to the individual's gender identity/expression as expressed by the individual." As a result of this Patrol Guide section, the CCRB is able to investigate and prosecute violations of the rules prohibiting the use of offensive language, including gender identity, gender expression and sexual orientation slurs. Two complaints received by the CCRB between 2010 and 2015 include instances in which subject officers were alleged to have improperly used preferred pronouns.

**When Effectuating an Arrest, NYPD Shall Use & Document Arrestee's Preferred Name.** NYPD guideline section 208-02 instructs members of service to address and refer to an arrestee by the arrestee's preferred name and pronouns consistent with that name, regardless of whether the name on the arrestee's identification coincides with the arrestee's gender identity. "Preferred name" is defined as "The name an arrestee prefers to be called based on their gender identity. This name may be different from the name on identification documents in the arrestee's possession." Section 208-03 mandates that members of service record the arrestee's preferred name on arrest documents such as the Prisoner Pedigree Card, the Prisoner Movement Slip, and the Arrest Report (also known as the Online Booking Arrest Worksheet).

**NYPD Shall Not Profile Based on Sexual Orientation, Gender Identity, or Gender Expression.** In Patrol Guide section 203-25, the Department expressly prohibits the use of profiling based on gender, gender identity or sexual orientation as the sole determinative factor for initiating police action. This guideline was adopted to address the unlawful police encounters that members of the transgender community describe as "walking while trans," a common descriptor for the pattern of arbitrary police stops, purportedly on suspicion of prostitution, which are frequently accompanied by police-initiated physical, sexual and verbal harassment of

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<sup>47</sup> Id.

<sup>48</sup> See Table 1.

transwomen (as described above). As noted earlier, under the Community Safety Act this policy is now City law. The CCRB received five complaints from 2010 through 2015 in which complainants conveyed they were targeted by the police because there were transgendered.

**NYPD Shall Not Search for Sex.** The LGBT Advisory Committee was concerned with more than the mere stops of individuals because of their perceived trans identities. The Committee was also troubled by the number of complaints made by transpersons indicating that NYPD members of service used frisks, searches and strip searches not to confiscate illicit weapons, evidence or drug paraphernalia, but rather, exclusively to identify and assign a sex to gender non-conforming civilians. Committee members, many of whom were LGBTQ advocates, recommended changes that would prevent such gross misapplications of legitimate police procedures from happening again. Consequently, Patrol Guide section 208-05 explicitly prohibits members of service from conducting a search in order to determine an arrestee's gender and from asking questions about an arrestee's anatomy without a reasonable basis to do so.<sup>49</sup> Violations of this guideline are subject to investigation and prosecution by the CCRB as abuses of authority. From 2010 through 2015, the CCRB received three complaints in which complainants stated they were strip searched and faced derogatory statements due to their sexual orientation or gender identity.

**NYPD Members Shall Follow a Detailed Procedure When Conducting Searches.** The Patrol Guide also addresses the procedure to be employed when conducting a search or strip search. It requires that individuals in NYPD custody be searched by an officer of the gender that the person in custody requests and, if that is not honored, it requires the NYPD to document the reasons for not doing so. It mandates that "where an arrestee's gender is not immediately apparent or an arrestee objects to the gender of the member [of service] assigned to perform the search," it is up to the desk officer or a supervisor supervising the search to assign a member of service of the gender requested by the arrestee to perform the search. It goes further by instructing that only officers reasonably needed to be present while the search is conducted. Section 208-05 also sets forth the caveat that, if the gender of the officer assigned to conduct the search differs from the gender requested by the arrestee, the desk officer or supervisor overseeing the search must detail the identity(ies) of the police officer(s) assigned to conduct the search, as well as the factors considered in assigning the searching member(s) of service to conduct the search.

**NYPD Shall Not Strip Search Any (Including LGBTQ) Students.** Studies show that homeless and street youth who identify as LGBTQ are more likely than their heterosexual and cisgender counterparts to be victimized by the police.<sup>50</sup> The Committee realized that the Department must take necessary steps to remedy the systemic victimization of LGBTQ youth. Consequently, in addition to section 208-05's instructions to members of service on how to conduct searches of adult arrestees, section 215-18 sets forth the procedure that school safety agents must follow when searching students. Section 215-18 models section 208-05 in that it mandates that all clothed searches of students be conducted by a school safety agent of the same

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<sup>49</sup> NYPD Patrol Guide section 208-05.

<sup>50</sup> Amnesty International, 2005. *Stonewalled: Police Abuse And Misconduct Against Lesbian, Gay, Bisexual, And Transgender People In The United States*; Make the Road New York. 2014. *Transgressive Policing: Police Abuse Of The LGBTQ Communities Of Color In Jackson Heights*.

gender as the student being searched and “in situations where a student's gender is not immediately apparent or a student objects to the gender of the school safety agent assigned to perform the search, the school safety agent's supervisor will assign a school safety agent of gender requested by the student, consistent with school safety agent safety and resource availability.” However, unlike section 208-05, section 215-18 absolutely prohibits strip searches of students. It specifies that “[u]nder no circumstances will a strip search of a student be conducted.”

***NYPD Shall Respect Gender Identity and Expression When Detaining Prisoners.***

While the Department of Corrections is responsible for housing inmates at correctional facilities, the NYPD is responsible for temporarily detaining inmates at local stationhouses prior to transferring them to Department of Corrections facilities. Jails are especially dangerous places for transgender and gender non-conforming people, no matter how temporary the accommodation. According to some reports, being transgender or gender non-conforming in jail often means daily humiliation, as well as physical and sexual abuse by other inmates and law enforcement officers.<sup>51</sup>

Aware of the safety concerns affecting transgender and gender non-conforming persons who are detained within NYPD command cells, the Committee recommended that transgender and gender non-conforming individuals be held in sex segregated police facilities according to their gender identity, even if that identity differs from their sex assigned at birth. Section 210-01 of the Patrol Guide instructs that, once a transgender or gender non-conforming arrestee has been processed, in order to safeguard that arrestee while said arrestee is in police custody, members of service must ensure that male and female prisoners are not detained in the same holding pen at any time, consistent with section 203-10 regarding the Department's definition of “gender”. Where there is a concern for the person's safety were that person to be housed with others who match the person's gender identity, that person will be considered a “special category prisoner” and will be housed in the place safest for them. “Special category prisoners” include prisoners who should be removed from the general population because “placing that prisoner in a general population of prisoners may pose a safety risk to that prisoner or other prisoners.”<sup>52</sup>

***NYPD Police Student's Guide.*** The NYPD's Student Guide is a written curriculum for recruits in the Police Academy. The Student Guide contains a section titled “Policing a Multicultural Society” and includes a lesson plan geared towards providing LGBTQ competency training. Its thirty-page curriculum explicitly proffers terms to avoid, such as “homosexual” and “lifestyle.” It also breaks down the difference between gender and sexual orientation, and is replete with definitions of LGBTQ-related terms, ranging from “bisexual” to “biphobia,” “gender identity” to “gender non-conforming,” and “transgender to transsexual.” The curriculum informs members of service on how to conduct lawful searches of transgender and gender non-conforming persons.<sup>53</sup> Moreover, the curriculum discusses domestic violence within the

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<sup>51</sup> Jaime Grant, Lisa Mottet, and Justin Tanis. 2011. *Injustice at Every Turn A Report of the National Transgender Discrimination Survey*. [http://www.thetaskforce.org/static\\_html/downloads/reports/reports/ntds\\_full.pdf](http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf).

<sup>52</sup> NYPD Patrol Guide section 210-17, Arrest Processing of Pre-Arraignment Prisoners Designated as “Special Category.”

<sup>53</sup> NYPD Police Student's Guide, p.79 citing Patrol Guide 208-05 (July 2014).

LGBTQ community, societal and legal issues specific to LGBTQ youth, as well as LGBTQ hate crimes.

In addition to addressing cultural competency, the curriculum instructs members of service on the Department's policies regarding LGBTQ encounters. For example, directly in line with Patrol Guide section 203-10, the curriculum explicitly details defamatory language that should not be used except when using a direct quote of someone suspected to have committed a hate crime, such as "faggot", "dyke", "homo", "sodomite", "she-male", "he-she", and "it."<sup>54</sup> The curriculum also teaches that it is not a crime to use certain restrooms and that officers should not tell transgender or gender non-conforming persons to leave a restroom or dressing room just because someone complains that they do not want to be around a transgender or gender non-conforming person.<sup>55</sup> Finally, the curriculum lists contact information for local LGBTQ organizations.

***Current State of Affairs.*** While the 2012 Patrol Guide amendments have moved the dial forward by memorializing good versus prohibited police conduct, some LGBTQ community members assert that the guidelines and internal training are not enough to address police misconduct endured by LGBTQ New Yorkers.<sup>56</sup> Many complain that the guidelines do not explicitly state the penalty officers will receive for violating these procedures, that the training manual does not have a serious corresponding live program that really challenges officer prejudices while teaching competency, and that police officers are finding legitimate pretext to cover illegitimate encounters with civilians, thereby dodging CCRB prosecutions.<sup>57</sup>

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<sup>54</sup> Id. at 99 citing Patrol Guide 203-10.

<sup>55</sup> Id. at 78-79 citing New York City Human Rights Law.

<sup>56</sup> Carl Charles, "NYPD Needs More than Rainbows to Show its Support for LGBT Rights," *ACLU*, July 1, 2015,

<sup>57</sup> The current NYPD training addresses this issue.

## **SECTION THREE: THE SCOPE OF THE STUDY – METHODOLOGY AND STATISTICS<sup>58</sup>**

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The CCRB receives complaints from individuals who believe members of service within the NYPD have used excessive or unnecessary force, abuse of authority, courtesy or offensive language against them. The purpose of this report is to specifically examine complaints regarding police misconduct within FADO jurisdiction pertaining to a) a CCRB allegation related to misconduct involving sexual orientation, or b) the use of slurs specific to sexual orientation, gender identity and gender expression. Text-based queries were used to identify complaints related to the use of slurs specific to sexual orientation, gender identity and gender expression, or a disregarding of the complainant's preferred gender pronoun and/or name. The CCRB identified LGBTQ-related complaints within CCRB jurisdiction received between January 1, 2010 and December 31, 2015 using a text-based query using the search terms listed in Appendix A, as well as a search specifically for allegations related to sexual orientation.

It is important to note that the focus of this study is on the *behavior* of members of service, rather than *who* the victim or alleged victim is (meaning whether or not the victim or alleged victim has identified themselves as a member of the LGBTQ community). The reason for this is because until December 2015, the CCRB had no way of tracking the gender identity or sexual orientation of alleged victims or complainants. In December 2015, optional questions were added to CCRB complaint forms regarding gender identity and sexual orientation so that this information could be more accurately tracked in the future. However, the CCRB tracks a wide variety of data related specifically to misconduct. The CCRB has an allegation specifically for sexual orientation which can be pled when investigators find that a member of service has engaged in misconduct specifically related to a person's sexual orientation. In addition, closing reports, narrative summaries and any relevant associated files include specific language used during the incident and the investigative process. Therefore, a text-based search of slurs and specific language was conducted.

During the examination, the CCRB excluded 250 complaints after thorough case review, though they raised closely-related issues. First, complaints were dismissed from the scope of analysis when the civilian was the subject of the encounter, such as if the civilian used an LGBTQ-related slur or negative reference about sexual orientation or gender expression against the officer or another civilian involved in the incident. Second, instances where language regarding sexual orientation or gender expression were used in a descriptive fashion and not in a derogatory manner were omitted. Finally, complaints were not included within the scope of this

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<sup>58</sup> This report uses descriptive statistics which do not speak to causality, and is not intended to generalize or represent all LGBTQ-related incidents. The 466 incidents discussed in this report are not representative of all LGBTQ-related incidents in New York City.

analysis if the LGBTQ-related keyword or phrase was part of a first or last name, or the name of a street or location.

In total, there were 466 complaints that fell within the scope of this study including a) a CCRB allegation related to misconduct involving sexual orientation, or b) the use of slurs specific to sexual orientation, gender identity and gender expression. These are all closed complaints. Each of the 466 complaints that were used in the scope of the study included either an allegation related to sexual orientation, or at least one of the search terms listed in Table 1. It is important to note that the data on complaints received from 2010 through 2015 to the CCRB do not represent the entire universe of LGBTQ-related complaints in the city. The data examined within the specific timeframe of this study does not show a broad pattern of NYPD policing practices that disproportionately have a negative impact on LGBTQ individuals.

**Table 1: Total Number and Percentage of LGBTQ Slurs or Sexual Orientation Allegation  
(Complaints Received 2010-2015)**

Type of Slur, Term or Sexual Orientation Allegation	Number of Non-distinct Complaints that Include the Term	Percentage of Non-distinct Complaints that Include the Term
Sexual Orientation Allegation Plead	295	35%
Faggot	266	31%
Gay	119	14%
Homo	67	8%
Tranny/ transgender/ transsexual	33	4%
Dyke	19	2%
Lesbian	20	2%
Gender identity	8	1%
Maricon	8	1%
Fag	7	1%
LGBT	5	1%
Prostitution and Condom	3	0%
Transvestite	3	0%
Queer	1	0%
Pronoun	2	0%
<b>Total</b>	<b>856</b>	<b>100%</b>

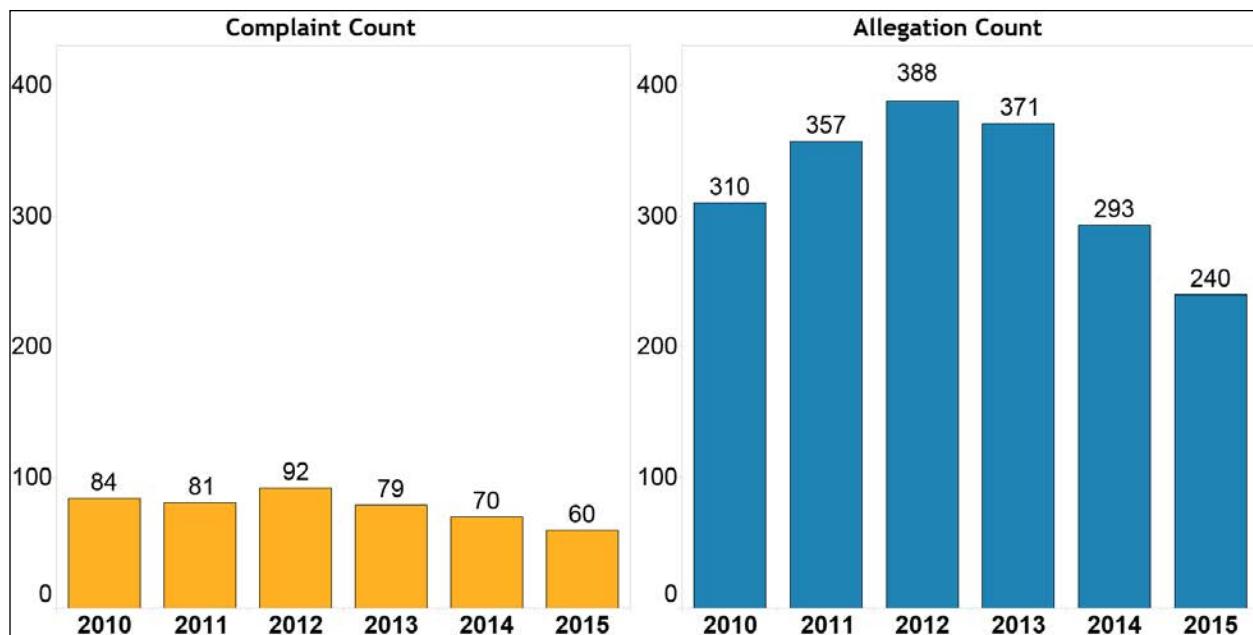
\*The total number of non-distinct complaints sums to 856 rather than 466 because many complaints included more than one of the listed terms or sexual orientation allegation.

It is important to note that this examination includes both fully investigated and truncated complaints. This is because we sought to discuss all received incidents of alleged misconduct related to the LGBTQ-community because underreporting is high, many individuals within the

LGBTQ community do not know where to file complaints of police misconduct, they may fear retaliation, or they may not believe that their complaints will be taken seriously.<sup>59</sup> This section highlights characteristics of these complaints, including the number of complaints and allegations received, as well as a breakdown by FADO allegations, dispositions, and truncations.

**Relevant LGBTQ-Related Complaint Activity.** Between 2010 and 2015, the CCRB received 466 distinct complaints with 1,959 allegations where a) a member of service used an LGBTQ-related slur when interacting with the public, and/or b) incidents occurred where an individual perceived they were being mistreated based on their sexual orientation or gender presentation. The CCRB has received less than one hundred LGBTQ-related complaints each year for the past six years, and the number of complaints has generally decreased, except for a slight increase from 81 complaints in 2011 to 92 complaints in 2012. There are 1,959 allegations associated with the 466 LGBTQ-related complaints, ranging from 310 allegations in 2010 to 240 allegations in 2015.

**Figure 1: Number of LGBTQ-Related Complaints and Allegations  
(Complaints Received 2010-2015)**



The following table compares LGBTQ-related complaints to the total number of complaints within CCRB jurisdiction received from 2010 through 2015. The data shows that LGBTQ-related complaints have made up around 1-2% of total complaints each year.

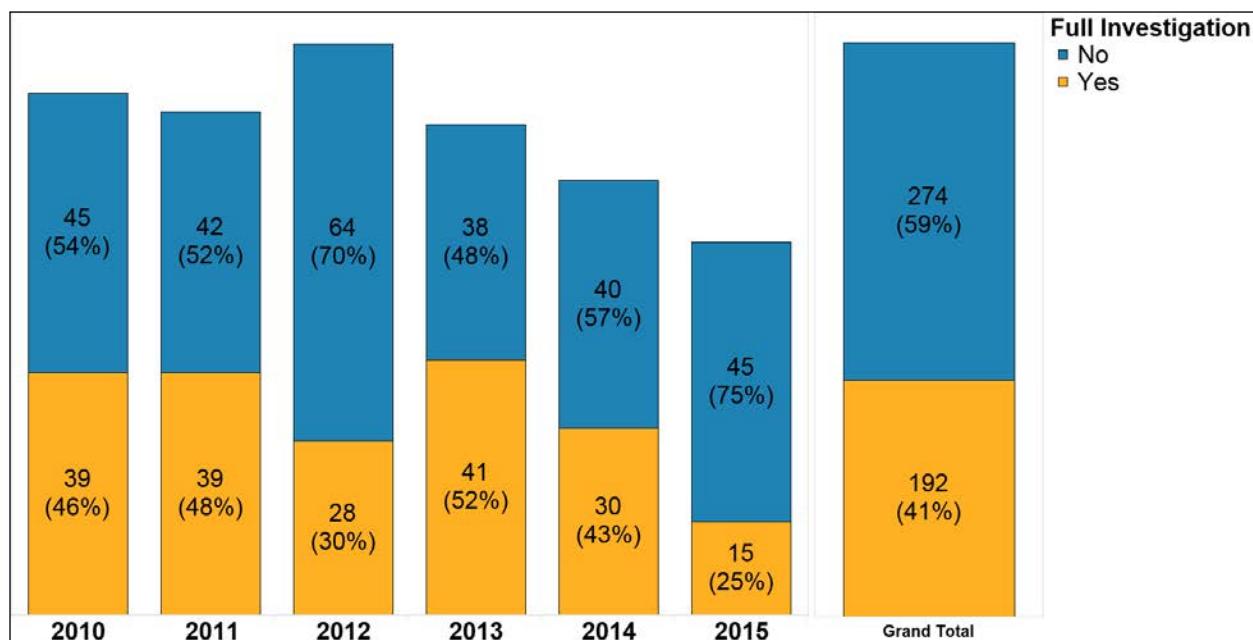
<sup>59</sup> These sentiments were frequently echoed in qualitative work done throughout the LGBTQ community for this report.

**Table 2: Total CCRB and LGBTQ-Related Complaints  
(Complaints Received 2010-2015)**

Year	Total CCRB Complaints (#)	LGBTQ-Related Complaints (#)	LGBTQ-Related Complaints (%)
2010	6,466	84	1%
2011	5,969	81	1%
2012	5,742	92	2%
2013	5,388	79	1%
2014	4,776	70	1%
2015	4,461	60	1%

***Full versus Truncated LGBTQ-Related Complaints.*** All 466 complaints examined are closed. Out of the total 466 relevant complaints received from 2010 through 2015, 192 complaints were fully investigated (41%).

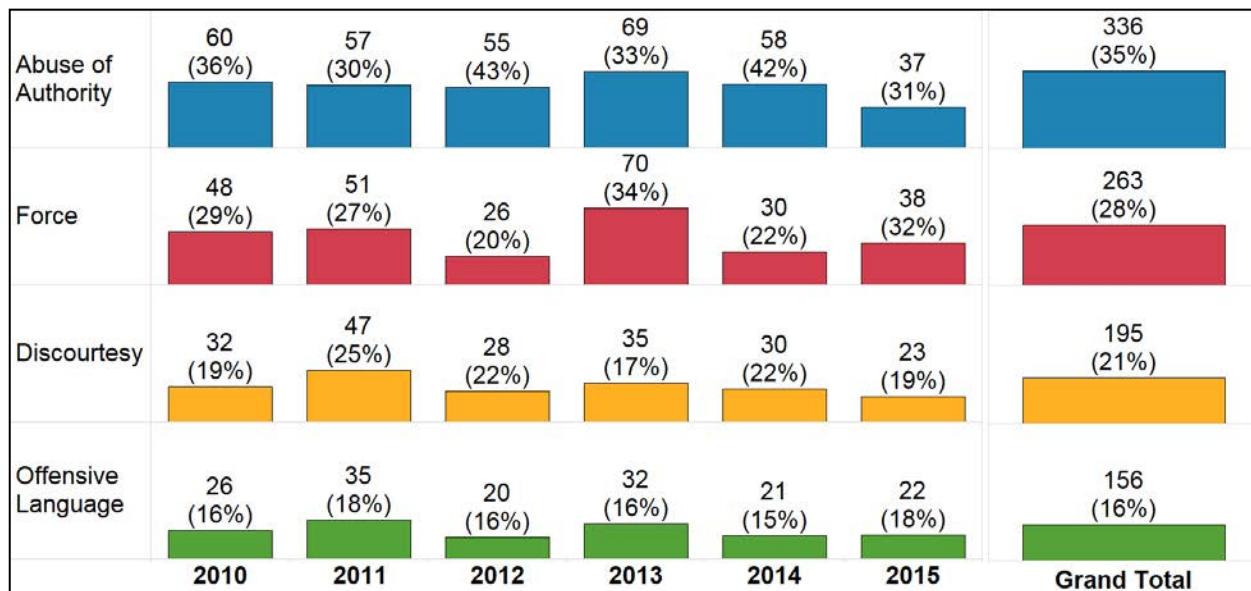
**Figure 2: Number and Percentage of LGBTQ-Related Complaints by Full Investigation  
(Complaints Received 2010-2015)**



***Type of Fully Investigated Allegations.*** Out of the total 1,959 allegations associated with the 466 LGBTQ-related complaints, 950 allegations were fully investigated. Among these fully investigated allegations, abuse of authority was consistently the highest FADO allegation each year from 2010 to 2015, except for 2013 and 2015 in which there were a few more force allegations. From 2010 through 2015 together, 35% of allegations were for abuse of authority, 28% for force, 21% for courtesy, and 16% for offensive language.

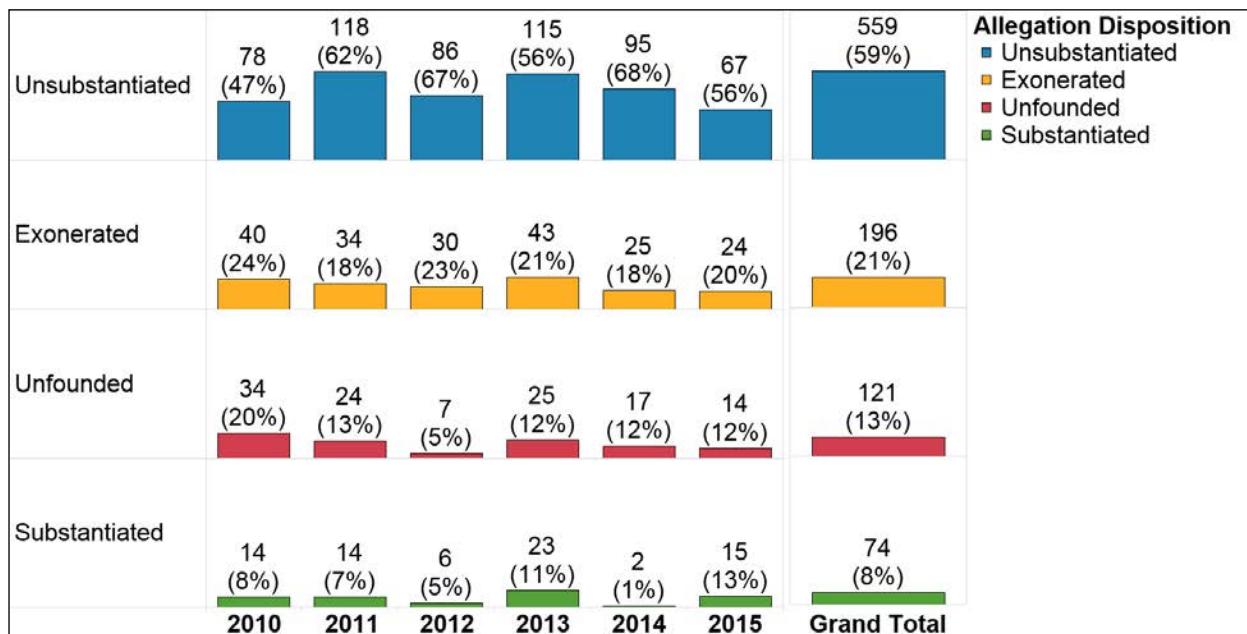
This result follows the trend of FADO allegations for CCRB complaints overall. Before the CCRB excluded 250 complaints with closely-related issues, force allegations were most numerous, followed by abuse of authority, courtesy, and offensive language. This reversal of the general trend for CCRB complaints overall with respect to abuse of authority and force was largely driven by 156 complaints that were excluded from the analysis. In these excluded cases, the civilian used an LGBTQ-related slur or negative reference about sexual orientation or gender expression toward an officer or another civilian involved in the encounter.

**Figure 3: Number and Percentage of Fully Investigated Allegations by FADO Type  
(Complaints Received 2010-2015)**



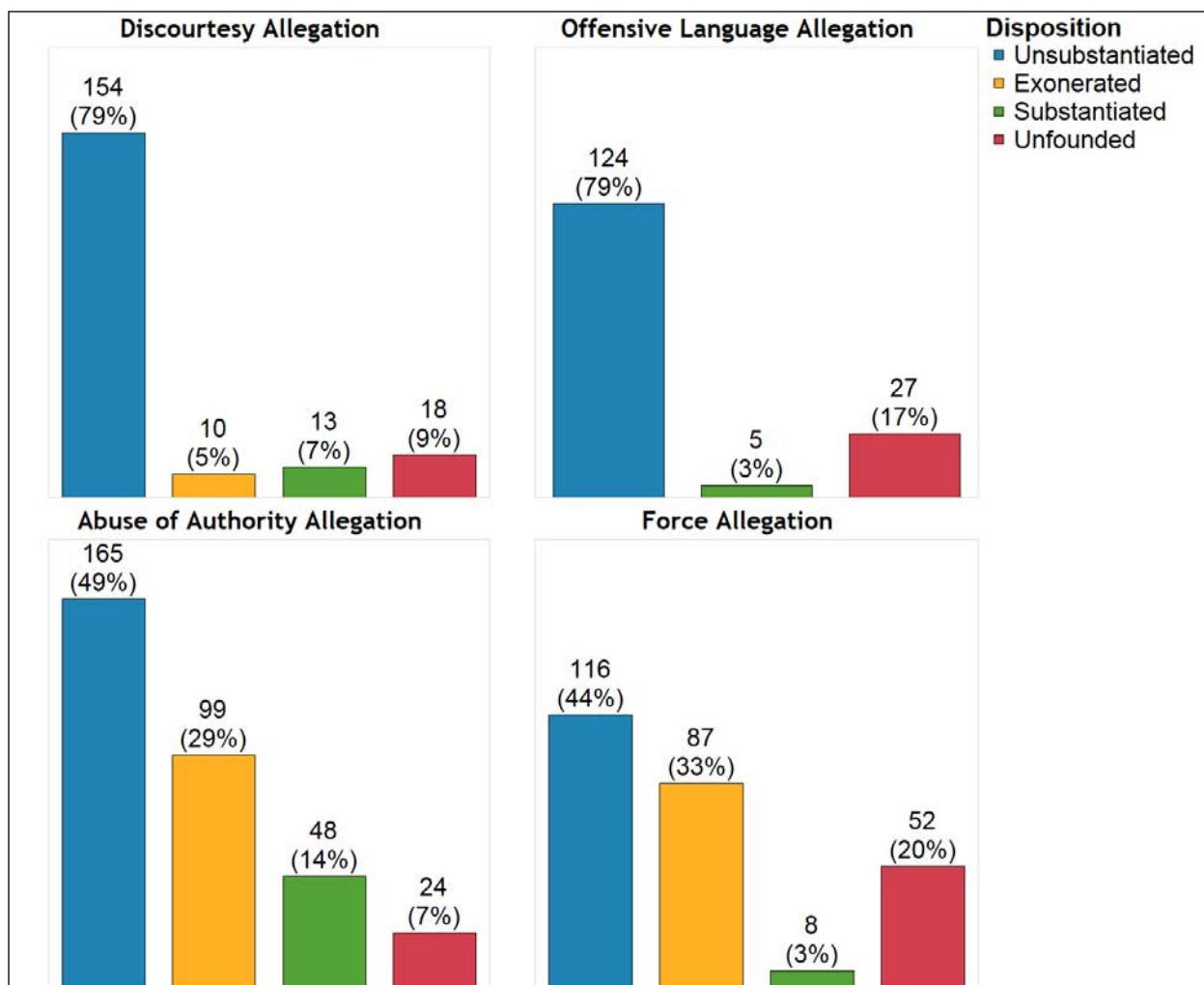
***Disposition of LGBTQ-Related Fully-Investigated Allegations.*** Between 2010 and 2015, CCRB Board panels decided on 950 allegations from 192 full investigations. When examining the data from the past six years, 559 (59%) of allegations were unsubstantiated, 196 (21%) of allegations were exonerated, 121 (13%) of allegations were unfounded, and 74 (8%) of allegations were substantiated. It is important to note that although the related complaints were received by the CCRB from 2010 through 2015, CCRB Board panels may have decided upon these cases in subsequent years. For example, a complaint that was received in 2010 may have been decided upon in 2011. The significant time lag between date received and date closed has become rarer since late 2014 when case processing times were dramatically reduced due to faster and more efficient processes at the CCRB.

**Figure 4: Number and Percentage of Fully Investigated Allegation Dispositions by Year  
(Complaints Received 2010-2015)**



The data shows several differences among the dispositions with respect to FADO allegations. Unsubstantiated courtesy (79%) and offensive language (79%) allegations were more numerous than force (44%) and abuse of authority (49%) allegations. In contrast, exonerated force (33%) and abuse of authority allegations (29%) were more numerous than courtesy (5%) and offensive language (0%) allegations. Courtesy and offensive language cases are particularly difficult to prove without independent verification. This highlights one of the differences between courtesy and offensive language cases on one hand, and force and abuse of authority cases on the other. At the center of courtesy and offensive language cases is whether or not the act in question occurred, whereas in many force and abuse of authority cases, it is often undisputed that an act occurred and therefore the focus of these types of cases is whether or not the act was justified. Substantiated allegations were most numerous for abuse of authority cases (14%), while unfounded allegations were most numerous for force cases (20%).

**Figure 5: Number and Percentage of Fully Investigated Allegations by FADO  
(Complaints Received 2010-2015 together)**

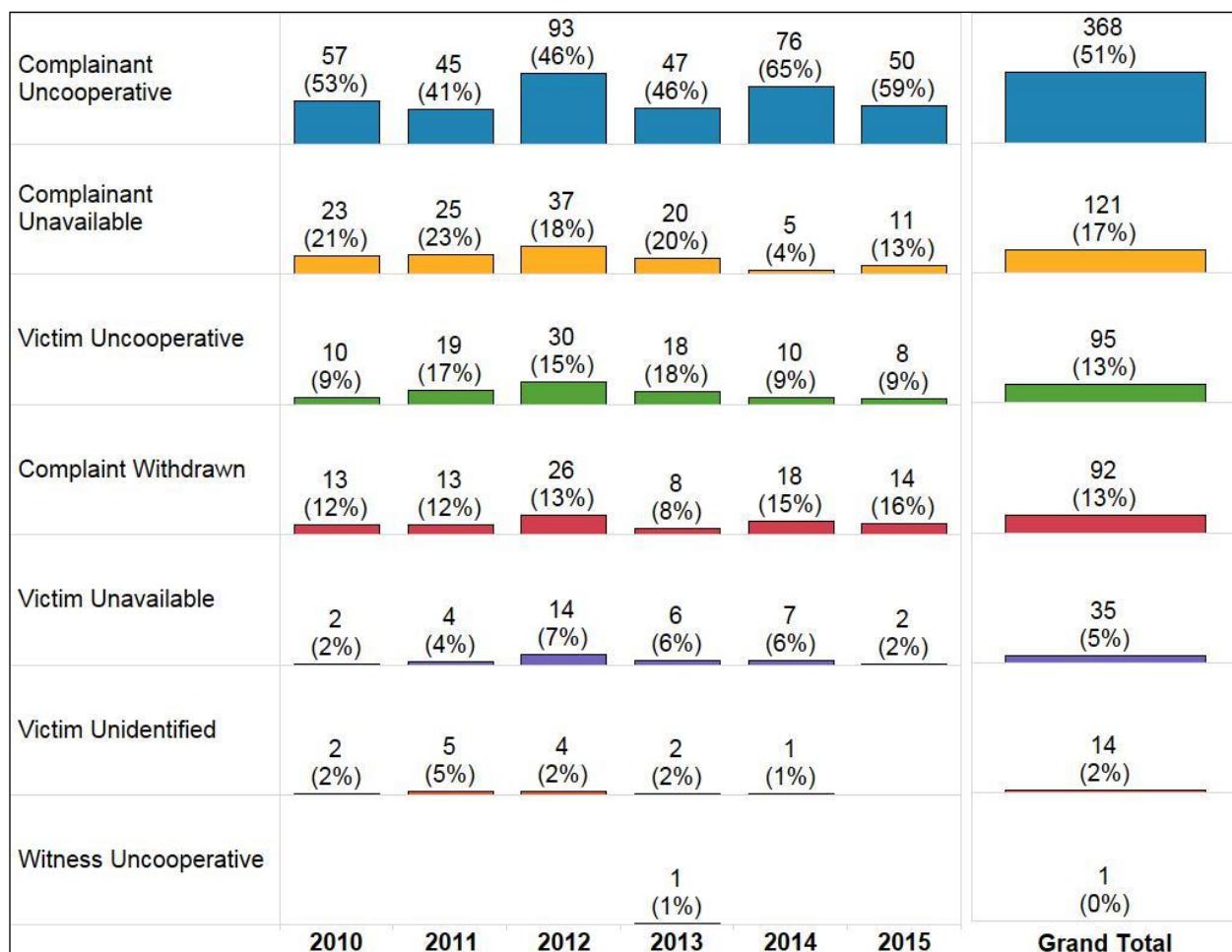


***Truncated LGBTQ-Related Complaints.*** Out of the 466 relevant complaints received between 2010 and 2015, 274 complaints were truncated (59%). Truncations include the following categories: complainant/victim/witness uncooperative, complainant/victim/unavailable, complaint withdrawn, and victim unidentified.<sup>60</sup> Similarly, looking at all 32,802 complaints received within CCRB jurisdiction from 2010 through 2015, 61% were truncated. For the 466 complaints under examination within the past six years together, complainant uncooperative was three times more likely to be the cause of truncation (51%) than complainant unavailable (17%), the second most common reason. The other categories (victim uncooperative, complaint

<sup>60</sup> A truncated case is closed due to the victim's lack of interest or availability. A truncated case is closed as complainant/victim/witness uncooperative when their participation is insufficient to enable the board to conduct a full investigation. A truncated case is closed as complainant/victim/witness unavailable when they cannot be located. A truncated case is closed as complaint withdrawn when the complainant voluntarily withdraws the complaint. A truncated case is closed as victim unidentified when the CCRB is unable to identify the victim.

withdrawn, victim unavailable, victim unidentified and witness uncooperative) comprise the remaining 33% of truncations. For the complaints under examination, the number of overall truncations has decreased over the past six years.

**Figure 6: Number and Percentage of Truncated LGBTQ-Related Complaints  
(Complaints Received 2010-2015)**



**LGBTQ-Related Complaints Mediated.** The CCRB offers mediation to every civilian with appropriate cases.<sup>61</sup> The goal of mediation is to allow civilians and officers to voluntarily resolve issues contained in the complaint through informal conciliation. The CCRB has generally increased the number of its successfully mediated cases on an annual basis. With respect to the 466 examined LGBTQ-related complaints; however, the number of mediations has been more inconsistent. Three complaints were mediated in 2010, none in 2011,

<sup>61</sup> A case is suitable for mediation if there are no allegations of property damage or personal injury, the complainant/victim is not planning on filing a lawsuit, there is no current IAB investigation, and there are no underlying arrests (i.e., the subject officer is the arresting officer).

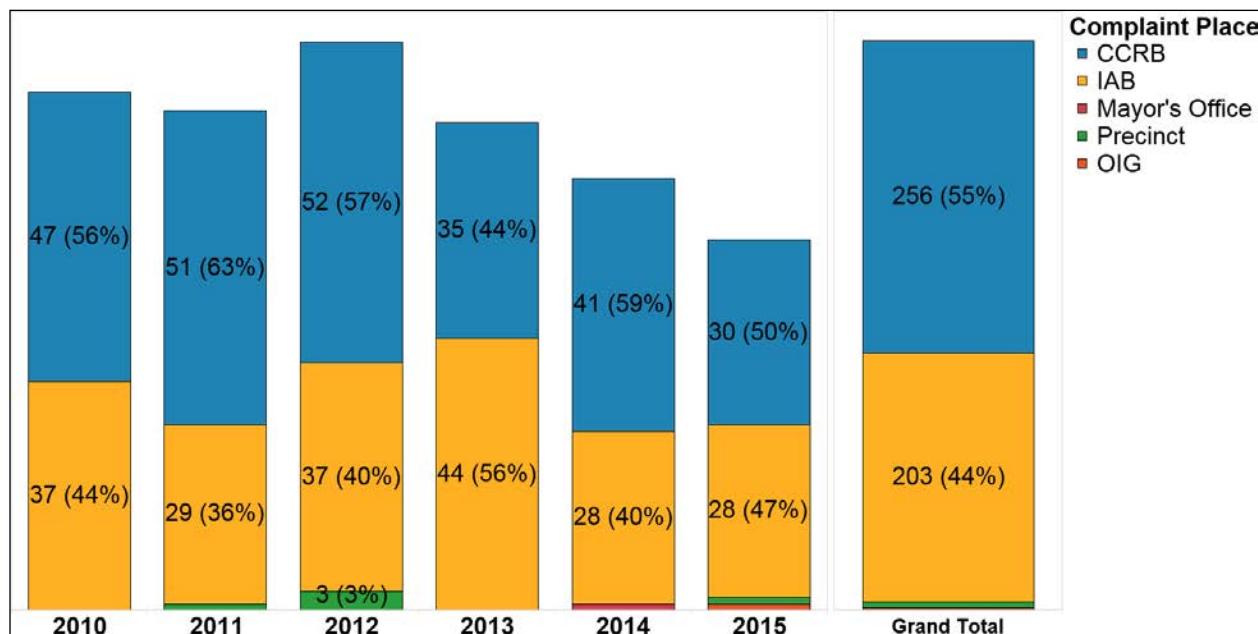
2 in 2012, 4 in 2013, 7 in 2014 and none in 2015. Five complaints were classified as mediation attempted in 2010, 7 in 2011, 11 in 2012, 4 in 2013, none in 2014, and 14 in 2015.<sup>62</sup>

## SECTION FOUR: CHARACTERISTICS OF LGBTQ-RELATED COMPLAINTS

The CCRB isolated relevant characteristics of LGBTQ-related complaints, including how where complaints were filed, location type, demographics of complainant/victims, victims, alleged victims and subject officers.

***Location where LGBTQ-Related Complaints are Filed.*** The location of the 466 LGBTQ-related complaints examined have been largely split between CCRB and IAB, with 55% of complaints received by the CCRB and 44% received by the IAB from 2010 through 2015.

**Figure 7: Number and Percentage of LGBTQ-Related Complaints by Location of Complaint  
(Complaints Received 2010-2015)**

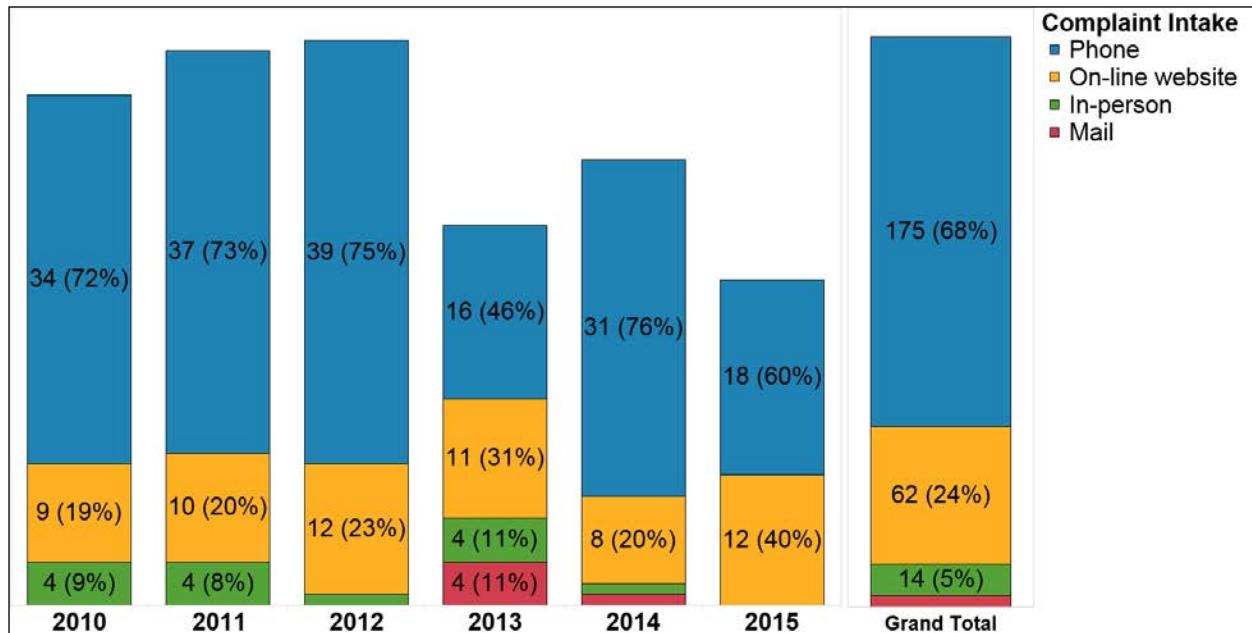


***Intake of LGBTQ-Related Complaints.*** The majority of complaints made directly to the CCRB are via telephone. Between 2010 and 2015, the telephone has been the primary method for filling a complaint at the CCRB (68%). Filing complaints via the CCRB website was

<sup>62</sup> Mediation Attempted refers to a situation in which an officer agrees to mediate and the complainant becomes unavailable after the complainant initially agreed to mediation.

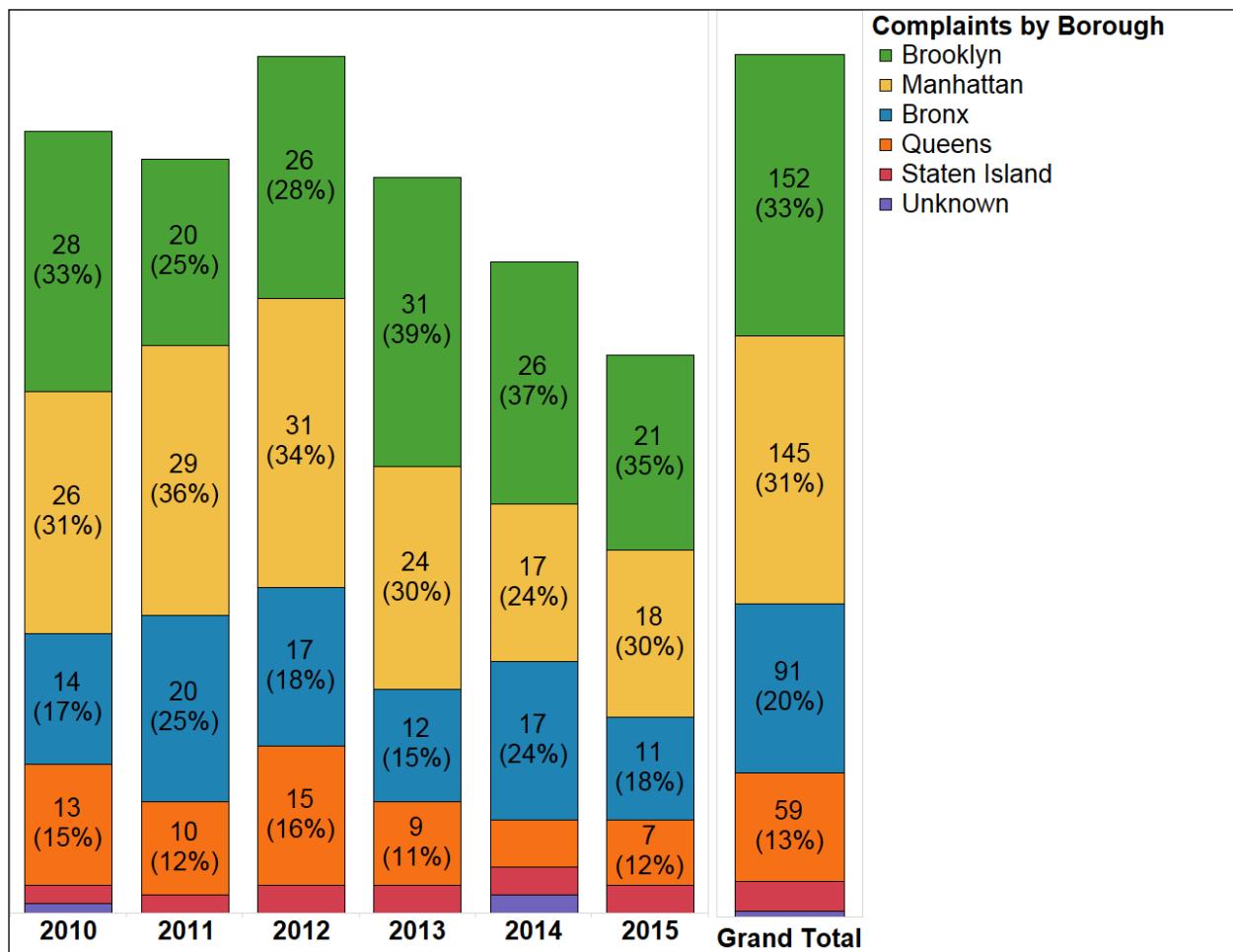
the second most common method with 24% of complaints from 2010 through 2015, followed by 5% in person.

**Figure 8: Total Number and Percentage of LGBTQ-Related Complaints by Mode of Complaint Made to the CCRB  
(Complaints Received 2010-2015)**



***Location of LGBTQ-Related Complaints.*** The CCRB maintains information on the borough, precinct and location where incidents that form the basis of complaints occur. At the borough level, the distribution of the 466 LGBTQ-related complaints between 2010 and 2015, together, follows a similar pattern to all CCRB complaints. It is important to note that borough and precinct-level data are not necessarily attributable to any one factor. About a third of LGBTQ-related complaints originated in Brooklyn (33%), followed by 31% in Manhattan, 20% in the Bronx, 13% in Queens, and 3% in Staten Island. In 1% of complaints, the CCRB received incomplete information on the location and was not able to identify where the alleged misconduct took place.

**Figure 9: Number and Percentage of LGBTQ-Related Complaints by Borough  
(Complaints Received 2010-2015)**

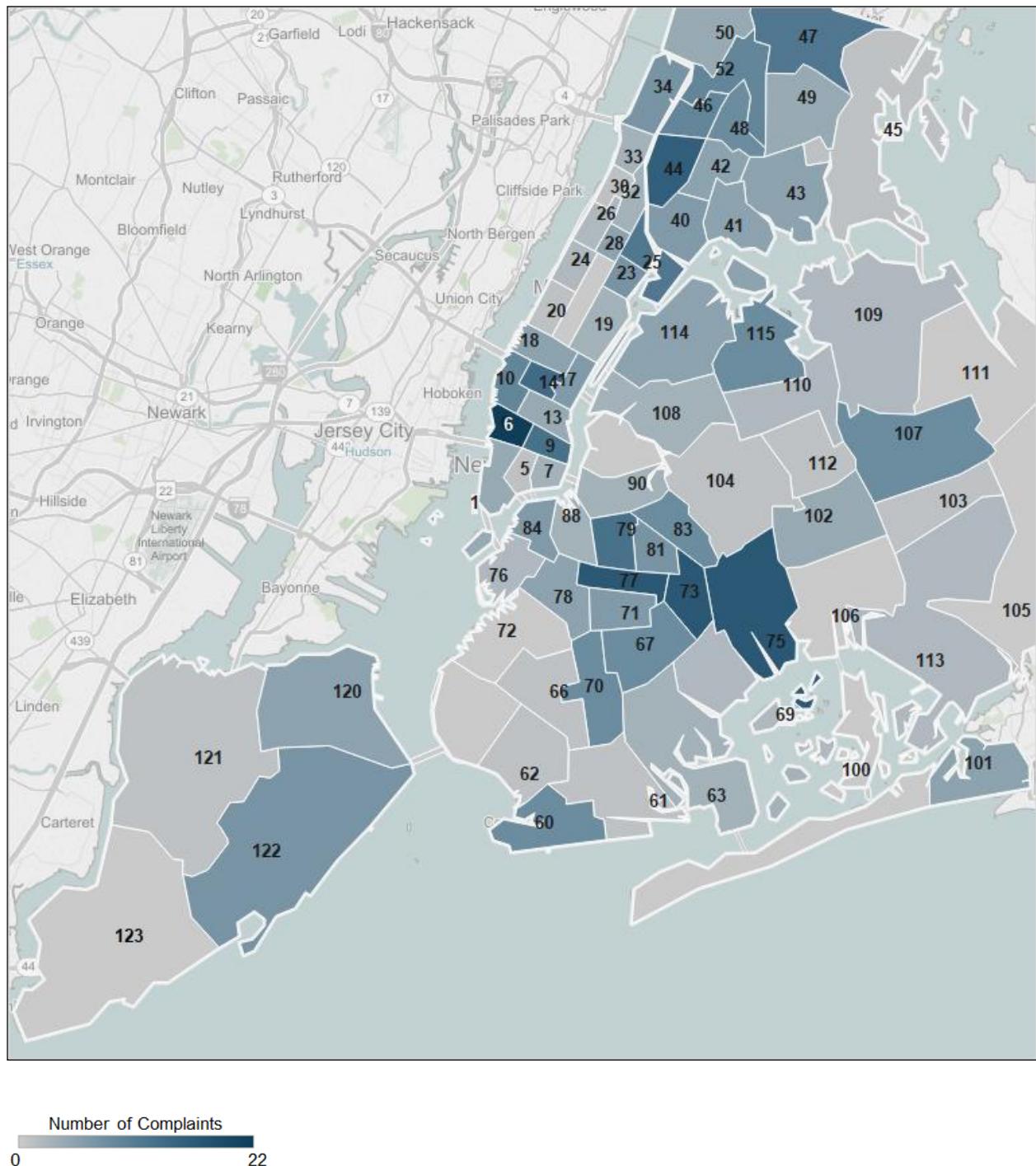


For the period under discussion, precincts with a visibly larger LGBTQ population generated a greater amount of complaints. Precinct 6 which encompasses the West Village, and is the former location of the Stonewall Inn, continues to experience the highest amount of LGBTQ-related complaints (22 from 2010 through 2015). According to the 2015 testimony for the President's Task Force on 21<sup>st</sup> Century Policing from FIERCE, a West Village LGBTQ youth of color-led organization founded in response to the enforcement of Broken Window Policing policies, LGBTQ youth in the area have been “targeted” due to “age, race, gender identity and expression, class and individual status as homeless or marginally housed.”<sup>63</sup> Precincts 73, 75 and 77, located in Brooklyn, also generated a high number of complaints (17 complaints per precinct from 2010 through 2015), similar to trends that exist in CCRB complaint

<sup>63</sup> FIERCE. 2015. *A Testimony from FIERCE for the President's Task Force on 21<sup>st</sup> Century Policing*. [http://changethenypd.org/sites/default/files/docs/FIERCE\\_WrittenComments.pdf](http://changethenypd.org/sites/default/files/docs/FIERCE_WrittenComments.pdf).

activity overall.<sup>64</sup> However, precinct 6 is not a high-complaint area with respect to overall CCRB complaints within the last six years in which precinct 6 ranks 30<sup>th</sup>.

**Figure 10: LGBTQ-Related Complaints by Precinct  
(Complaints Received 2010-2015)**



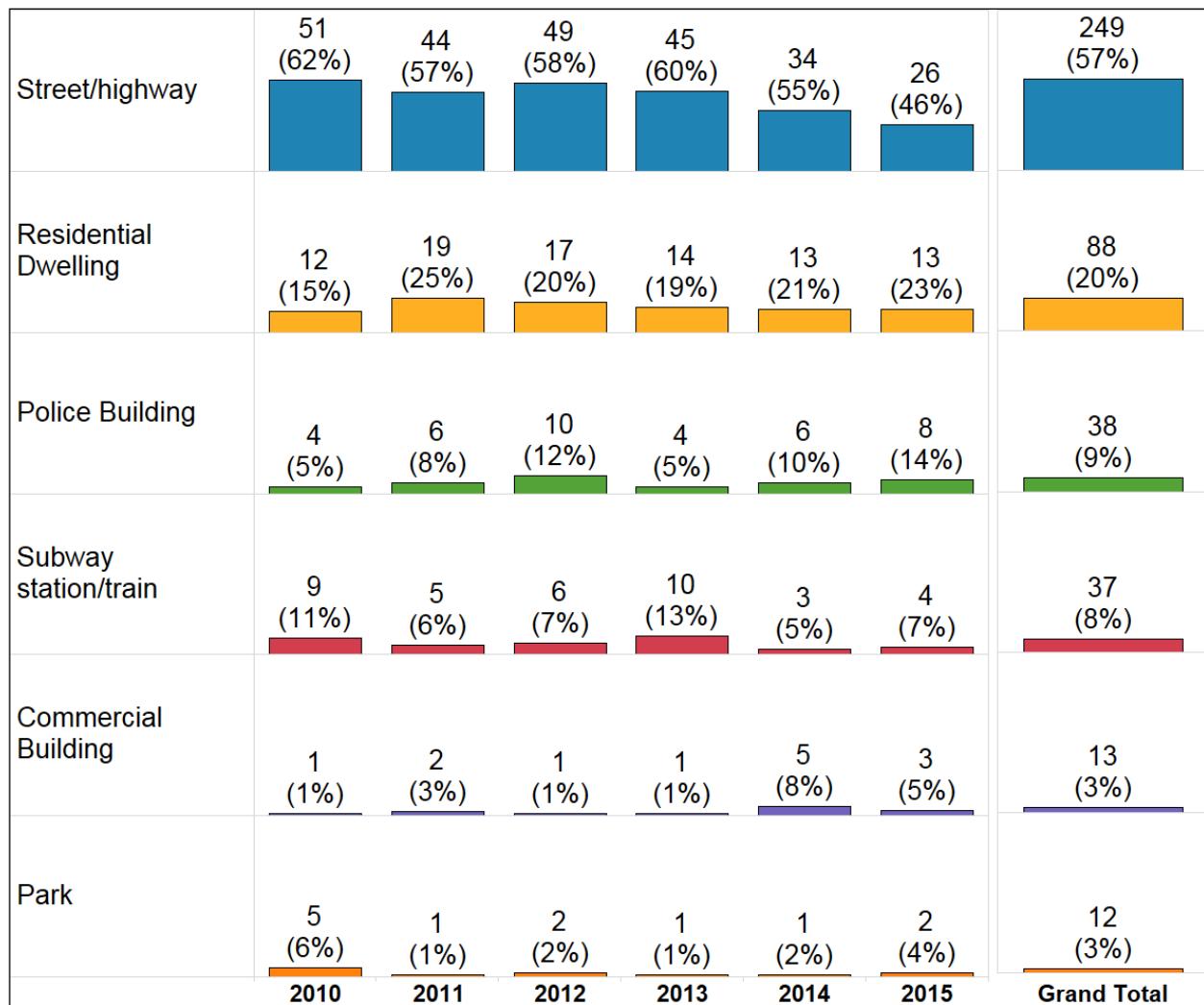
<sup>64</sup> Regarding the precinct distribution of overall complaints between 2010 and 2015, together, precincts 73, 75 and 77, rank fifth, fourteenth and first, respectively.

The majority of known locations for LGBTQ-related complaints originate from encounters occurring in public space. An LGBTQ-related complaint was most likely to be filed from an encounter that occurred on the street/highway, with 57% of all the overall complaints originating from this location. This is similar to overall CCRB complaints from 2010 through 2015 in which the most common location of incidents is on the street/highway.<sup>65</sup> On an annual basis, complaints that originate from the street or highway have declined from 62% in 2010 to 46% in 2015, a possible result of the updated guidelines on stop and frisk policies. At 20% of overall complaint activity, residential dwellings accounted for the second most common location of incidents, and these figures have remained relatively constant between 2010 and 2015.

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<sup>65</sup> Here are numbers for the location of incidents regarding all CCRB complaints received from 2010 through 2015: Street/highway 19,746 (60%), Residential dwelling 8,054 (25%), Police Building 2,192 (7%), Subway/train 1,277, (4%), Commercial Building 1,000 (3%), Park 471 (1%).

**Figure 11: Number and Percentage of LGBTQ-Related Complaints by Location  
(Complaints Received 2010-2015)**



**Characteristics Surrounding LGBTQ-Related Complaint Activity.** The CCRB analyzed the reasons for contact within the 466 total complaints. Suspicion of a violation of a crime was the most common justification provided for initiated contact (39% of complaints overall). “Other” is the second most popular motive for contact initiated at 24%. This classification is provided when CCRB investigators find it difficult to categorize the nature of the stop. Use of this “Other” category has generally declined since 2010 due to increased investigative training and the addition of new categories to define the contact reason for stops. Some of these new categories include: victim was already in custody, victim reports an officer even if they did not directly engage each other, or an officer calls a victim and the interaction results with alleged misconduct. Of particular interest are the 37 cases (8%) in which a complainant contacted the precinct or requested an investigation that resulted in filing an LGBTQ-related complaint. As an example, in a 2014 incident that was ultimately mediated, a

complainant called a precinct inquiring about her transgendered son who was in custody. She filed a complaint alleging that the officer who answered the phone made LGBTQ-related slurs regarding her son's gender identity.

**Figure 12: Number and Percentage of LGBTQ-Related Complaints by Contact Reason  
(Complaints Received 2010-2015)**

	2010	2011	2012	2013	2014	2015	Grand Total
<b>PD Suspects Violation of Crime</b>	34 (40%)	30 (37%)	35 (38%)	33 (42%)	28 (40%)	20 (33%)	180 (39%)
<b>Other</b>	29 (35%)	23 (28%)	19 (21%)	18 (23%)	10 (14%)	15 (25%)	114 (24%)
<b>PD Responds to Reported Crime</b>	9 (11%)	10 (12%)	14 (15%)	10 (13%)	14 (20%)	9 (15%)	66 (14%)
<b>C/V Contacts PD</b>	4 (5%)	4 (5%)	9 (10%)	5 (6%)	11 (16%)	4 (7%)	37 (8%)
<b>PD Response to Violation</b>	6 (7%)	5 (6%)	6 (7%)	6 (8%)		3 (5%)	26 (6%)
<b>PD Executes Warrant</b>	1 (1%)	3 (4%)	4 (4%)	4 (5%)	4 (6%)	1 (2%)	17 (4%)
<b>C/V at PCT for Property, Information or File Complaint</b>		2 (2%)	3 (3%)	1 (1%)	2 (3%)	4 (7%)	12 (3%)
<b>EDP Aided Case</b>		2 (2%)	2 (2%)	1 (1%)		1 (2%)	6 (1%)
<b>C/V Intervenes on Behalf of/observed Encounter</b>	1 (1%)	1 (1%)		1 (1%)		2 (3%)	5 (1%)
<b>Parade or Special Event</b>		1 (1%)			1 (1%)	1 (2%)	3 (1%)

In general, outcomes that follow contact can result in an arrest, a summons or neither. Following a similar trend to CCRB data overall, no summons was issued or arrest was made in almost half of the total LGBTQ-related complaints (207 complaints or 45%). This is followed by 39% of encounters including an arrest (179), and 16% of encounters resulting in a summons issued (76).<sup>66</sup>

<sup>66</sup> The outcome description for four complaints were classified as other.

**Figure 13: Number and Percentage of LGBTQ-Related Complaints by Outcome Description  
(Complaints Received 2010-2015)**

	2010	2011	2012	2013	2014	2015	Grand Total
<b>No Summons or Arrest</b>	34 (41%)	32 (40%)	49 (54%)	31 (39%)	36 (51%)	25 (43%)	207 (45%)
<b>Arrest</b>	33 (40%)	32 (40%)	32 (35%)	34 (43%)	23 (33%)	25 (43%)	179 (39%)
<b>Summons Issued</b>	16 (19%)	17 (21%)	10 (11%)	14 (18%)	11 (16%)	8 (14%)	76 (16%)

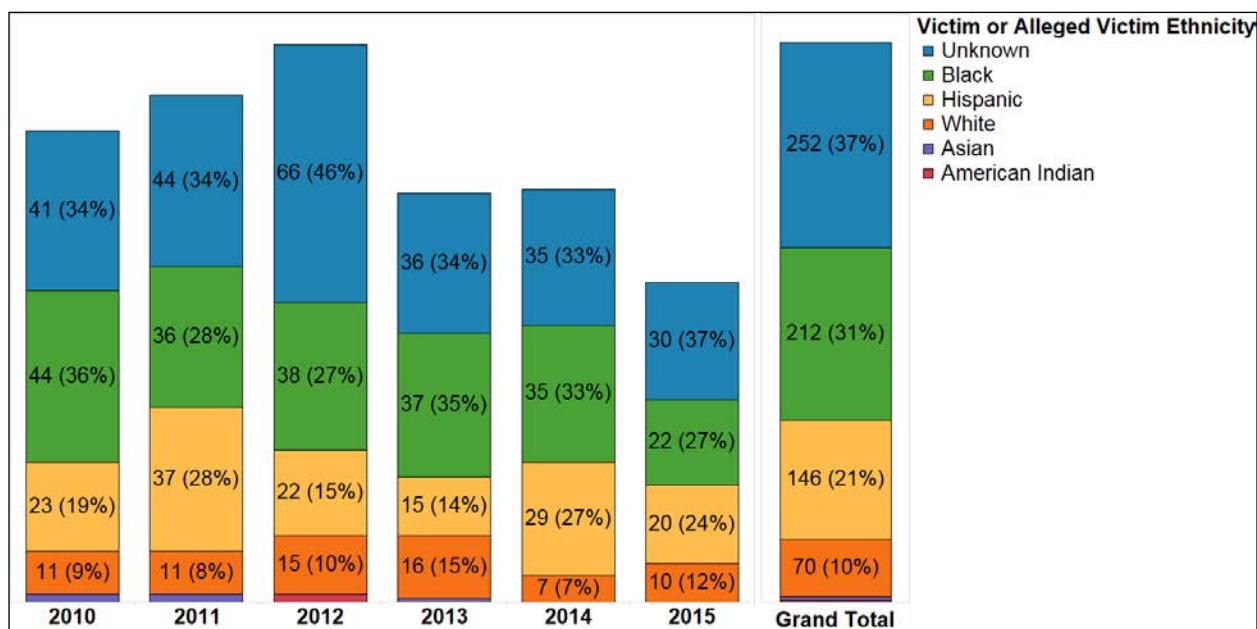
**Socio-demographics of Victims and Alleged Victims in LGBTQ-Related Complaints.** Interactions between law enforcement and the LGBTQ community are not monolithic. Each instance can be viewed through the lens of race, class, age, immigration status, gender identity or expression.<sup>67</sup>

**Ethnicity of Victims and Alleged Victims in LGBTQ-Related Complaints.** In 2012, the Center for Constitutional Rights found that race was the primary factor for determining who was stopped by the NYPD during stop and frisk policies, even in racially diverse neighborhoods.<sup>68</sup> The 466 LGBTQ-related complaints involved 687 victims or alleged victims. Looking at the past six years as a whole, 37% of victims or alleged victims did not report a specific race or ethnicity. Black people comprised 31% of the LGBTQ-related victims and are the largest group of victims or alleged victims that reported their ethnicity. Hispanics represent the second highest reporting demographic at 21%. White individuals comprise an overall 10%, and Asians comprise 1%. When data on victims or alleged victims with unknown ethnicity is removed, then 49% are Black, 34% Hispanic, 16% White, 1% Asian and less than 1% American Indian.

<sup>67</sup> Joey Mogul, Andrea Ritchie, and Kay Whitlock, *Queer (In)Justice: The Criminalization of LGBT People in the United States* (Beacon Press, 2012). Page xviii.

<sup>68</sup> Center for Constitutional Rights. 2012. *Stop And Frisk: The Human Impact*.  
<https://ccrjustice.org/sites/default/files/attach/2015/08/the-human-impact-report.pdf>.  
 Page 11.

**Figure 14: Number and Percentage of Victims and Alleged Victims in LGBTQ-Related Complaints by Ethnicity  
(Complaints Received 2010-2015)**



**Gender of Victims and Alleged Victims in LGBTQ-Related Complaints.** Between 2010 through 2015, 64% of victims or alleged victims identified as male, while 19% identified as female. Sixteen percent of victims provided no gender information which could have been due to a variety of factors. First, the complaint could have been closed before the victim or alleged victim provided their gender. Second, some individuals may not have been able or desired to classify themselves within the binary “male” or “female” categorization. This is especially true since the CCRB had no way of tracking the gender identity or sexual orientation of individuals until December 2015, when optional questions were added to CCRB complaint forms to better accommodate those who do not fit within binary categories. When data on victims or alleged victims with unknown gender is removed, then the gender split is 77% who identified as male, and 23% who identified as female.

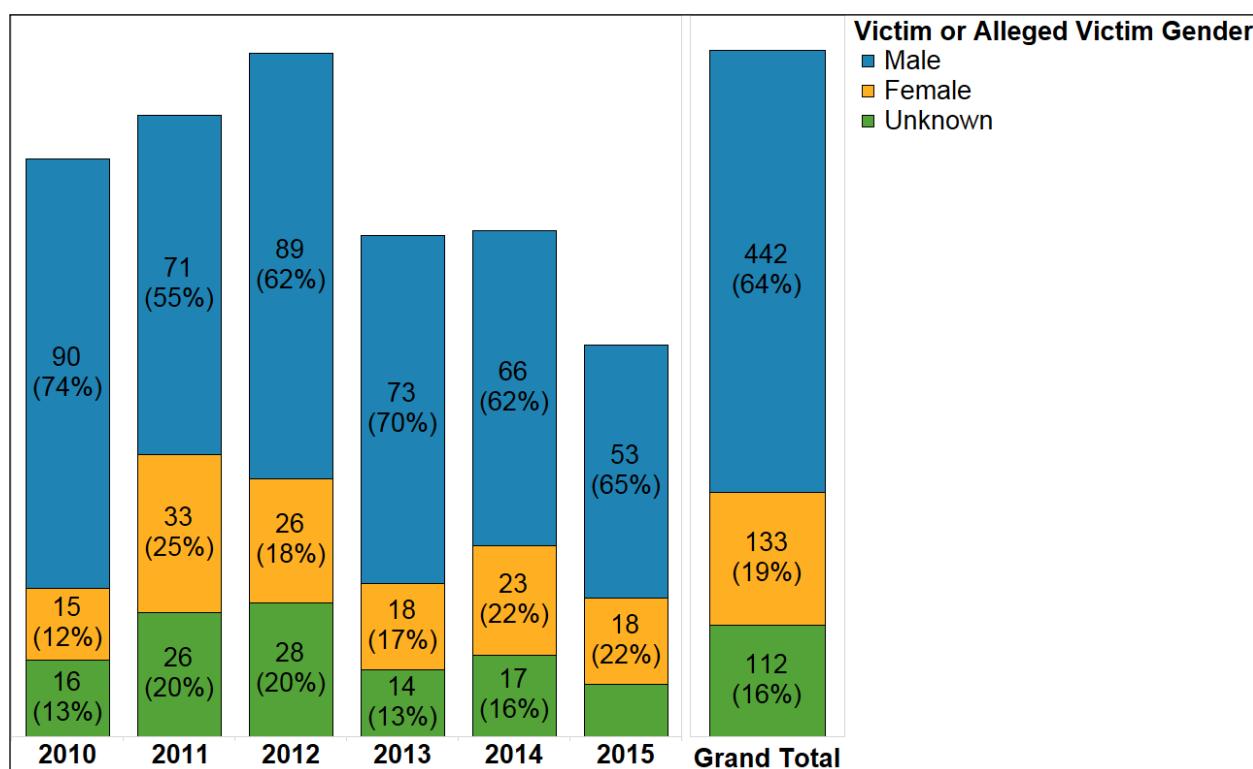
Transgender individuals are particularly at risk for harassment as highlighted by the “Walking while trans” common descriptor.<sup>69</sup> As discussed previously, until 2012, stop, question and frisk policies allowed police officers to stop transgender individuals for prostitution-related offenses and subsequently charge them if there were any condoms in their possession.<sup>70</sup> The 2013 survey of residents in Jackson Heights, Queens by Make the Road New York found that 61% of transgender respondents reported being stopped and harassed by the police for

<sup>69</sup> Center for Constitutional Rights. 2012. *Stop And Frisk: The Human Impact*. <https://ccrjustice.org/sites/default/files/attach/2015/08/the-human-impact-report.pdf>.

<sup>70</sup> Ibid.

prostitution related offenses or for their ID not matching their gender presentation. This is in contrast to 33% of non-LGBTQ individuals surveyed.<sup>71</sup> While this report indicates higher rates of police misconduct within the transgender community than non-LGBTQ counterparts in Jackson Heights, Queens, the relationship between this community and law enforcement is a national challenge. A 2011 national survey of 6,450 transgender and gender non-conforming participants conducted by the National Center for Transgender Equality and National Gay and Lesbian Task Force found that 46% of respondents reported they were uncomfortable seeking police assistance in any circumstance, and 22% said they felt harassed due to police bias.<sup>72</sup>

**Figure 15: Number and Percentage of Victims and Alleged Victims in LGBTQ-Related Complaints by Gender  
(Complaints Received 2010-2015)**



Although there were more victims who identified as male from 2010 through 2015, the proportion of FADO allegations within each gender is different. Individuals who identified as male were connected to 55% of abuse of authority allegations, 20% of courtesy, 13% of force, and 13% of offensive language allegations within the past six years. In contrast, individuals who

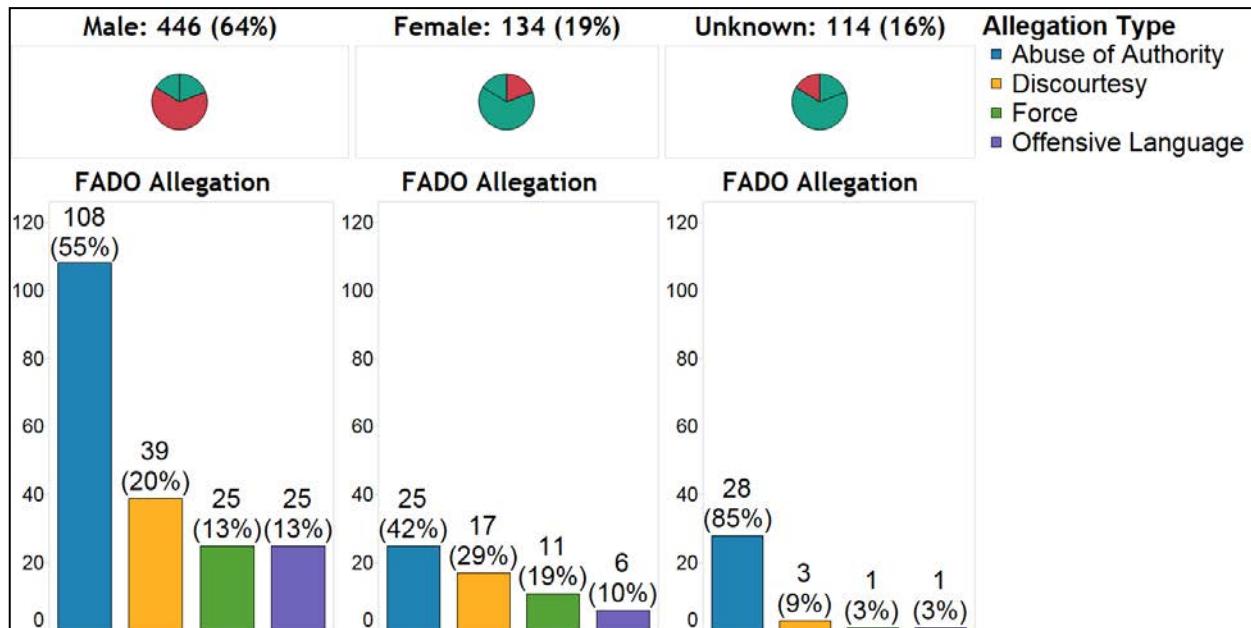
<sup>71</sup> Make the Road New York. 2014. *Transgressive Policing: Police Abuse Of The LGBTQ Communities Of Color In Jackson Heights*.

[http://www.maketheroad.org/pix\\_reports/MRNY\\_Transgressive\\_Policing\\_Full\\_Report\\_10.23.12B.pdf](http://www.maketheroad.org/pix_reports/MRNY_Transgressive_Policing_Full_Report_10.23.12B.pdf).

<sup>72</sup> Jaime Grant, Lisa Mottet, and Justin Tanis. 2011. *Injustice at Every Turn A Report of the National Transgender Discrimination Survey*.

identified as female were connected to 42% of abuse of authority allegations, 29% of courtesy, 19% of force, and 10% of offensive language allegations.

**Figure 16: Number and Percentage of FADO Allegations in LGBTQ-Related Complaints by Gender of Victim and Alleged Victims  
(Complaints Received 2010-2015)<sup>73</sup>**



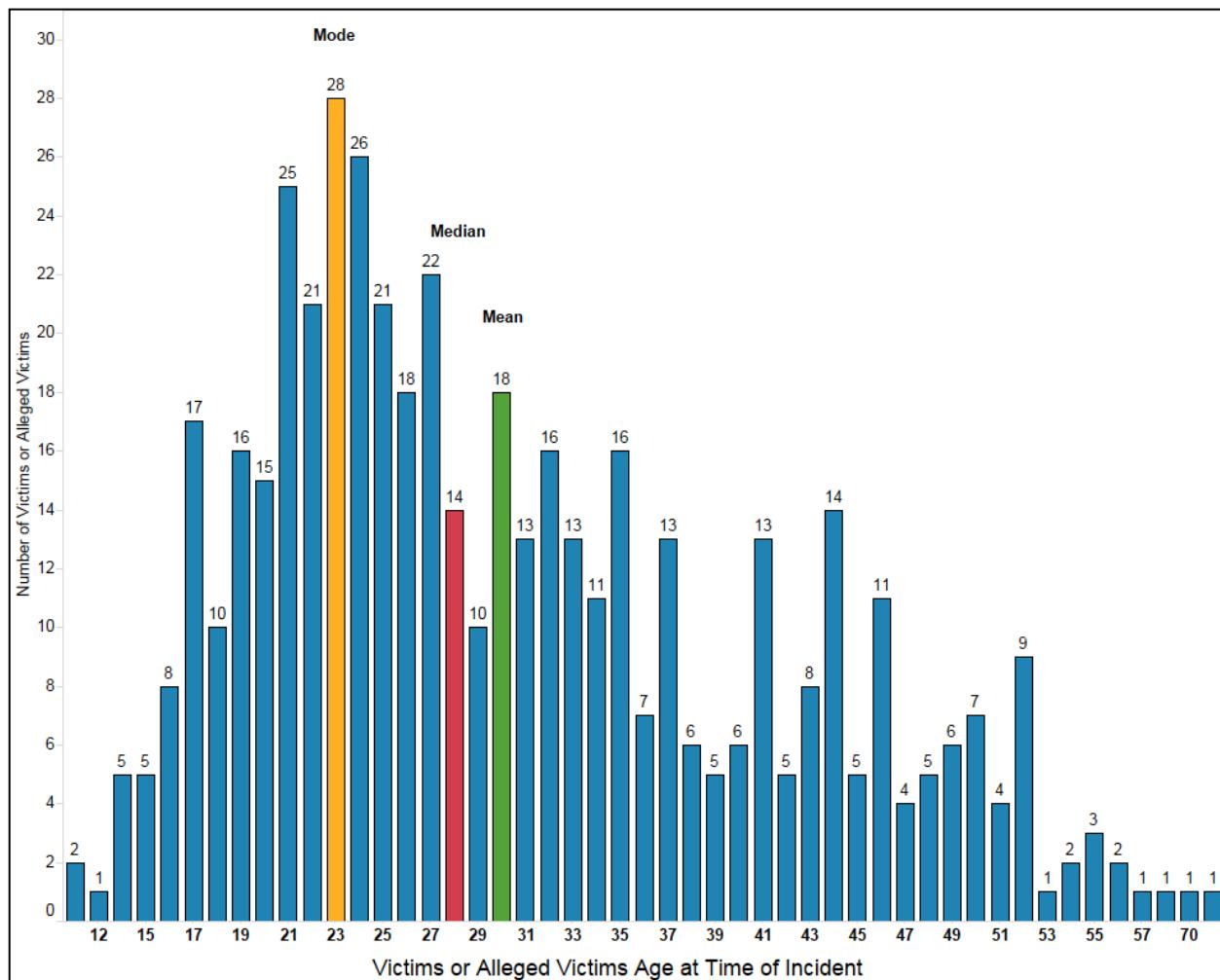
**Age of Victims and Alleged Victims in LGBTQ-Related Complaints.** The known ages of 491 victims or alleged victims within the 466 total LGBTQ-related complaints ranged from 11 to 71.<sup>74</sup> The average age for filing a report was 30 years old, while the median was 28 years old, and the most frequent age was 23 years old. Data over the past six years shows a skew towards younger individuals in complaints received by the CCRB. This finding coincides with local and national research that identifies LGBTQ youth as having a higher likelihood of negative police contact.<sup>75</sup>

<sup>73</sup> The red sectors in the pie charts refer to the male, female and unknown gender of victims or alleged victims, respectively.

<sup>74</sup> Complaint Victim/Victims that file multiple complaints at different ages have been counted as unique complaints in different age groups.

<sup>75</sup> Hannah Bruckner and Kathryn Himmelstein. 2010. “Criminal-Justice And School Sanctions Against Nonheterosexual Youth: A National Longitudinal Study”. *American Academy Of Pediatrics*. <http://pediatrics.aappublications.org/content/pediatrics/early/2010/12/06/peds.2009-2306.full.pdf>; Carolyn Reyes, Jody Marksamer and Katayoon Maid. 2009. “Hidden Injustice Lesbian, Gay, Bisexual, And Transgender Youth In Juvenile Courts,” *The Equity Project*. [http://www.equityproject.org/wp-content/uploads/2014/08/hidden\\_injustice.pdf](http://www.equityproject.org/wp-content/uploads/2014/08/hidden_injustice.pdf); Brett Stoudt, Michelle Fine, and Madeline Fox, “Growing up Policed in the Age of Aggressive Policing Policies,” <http://www.indiana.edu/~atlantic/wp-content/uploads/2011/11/Stoudt-Fine-Fox-Growing-Up-Policed.pdf>.

**Figure 17: Age of Victims and Alleged Victims in LGBTQ-Related Complaints at Time of Incident  
(Complaints Received 2010-2015 together)**



Homeless LGBTQ youth are particularly at risk. A 2013 survey by the New York City Coalition on the Continuum of Care of 182 homeless youth at drop-in centers and supportive housing in New York City found that 34% of respondents identified as lesbian, gay or bisexual, and 6% identified as transgendered.<sup>76</sup> Research has found that antagonistic family relationships, discord, parents forcing their children out of the house, high dropout rates, incarceration and unemployment were many problems often associated with homelessness. These problems are more striking for youth who identify as LGBTQ, and are a growing concern as the age for coming out gets lower.<sup>77</sup> Moreover, lack of social and material support can lead youth to

<sup>76</sup> Lance Freeman, and Darrick Hamilton. 2013. *A Count Of Unaccompanied Homeless Youths In New York City*. New York City Coalition on the Continuum of Care.

[http://www.nyhomeless.com/downloads/pdf/2013\\_NYC\\_Homeless\\_Youth\\_Report.pdf](http://www.nyhomeless.com/downloads/pdf/2013_NYC_Homeless_Youth_Report.pdf).

<sup>77</sup> Christian Grovab, David Bimbiab, Jeffery Parsons and Jose Naninbc. "Race, Ethnicity, Gender, And Generational Factors Associated With The Coming-Out Process Among Gay, Lesbian, And Bisexual Individuals". *Journal Of Sex Research* 43 no. 2 (2006) <http://www.ncbi.nlm.nih.gov/pubmed/16817058>;

participate in survival sex that can increase the likelihood that they will come into direct contact with law enforcement. In the same 2013 study by the New York City Coalition on the Continuum of Care, lesbian, gay and bisexual homeless youth in New York City were found to be seven times more likely, and transgender youth eight times more likely, to engage in survival sex than their homeless heterosexual counterparts.<sup>78</sup>

Age-restricted venues or a home environment where gender identity or sexual orientation cannot be freely expressed limits the spaces where LGBTQ youth can socialize or interact publicly.<sup>79</sup> LGBTQ youth have routinely protested alleged harassment and targeting by police throughout public spaces in the West Village and Chelsea.<sup>80</sup> It is important to note that the data from the 466 complaints received from 2010 through 2015 within CCRB jurisdiction examined in this report does not show that LGBTQ youth have routinely faced or have been targeted by the NYPD in public spaces in the West Village and Chelsea. However, there is a great body of research cited within this report indicating real concerns with respect to this specific population, especially in light of lack of reporting, due to fear of retaliation and little belief that the concerns of LGBTQ youth will be taken seriously. In 2011, the Polling for Justice survey, a study designed by youth and adult researchers in New York City, found that LGBTQ youth ranging in age between 14 and 21 years old reported more negative police contact (61%) than their straight counterparts (47%). LGBTQ youth also had more negative verbal experiences (54% versus 39%, respectively), increased negative physical interactions (24% versus 15%, respectively) and were more likely to have negative sexual encounters (28% versus 10%, respectively)<sup>81</sup> than their non-LGBTQ counterparts.<sup>82</sup>

***Characteristics of Subject Officers in LGBTQ-Related Complaints.*** There were 579 known subject officers associated with the 466 LGBTQ-related complaints. Between 2010 and 2015, a majority of subject officers in LGBTQ allegations were male (92%) and 8% were

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Caitlin Ryan, David Huebner, Jorge Sanchez, Rafael Diaz and Stephen Russell. "Family Acceptance In Adolescence And The Health Of LGBT Young Adults". *Child And Adolescent Psychiatric Nursing* 23 no 4 (2014) <http://www.ncbi.nlm.nih.gov/pubmed/21073595>; Geoffrey Ream and Nicolas Forge, "Homeless Lesbian, Gay, Bisexual And Transgender (LGBT) Youth In New York City: Insights From The Field". *Child Welfare* 93 (2) [http://scholarworks.gsu.edu/ssw\\_facpub/61/](http://scholarworks.gsu.edu/ssw_facpub/61/); Nico Sifra Quintana, Josh Rosenthal, and Jeff Krehely. 2010. "On the Streets, The Federal Response to Gay and Transgender Homeless Youth." *Center for American Progress*. <https://www.americanprogress.org/issues/lgbt/report/2010/06/21/7983/on-the-streets/>.

<sup>78</sup> Lance Freeman and Darrick Hamilton. 2013. *A Count Of Unaccompanied Homeless Youths In New York City*. New York City Coalition on the Continuum of Care.

[http://www.nychohomeless.com/downloads/pdf/2013\\_NYC\\_Homeless\\_Youth\\_Report.pdf](http://www.nychohomeless.com/downloads/pdf/2013_NYC_Homeless_Youth_Report.pdf). Page 26

<sup>79</sup> Amnesty International. 2005. *Stonewalled: Police Abuse And Misconduct Against Lesbian, Gay, Bisexual, And Transgender People In The United States*.

<sup>80</sup> FIERCE. 2011. *LGBTQ Youth Of Color Organization - FIERCE - Demands Immediate End To The Targeting And Harassment Of LGBTQ Youth In The West Village*.

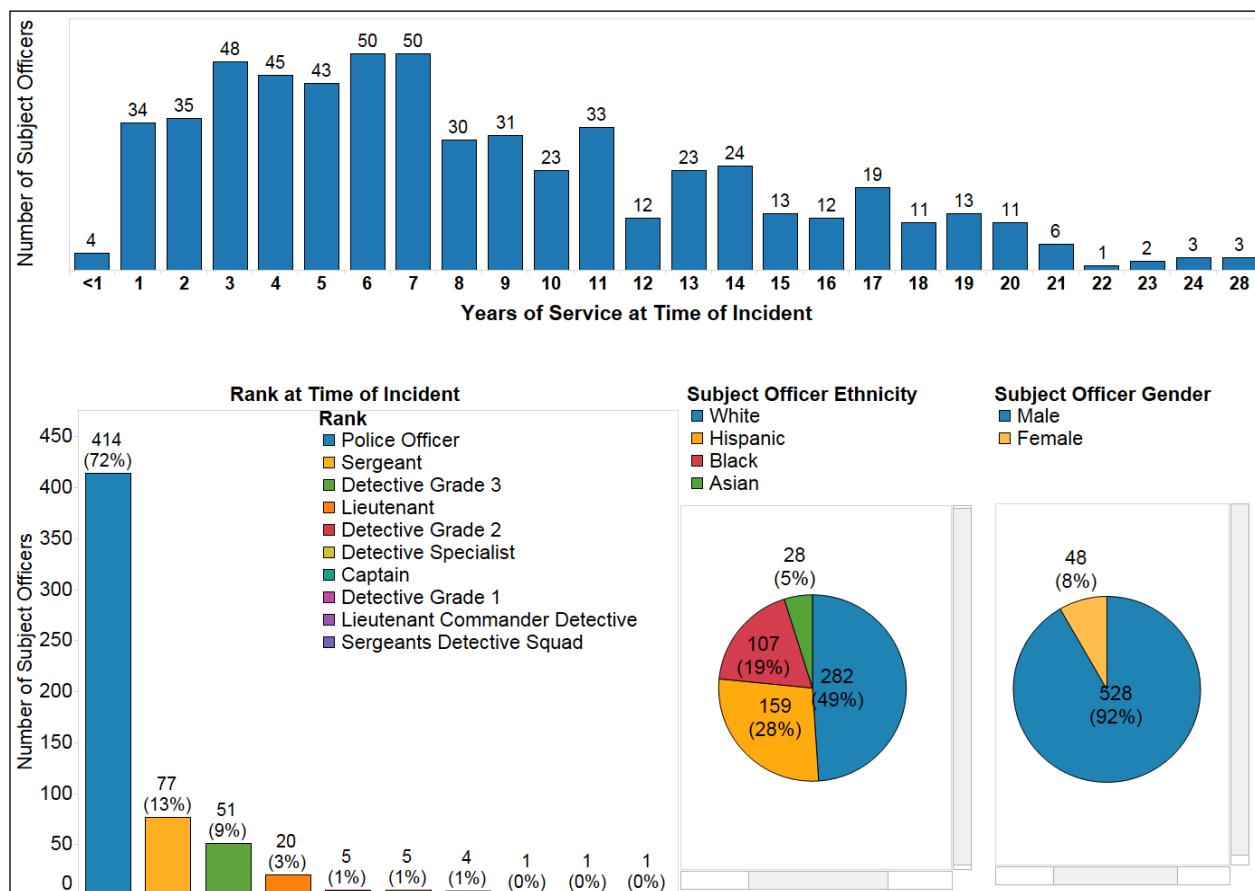
[http://www.fiercenyc.org/sites/default/files/releases/632011\\_FIERCE\\_EndQualityofLife\\_PressRelease.pdf](http://www.fiercenyc.org/sites/default/files/releases/632011_FIERCE_EndQualityofLife_PressRelease.pdf).

<sup>81</sup> Brett Stoudt, Michelle Fine, and Madeline Fox, "Growing up Policed in the Age of Aggressive Policing Policies," <http://www.indiana.edu/~atlantic/wp-content/uploads/2011/11/Stoudt-Fine-Fox-Growing-Up-Policed.pdf>.

<sup>82</sup> Ibid.

female. The ethnic breakdown of these officers was 49% White, 28% Hispanic, 19% Black, and 5% Asian. These officers had an average of nine years on the force at the time of incident, with a median of seven years. The majority of complaints were for officers with seven years or less on the force at the time of incident. With respect to rank from 2010 through 2015 together, the majority of subject officers were police officers (72%), followed by sergeants (13%).

**Figure 18: Number and Percentage of Members of Service in LGBTQ-Related Complaints by Years on the Force at Time of Incident, Gender and Ethnicity (Complaints Received from 2010-2015 together)**

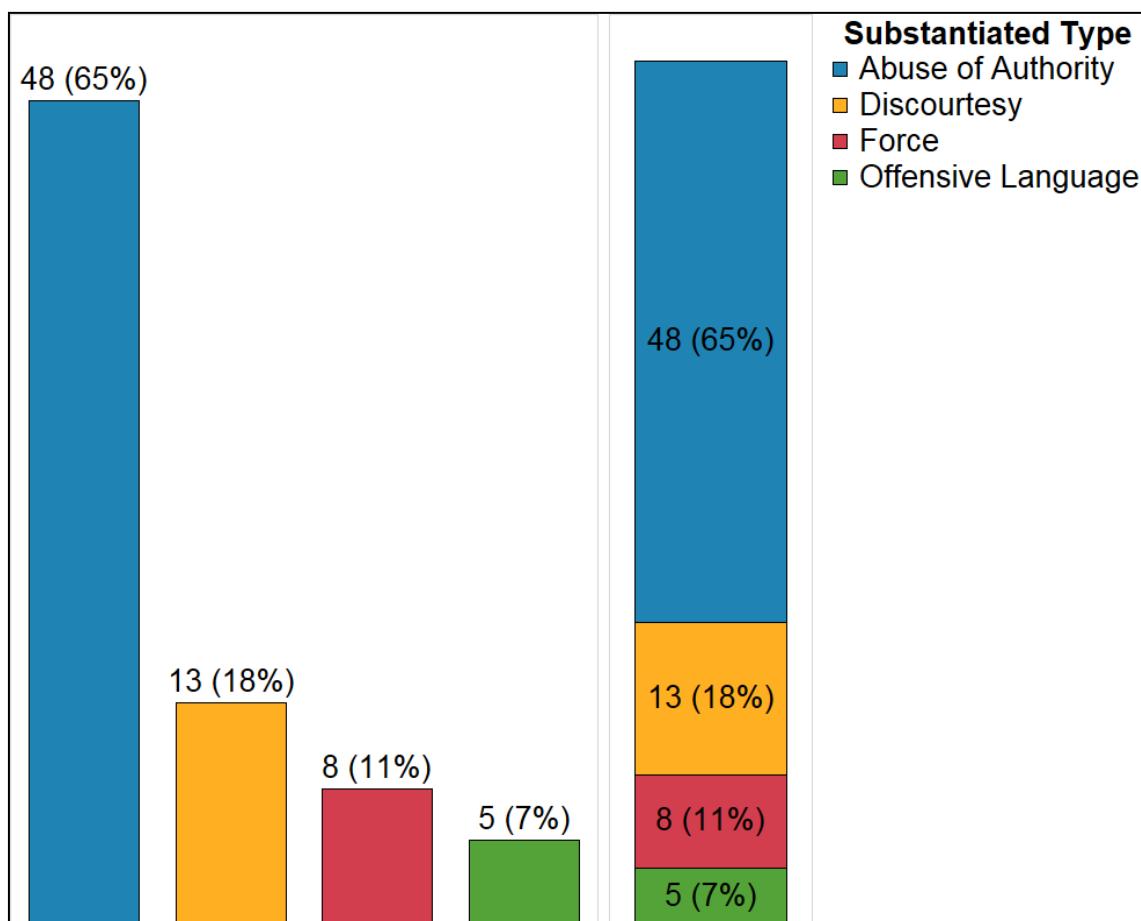


## SECTION FIVE: A REVIEW OF SUBSTANTIATED ALLEGATIONS

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The CCRB reviewed all complaints involving LGBTQ-related misconduct that contained at least one substantiated allegation between 2010 and 2015. There are a total of 74 substantiated allegations within 33 distinct complaints. Of the 33 distinct complaints with at least one substantiated allegation, 45% occurred in Manhattan, 33% in Brooklyn, 15% in the Bronx, and 6% in Queens. There were no complaints with at least one substantiated allegation in Staten Island. With respect to precincts, precinct 9 had the most unique complaints with at least one substantiated allegation (3). There were two unique complaints with at least one substantiated allegation each from Precinct 6, 23, 25, 75, 78, 82, and 102. Precincts 1, 10, 14, 18, 20, 24, 41, 42, 43, 44, 49, 69, 70, 73, 79, 88 each had one complaint. Over half of the 74 substantiated allegations (65%) were for abuse of authority, 18% for courtesy, 11% for force, and 7% for offensive language.

**Figure 19: Number and Percentage of Substantiated FADO Allegations in LGBTQ-Related Complaints  
(Complaints Received 2010-2015 together)**



Under the “preponderance of the evidence” standard that the CCRB Board uses to evaluate cases, there must be sufficient credible evidence for the Board to reach a factual and legal determination regarding an officer’s conduct. Cases related to the LGBTQ community often involve allegations around spoken language that can be incredibly difficult to prove. As mentioned above, one of the differences between courtesy and offensive language cases versus force and abuse of authority cases is that the focus of the former is often on whether or not the act in question occurred, whereas focus of the latter is on whether or not the act was justified and correct procedures were followed. This section groups the 74 substantiated allegations within the LGBTQ-complaints under examination into two categories: allegations that included independent verification, and allegations that did not.

**Table 3: Number and Percentage of Substantiated Allegations in LGBTQ-Related Complaints  
(Complaints Received 2010-2015 together)**

Verification Type	Number of Substantiated Allegations	Percentage of Substantiated Allegations
Procedural*	34	46%
Witness Verification**	21	28%
Video with Audio Verification**	10	14%
Video without Audio Verification**	6	8%
Witness and Video Verification**	3	4%
<b>Total Substantiated Allegations</b>	<b>74</b>	<b>100%</b>

\* Allegations that did not contain independent verification.

\*\* Allegations that contained independent verification.

***Forty Substantiated Allegations Contained Independent Verification.*** Independent verification, such as supporting videos or independent testimony, can be incredibly helpful in substantiating allegations. In a 2011 case, a witness recorded the subject officer outside an apartment complex and an off-camera civilian having a verbal altercation in a building. Although both parties used offensive language, the subject officer was recorded saying, “So shut the fuck up and come downstairs you faggot.” The subject officer denied using an LGBTQ-related slur, and it was not until after the CCRB interview that the previously mentioned video proved otherwise. As a result of independent video evidence with audio, the allegation of offensive language based on sexual orientation was substantiated.

Two complaints with substantiated LGBTQ-specific offensive language allegations occurred in 2013. In the first complaint, a witness walked past a verbal altercation where the subject officer called the civilian a “faggot,” “faggot-ass” and told him to “Go back to the hood.”

During the subsequent investigation, the officer remembered the incident, but did not recall if he used any LGBTQ-related slurs throughout the encounter. While the officer did not directly deny making the LGBTQ-related slurs, the testimony of an independent individual rendered the officer's testimony unreliable. The offensive language allegation based on sexual orientation was substantiated.

In the second incident, an individual filed a complaint following their arrest alleging abuse of authority for a stop and frisk, use of force and offensive language regarding sexual orientation. The abuse of authority allegations for the stop and frisk were both exonerated due to circumstances surrounding the incident, and there was insufficient evidence to determine if excessive force was used. However, an additional officer on the scene corroborated the victim's testimony that the subject officer had used multiple LGBTQ-related slurs, leading to a substantiated allegation.

Testimony provided by independent witnesses helped to substantiate 21 of the 74 substantiated allegations. In a 2014 incident, a civilian alleged that an officer used excessive force and uttered LGBTQ-related slurs. An independent witness observed an officer throw the individual to the ground during the Gay Pride Parade. That testimony was subsequently used to deem the use of force was excessive and substantiate the force allegation. However, the independent witness was not close enough to the altercation to hear any of the dialogue, and the LGBTQ-related slurs were unsubstantiated in the absence of a preponderance of the evidence.

***Thirty-Four Substantiated Allegations without Independent Verification.*** The CCRB also analyzed complaints that contained an LGBTQ-related allegation with at least one substantiated allegation without independent verification. In these incidents, the substantiation was a result of officers failing to follow correct procedures during their interaction with the victim. The resulting substantiations ranged from allegations of improper stop, frisk, search, home entry, summons issued or arrest made.

In a 2010 incident, an officer patted down an individual's pocket and felt what he later described as a wallet or paperwork which he subsequently removed from the pocket. The subject officer testified that civilians sometimes hide razor blades in paperwork, and upon checking that there were no razor blades inside the paperwork, the officer returned the paperwork to the victim. According to *People v. Diaz* 81 N.Y.2d 106 (1993) (encl.1D-H), if an officer feels an object she/he knows is not a gun or any other weapon but believes to be other contraband, the officer is not permitted to remove the object if the frisk is to remain lawful. In this instance, the subject officer had no reasonable suspicion to conclude that the victim was carrying a razor blade amongst the paperwork and should have ceased the frisk before it became a search. The CCRB Board Panel determined the subject officer was not justified in searching the victim.

## **SECTION SIX: A REVIEW OF UNSUBSTANTIATED AND EXONERATED ALLEGATIONS**

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The CCRB reviewed exonerated and unsubstantiated allegations of LGBTQ-related complaints to contextualize its findings. Exonerated allegations are those where there is a preponderance of the evidence that the acts alleged occurred but did not constitute misconduct. Unsubstantiated allegations are those where the CCRB is able to conduct a full investigation, but there was insufficient evidence to establish whether or not there was an act of misconduct.

### ***Exonerated Allegations in LGBTQ-Related Complaints***

Between 2010 and 2015, the CCRB exonerated 196 (21%) of the 950 fully investigated allegations regarding an LGBTQ-related complaint. The CCRB reviewed these allegations by the type of FADO that was alleged, namely abuse of authority, courtesy, and force. The CCRB then selected a random sample of 10% of these allegations that comprised eleven force, seven abuse of authority and two courtesy allegations.

Force complaints, unlike offensive language complaints, often involve analysis about whether or not the force used was excessive, as opposed to whether it occurred. In 2013, for example, a complainant alleged that he was the victim of excessive use of force. The complainant claimed that one evening while he was home, two detectives came to his Brooklyn apartment to arrest him. When the complainant demanded to know why he was being arrested, he said that both detectives called the complainant a “faggot.” The complainant, who was undressed at the time the officers arrived, picked out a pair of underwear to put on and asked the detectives to turn around while he put them on. The complainant alleged that one detective said, “If you don’t get your fucking clothes on, we’re gonna drag you out the same fucking way you are,” referring to the tank top and shorts the complainant had been wearing. The complainant said that the detectives eventually grabbed and handcuffed him. The complainant said he told the second detective to “[g]et the fuck off of me” and attempted to spit at the detectives. According to the complainant, the second detective proceeded to place his hands about the complainant’s chin and neck in an effort to prevent the complainant from spitting on him. The second detective admitted to this use of force, but said that it was necessary in order to prevent the complainant from spitting on him. While both the complainant and second detective admitted that force was used, ultimately the second detective was exonerated for this use of force because he had a lawful reason to apply said force in order to prevent the complainant from spitting on him.

Force allegations had the highest amount of exonerations in the scope of analysis. An appropriate use of force accounted for eight of exonerated force allegations. At the conclusion of the investigation for this type of allegation, the CCRB decided that the subject officer used

appropriate and minimal amount of force necessary in the incident. For example, in a 2012 incident, both the subject officers and the alleged victim admitted that force was used to effect an arrest. While the civilian alleged that the subject officer attempted to poke him in the eye, punched, kicked and kneed him in the face, the subject officer admitted to using their body weight to get the alleged victim on the ground. A physical struggle continued until more officers were able to handcuff the alleged victim. The CCRB investigation compared the alleged victim's medical records and testimony of a witness that corroborated the officers' account of the incident and determined the appropriate amount of force was used to arrest the alleged victim.

One of the remaining nine force allegations was exonerated in which the subject officer was considered to have followed the correct procedure. In a 2013 instance, the subject officer was investigated for pointing a firearm at the alleged victim. Leading up to the force allegation, the subject officer responded to a 911 call that reported multiple individuals were attempting to break down the door of a convenience store, one of which had a gun. Upon police arrival to the scene, the store owner identified the alleged victim as one of the individuals in question. The subject officer pursued the individual and pointed a firearm until they were able to obtain the person's compliance. The officer was exonerated for the force allegation due to a perceived threat to their safety and reasonable suspicion that the alleged victim had committed a crime, which was exacerbated by the individual fleeing the scene.

Abuse of authority was the second most common type of exonerated allegation. Out of the seven allegations examined in the sample, video was material to exonerating the conduct in one of the allegations. In the remaining six abuse of authority allegations, the CCRB Board concluded the subject officer followed proper procedure. In a 2014 incident, a subject officer smelled the odor of marijuana and was warranted in his search of the vehicle. In a 2013 incident, a subject officer was deemed to have justifiably stopped an individual who was suspected of unauthorized use of a student Metrocard because the suspect had a beard and appeared older than a student.<sup>83</sup> When the subject officer asked for identification and was refused, this increased the officer's suspicion that a crime was taking place and he was authorized to detain the victim for the purpose of identifying him, which justified the stop.

Two exonerated courtesy allegations were examined in which subject officers spoke rudely to civilians. In a 2011 incident, a large crowd began to confront officers after the officers used physical force to restrain an individual. In order to gain compliance of the crowd, it was alleged the subject officer used rude words when ordering the crowd to back up. Although the subject officer who received the courtesy allegation did not admit to using rude words during his CCRB interview, the circumstances that surrounded the incident would have justified their use regardless, as a result of the precedent set by *NYPD v. White*, OATH Index No. 78667/03 (October 7, 2004) (encl. 1 A-D), which authorizes officers to use expletive statements in stressful situations in order to gain compliance through verbal commands.

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<sup>83</sup> People v. Debour, 40 N.Y.2d 210 (1976) (encl. [1A-K]).

In a 2012 incident, there was a large fight between multiple civilians and officers. The subject officer sought to have the crowd disperse and used profanity when issuing commands in order to gain compliance. For this instance, precedent *Police Department v. Milne*, OATH Index number 222/00 (March 14, 2000) (encl.1-2) states, “A police officer may use profanity in the heat of a highly dangerous situation or in order to punctuate an order given under extremely stressful circumstances to obtain compliance.”

Video evidence was material to exonerate three of the exonerated allegations in the sample. In a 2014 case that involved a force allegation, officers responded to a domestic violence call in which the subsequent alleged victim of police misconduct was the purported aggressor. Upon arrival, officers attempted to place the individual in custody and ultimately used pepper spray to effect an arrest. Although the individual denied resisting arrest, which if substantiated would not have warranted the use of pepper spray, video footage showed that a struggle ensued with officers in which the individual twisted his body and flailed his arms. After a sustained period of time, the subject officer dispensed pepper spray and the individual then allowed officers to secure the handcuffs. Video footage as material evidence provided a preponderance of the evidence to exonerate the force allegation. However, since the video footage lacked audio and other misconduct allegations occurred off camera, conflicting testimonies resulted in 7 other allegations within this same complaint being decided as unsubstantiated.

### ***Unsubstantiated Allegations in LGBTQ-Related Complaints***

Between 2010 and 2015, the CCRB unsubstantiated 559 (59%) of the 950 fully investigated allegations regarding an LGBTQ-related complaint. The CCRB reviewed a random sample of 10% of these unsubstantiated allegations. In these instances, the CCRB did not have a preponderance of the evidence to definitively substantiate, exonerate or unfound the allegation in question. For example, in some of these unsubstantiated allegations, the civilian reported that the subject officer used an LGBTQ-related slur, but it was 1) solely their testimony against the subject officer’s, 2) independent verification corroborated other allegations in the complaint but was absent for the claim in question, or 3) another witness was present yet not able to corroborate the alleged victim’s testimony. In contrast, officers denied using an LGBTQ-related slur or profiling based on sexual orientation or gender expression.

Thirty-two (53%) of the 59 unsubstantiated allegations reviewed stemmed from instances where the resulting testimony was solely from the alleged victim and subject officer.<sup>84</sup> In a 2011 case, the subject officer responded to what was believed to be a crime in progress in which the alleged victim denied being a part. When questioning the alleged victim about his involvement, the subject officer claimed the alleged victim used offensive language in his answers. On the other hand, the alleged victim admitted to using offensive language, but said it was only after the subject officer called him a “bitch” and “faggot”, that resulted in courtesy and offensive

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<sup>84</sup> In three of these instances, other witnesses were present but CCRB was not able to contact them after several attempts.

language allegations. During this time, the subject officer and alleged victim were engaged in a conversation where no one else was present. Later in the incident, the subject officer used force to arrest the alleged victim that resulted in a force allegation. Although the CCRB unsubstantiated the offensive language and courtesy allegations due to conflicting testimonies of the subject officer and alleged victim, the CCRB panel found that excessive and unreasonable force was used and substantiated the allegation.

Lack of independent verification can often result in an unsubstantiated allegation. In one CCRB complaint, the complainant alleged that after leaving a party at approximately 4:00 am, the complainant and her girlfriend had an argument while outside in the Bronx. She stated that two uniformed police officers approached them, and that one of the officers grabbed her. According to the complainant, she told the officer not to touch her because she was a female. She stated that the officer said, “I don’t give a fuck if you’re a female you gay bitch. I will arrest you right now if you think you’re a man.” The complainant’s girlfriend ultimately did not cooperate with the CCRB investigation. Consequently, the CCRB investigator was unable to obtain independent corroboration of the complainant’s allegations and the matter was closed as “Unsubstantiated.”

## SECTION SEVEN: CCRB RECOMMENDATIONS

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1. **Recommendation:** The Department's expansion of its body-worn camera program in 2016 should place a great emphasis on audio as well as video recordings. Independent verification can be critical to meeting a preponderance of the evidence standard used in CCRB determinations. Video has been especially instrumental in corroborating allegations of misconduct or exonerating the subject officer for using an appropriate response. However, not all video is equal when analyzing LGBTQ-related complaints, many of which involve the use of a slur. In several of these cases, capturing what is said via audio can be just as important, if not more important, than video. Therefore, video with audio capacity can be a useful tool to determine whether or not misconduct actually occurred. Specifically, the CCRB recommends that a) officers activate body-worn cameras early (before contact if possible) to allow for any buffer time to pass well in advance of any civilian interaction whenever possible, b) body-worn cameras be placed on an officer's body to ensure that all audio recordings are properly captured, and c) that a minimum volume should be standardized for audio.
2. **Recommendation:** The Office of the Inspector General for the NYPD (OIG), along with expert advisers, should conduct audits of the Department to ensure that the changes in the Patrol Guide regarding the treatment of transgender individuals are being properly and consistently implemented. In 2012, the NYPD became one of the first police departments in the United States to make changes to its Patrol Guide to include clearly defined procedures for interacting with transgender and gender non-conforming individuals. Without an assessment on implementation, there is no way to verify if the widely praised changes have been adopted in practice. Independent appraisals should assess officers' awareness of Patrol Guide changes on an individual level, and reviews at the precinct-level would ensure that procedures have been followed with respect to how transgender individuals are processed, housed, and treated.
3. **Recommendation:** The Department should increase the LGBT Liaison Unit's capacity to engage both the community and police officers. LGBTQ outreach is needed to increase trust within the community, as well as to raise the awareness of correct procedures when interacting with members of the LGBTQ community. We understand the need for the unit to be directed to work on other topics as needed by the Department, and recommend that the NYPD LGBT Liaison Unit be more autonomous so that it can focus more on the needs and concerns of LGBTQ individuals. This would allow the Department to have a consistent presence within the LGBTQ community. It also allows for more opportunities to conduct cultural competency trainings and refresher courses for police officers who may not have attended the Police Academy in recent years, or who may have been promoted before the 2012 Patrol Guide changes took effect.

4. **Recommendation:** The CCRB should continue to expand its investigative and outreach capacity to better serve the LGBTQ community. In 2015, the CCRB began specialized training for investigative staff in order to assist recognition of characteristics often associated with LGBTQ-related complaints. Investigators who are equipped with the skills to more readily detect patterns where subject officers profile individuals due to their actual or perceived LGBTQ status can more accurately classify police misconduct related to sexual orientation, gender identity or gender expression. In addition to recognizing patterns and courses of conduct where members of service are concerned, training should also include best practices in how to interact with individuals who have been victimized due to their sexual orientation or gender identity. Therefore, it is recommended that the CCRB continue to regularly provide this training. Additionally, the CCRB will continue to further its outreach efforts in the LGBTQ community.
5. **Recommendation:** The NYPD's new LGBTQ sensitivity training curriculum should be vetted by LGBTQ organizations such as the Anti-Violence Project, GLAAD, Lambda Legal, National LGBTQ Task Force, and the Sylvia Rivera Law Project for accuracy and best practices. There should also be an assessment of what Academy students have actually learned about their own biases, how seriously these students are taking the trainings, and whether these students have effectively identified the ways in which they need to put aside their own biases in order to comply with the Patrol Guide and professionally interact with LGBTQ individuals as a result of the training. The CCRB also recommends Department-wide training.

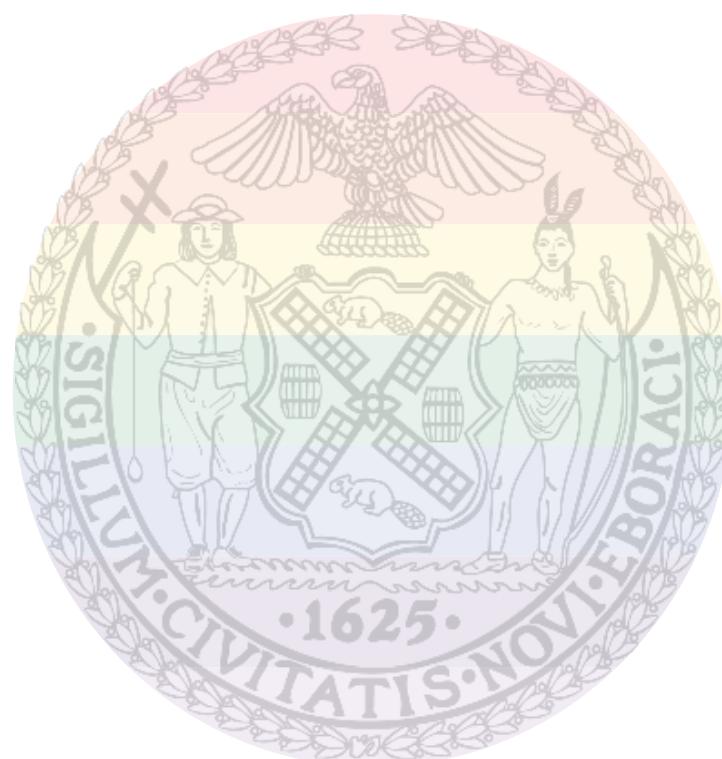
## APPENDIX A

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“Sexual Orientation Allegation Plead”  
“Faggot”  
“Gay”  
“Homo”  
“Tranny/ transgender/ transsexual”  
“Dyke”  
“Lesbian”  
“Gender identity”  
“Maricon”  
“Fag”  
“LGBT”  
“Prostitution and Condom”  
“Transvestite”  
“Queer”  
“Improper pronoun use”

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Angela Hidalgo, Cover Designer

SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY: CRIMINAL TERM, PART 61

THE PEOPLE OF THE STATE OF NEW YORK,

— against —

[Redacted]

Defendant.

Decision and Order on  
Motion to Dismiss in  
Furtherance of Justice

Ind. No. [Redacted]

ABRAHAM L. CLOTT, AJSC:

For the reasons stated below, defendant's motion to dismiss the indictment in furtherance of justice pursuant to CPL § 210.40 is granted to the extent that the felony counts are dismissed. The motion to dismiss the remaining misdemeanor count of Penal Law § 220.03 is denied. At the next court appearance, this court will offer defendant the opportunity to plead guilty to the misdemeanor count with a promised sentence of a conditional discharge (with conditions to be explained below).

The Legislature has granted the trial court power to dismiss an indictment when conviction would "result in injustice" in the face of a "compelling factor" evaluated in light of "the seriousness and circumstances of the offense," "the extent of harm caused by the offense," "the evidence of guilt," "the history character and conditions of the defendant," "any exceptionally serious misconduct [by] law enforcement," "the purpose and effect" of imposing a legally authorized sentence, the impact of dismissal upon both public confidence in the criminal justice system and public safety, "the attitude of the complainant or victim with respect to the motion," and "any other relevant fact indicating that a judgment of conviction would serve no useful purpose" (CPL § 210.40 [1]).

The statute recognizes that justice may require dismissal even though no basis for dismissal exists in law: admissible evidence is sufficient to prove guilt; the proceedings have not been defective; and no rights of the defendant have been violated. "Justice" is not defined but can be evaluated in view of the statutory purposes of prosecution and sentencing: among the purposes of the Penal Law as stated by the Legislature are to "proscribe proportionate penalties," "[t]o provide for an appropriate public response to particular offenses, including consideration of the consequences of the offense for the victim ... and the community," and "[t]o insure the public safety by preventing the commission of offenses through the deterrent influence of the sentences authorized, the rehabilitation of those convicted, and

their confinement when required in the interests of public protection" (PL § 1.05). By empowering courts to dismiss in the furtherance of justice the Legislature has thus acknowledged that in rare, unusual, and individually fact-specific circumstances, applying the law of this State intended generally to promote justice may perversely cause injustice.

In some cases, a hearing might be necessary to determine the factual assertions underlying the positions of both parties. In this case, however, neither party has disputed the factual assertions of the other. Rather, the parties have acknowledged the facts and dispute how they should be weighed in light of the totality of the circumstances. In particular, the defense does not dispute the facts of the crimes charged or the impact of the crimes on the victims. The prosecution has not challenged any of the defense assertions about the defendant's personal history, mental condition, and likely conditions of confinement in state prison. Accordingly, this court will decide this motion assuming the accuracy of all the undisputed allegations.

The unique, unusual, and individual circumstances of this case compel a finding that dismissal of the felony counts is necessary to further justice in view of the relative harm caused by the offense, defendant's history and circumstances, and the detrimental and unnecessary harsh—even cruel—effects of imposing a sentence within the statutory requirements that would otherwise constrain this court.

Defendant committed two robberies on the same day in the ATM area of a bank.<sup>1</sup> On May 12, 2017, at about 11:40 a.m., defendant pushed a victim who was withdrawing money from an ATM machine and grabbed \$300. Later in the same day, at 2:15 p.m., defendant slammed a victim against an ATM machine and stole a wallet containing \$70 and six credit cards. That victim suffered from bruising, swelling, and substantial pain for several days but did not require medical attention. These were not defendant's first crimes. Indeed, defendant is a predicate violent felon because she was convicted of felonious assault upon a police officer in 2016. Defendant also has committed several misdemeanor offenses, including drug possession and fare beating.

But defendant is not only a predicate violent felon. At the time of her crimes in this case, defendant also was a 22-year-old transgender woman (with a biologically male body), HIV positive, a drug addict, a sex worker, and homeless since being thrown out of her mother's home at age 16, except for some periods where she lived in supportive housing rife with drug abuse. She has been raped and

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<sup>1</sup> For purposes of deciding this motion, this court assumes defendant's guilt and the accuracy of the prosecution's rendition of the facts. The defense papers acknowledge defendant's guilt and represent that she was under the influence of drugs during the crimes.

assaulted, both while in jail and on the street.<sup>2</sup> The law does not allow for any disposition of her case whatsoever without a state prison sentence, a sentence this court is convinced would be unjust under the totality of the circumstances. Accordingly, this court exercises its discretion to dismiss the felony counts to allow for imposition of a just sentence for the remaining misdemeanor.

This court addresses the statutory factors as follows:

1. The Seriousness and Circumstances of the Offense

Robbery is a serious offense by any measure, and defendant's crimes were clearly serious. The morning robbery (\$300 cash grabbed from the victim at an ATM machine) seems clearly typical for a third-degree robbery prosecution. The afternoon robbery (\$70 and credit cards recovered immediately with the victim thrown against the ATM machine and suffering injuries not requiring medical attention) may be somewhat at the margins of seriousness for the heartland of second-degree robbery prosecutions because many such prosecutions involve property of greater value and more extreme injuries. Defendant's mental and physical state during the crime—under the influence of drugs—is irrelevant to what was experienced by the victims but may be mitigating in the context of the defendant's full life history.

2. The Extent of Harm

Neither crime caused more than the usual extent of harm for such offenses. The second crime, during which the victim was injured, may have caused less harm than is typical for a taking of property by force during which the victim is injured.

3. The Evidence of Guilt

The evidence of guilt appears to be strong. Defendant, through counsel, has acknowledged her guilt and expressed remorse. This court assumes that defendant would be convicted of all counts if the case proceeded to trial.

4. The History, Character and Conditions of the Defendant

Defendant's personal history has been set out by a social worker in a report submitted by counsel. Defendant's childhood appears to have been ordinary until age 16 except for the absence of his father due to incarceration. Defendant appears to have been raised in an otherwise intact and loving family. Some problems began when defendant was about 16 but the initial problems seem rather ordinary and

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<sup>2</sup> The prosecution has not questioned the accuracy of these representations by defense counsel. A social worker who met with defendant in jail observed obvious injuries to defendant's face and was told by a corrections officer that defendant had been raped the night before.

typical for the course of many adolescents: some marijuana use that defendant hid from his mother; some petty stealing from his mother to pay for marijuana; conflict with his mother when she found pornographic texts and photos on his phone; and distancing between defendant and his mother as he was unwilling to discuss his intimate life.

Problems far from ordinary began, however, during defendant's sixteenth year, after the police responded to a call placed by the mother alleging that he had assaulted her. Although defendant was not convicted of a crime, he stopped living at his mother's house. From age 16 to 22 defendant adopted a feminine identity, took on a feminine name, and lived on the streets except until after she was diagnosed with HIV disease and went in and out of supportive housing. After leaving home and while living in supportive housing, defendant earned money by performing sexual acts and became addicted to crystal meth and crack cocaine. She reports having been both raped and assaulted on several occasions. Throughout this period, she was hospitalized several times but never received coordinated, long-term treatment. As noted, the prosecution does not dispute the factual circumstances of defendant's personal history.

In 2013, defendant pleaded guilty to felony assault of a police officer. Defendant had been taken to a precinct following a complaint by her and a cross complaint against her. At the precinct, she kicked a police officer in the knee, kicked a window causing it to shatter, and fell to the floor with the police officer during an ensuing struggle. The police officer fell onto broken glass and suffered bruising and lacerations requiring hospital treatment. Defendant, who could not be subdued without physical force, required stitches to her ankle and foot, and had injuries to her hands, knees, and forehead. Defendant was sentenced to a conditional discharge. Although this court cannot know with certainty the reasons for that sentence, this court assumes it likely reflected the length of time defendant was incarcerated before pleading guilty, her social circumstances, and the relative seriousness of the injuries she suffered during her arrest in comparison to the less serious injuries sustained by the officer.<sup>3</sup>

The social worker who evaluated defendant concluded that defendant requires treatment for trauma and substance abuse and therapy for anxiety disorder.<sup>4</sup> Based only on an analysis of the defendant's needs, and not considering

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<sup>3</sup> Both parties have made representations about the facts underlying this conviction. Although each party emphasizes different facts, neither party has contradicted the representations of the other.

<sup>4</sup> The social worker notes that defendant has also been diagnosed in the past with more serious disorders but is unable to confirm them from her observations. The prosecution has not suggested any reason to reject the social worker's conclusions, and it appears to this court that in the absence of clinical findings the more modest diagnoses could well be consistent with the defendant's life circumstances.

justice to the victim, the law, or other factors that this court must consider, the social worker recommends a 3-6 month program of in-patient substance abuse and trauma treatment followed by comprehensive health services, educational, vocational training, and participation in a Restorative Justice program during which defendant could meet with her victims.

##### 5. Misconduct by Law Enforcement

The defense makes no claim of law enforcement misconduct, and this court sees no appearance here of any such misconduct.

##### 6. Purpose and Effect of Imposing a Legally Authorized Sentence

The law does not permit the prosecution to offer the defendant any sentence lower than five years in state prison: defendant is a predicate violent felony offender charged with a class C violent felony offense (see PL §§ 160.10 [2] [a]; 70.02 [1] [b]); the statutory limitations on plea bargaining require a guilty plea to at least a class D violent felony offense (CPL § 220.10 [5] [d] [ii]); and the minimum prison term for a predicate violent felony offender convicted of a class D violent felony offense is a determinate prison sentence of five years to be followed by five years of post-release supervision (see PL §§ 70.04 [3] [c]; 70.45 [2]). The prosecution has offered defendant a guilty plea with a determinate prison sentence of five years. The lowest sentence that this court would be permitted to offer in the absence of an offer by the prosecution would be a determinate prison sentence of seven years to be followed by five years of post-release supervision (see PL §§ 70.04 [3] [b]; 70.45 [2]).

The defense has made statements about the likely treatment in prison of a transgender woman who is biologically male and has submitted a report, which is more than a decade old, about the treatment of transgender inmates in prisons across the country. Without conducting an extended hearing, this court cannot know, with any degree of confidence, how defendant—a transgender female with male genitalia—will be treated in prison or how her treatment might change over the course of a prison term lasting between five and seven years. Nevertheless, this court reasonably assumes that defendant, who identifies and projects as feminine, will face an increased risk of sexualized violence if housed with violent male felons in the general prison population, where inmates have limited privacy and share showers and toilets. Furthermore, the prosecution does not dispute that defendant will be housed in a male facility and, thus, likely will spend her entire period of incarceration in some form of protective custody, thereby subjecting her to more restrictive confinement for reasons unrelated to her crimes or her behavior in prison. This court, therefore, confidently assumes that, at least for the likely foreseeable future, defendant, if sentenced to a term of state prison, will receive greater confinement and, at most, only limited treatment for substance abuse and mental health, and only limited opportunities for vocational and educational

training.

7. Impact of Dismissal on Public Confidence in the Criminal Justice System and Public Safety

The prosecution's principal response to this factor is that granting the motion would undercut the role of the prosecution in plea bargaining and invite a multitude of applications by similarly situated defendants. The prosecution has not identified any fact unique to this prosecution giving any reason to believe that granting this motion, by this defendant, would have any consequence in particular. The Legislature has established a basis for this court to grant this relief when necessary to further the ends of justice. Dismissal of any case ever in furtherance of justice will always achieve a result for a defendant that was not achievable through plea bargaining. Such is the system created and accepted by the Legislature. On the record here, any conclusion about how dismissing the felony counts will affect public confidence in the criminal justice system would be purely speculative. With respect to public safety, this court has concluded that the public is more likely to be protected from defendant not by locking her up in solitary confinement for between five and seven but by treating her for substance abuse and trauma, educating her, providing her with vocational training, and mandating her participation in a restorative justice program.

8. The Attitude of the Victims

The prosecution has not made any representation that the victims oppose this motion. The prosecution has also represented that the victims hope that the defendant not commit such crimes ever again and receives treatment most likely to accomplish that goal. The victims have emphasized that their experiences at the defendant's hands were traumatic, but the prosecution has not expressed any desire by the victims to know that defendant be on the receiving end of a retributive sentence of prolonged incarceration.

9. Any other relevant facts

Neither party has identified any other relevant facts not explored in connection with considering the factors set out above.

#### CONCLUSION

Defendant has committed two serious crimes and has committed a violent crime in the past. Defendant deserves to be punished for her crimes. The public deserves to be protected from future crimes by this defendant. Defendant already has been incarcerated for more than one year. Defendant, as a result of her unique social history, appears amenable to rehabilitation. With her history of drug

addiction, trauma, lack of education, and lack of vocational skills, this court concludes that defendant likely will re-offend unless she is given a chance that she has never had: long term supervision and treatment by competent professionals skilled with dealing with the transgendered. Not only defendant, but the public, will benefit if defendant is given the chance to receive treatment. The public cannot expect that a sixteen-year-old boy who identifies and projects as a woman, when thrown out on to the street at a time when she needs more nurturing, care, and attention than even the usual adolescent, will experience much other than drug addiction, being lured into the sex trade, HIV infection, and a descent into criminality. This court is convinced that in these unique circumstances, a state prison sentence would be cruel, not promote rehabilitation, and serve no useful purpose.

This court will offer defendant an opportunity to plead guilty to the remaining misdemeanor count, defer sentence for one year with the conditions that defendant enter an in-patient program to be identified by defense counsel, complete that program successfully, and for a period of one year thereafter, lead a law abiding life and participate in further programming for substance abuse, trauma, education, vocational training, and restorative justice as approved by this court as developed by defense counsel. Although defendant has already served more than the maximum allowable sentence of one year on the remaining misdemeanor count, this court will not approve any sentence of incarceration at this point. This court is convinced that both public safety and the rehabilitative needs of defendant require a sentence of conditional discharge rather than time served.

Dated: May 29, 2018

ABRAHAM L. CLOTT, AJSC

# The New York Times

# A Jury May Have Sentenced a Man to Death Because He's Gay. And the Justices Don't Care.

By Ria Tabacco Mar

Ms. Tabacco Mar (@RiaTabaccoMar) is a lawyer who represents L.G.B.T. people facing discrimination.

June 19, 2018

On Monday, the Supreme Court announced it would not stop South Dakota from killing a man who may have been sentenced to death because he is gay.

Some of the jurors who imposed the death penalty on Charles Rhines, who was convicted of murder, have said they thought the alternative — a life sentence served in a men’s prison — was something he would enjoy as a gay man.

During deliberations, the jury had often discussed the fact that Mr. Rhines was gay and there was “a lot of disgust” about it, one juror recalled in an interview, according to the court petition. Another said that jurors knew he was gay and “thought that he shouldn’t be able to spend his life with men in prison.” A third recounted hearing that if the jury did not sentence Mr. Rhines to death, “if he’s gay, we’d be sending him where he wants to go.”

The justices rejected Mr. Rhines’s plea to hear his bias claim, allowing his death sentence to stand despite disturbing evidence that it may have been the result of anti-L.G.B.T. animus. As usual, the court gave no explanation for its decision not to review the case. But its silence sent a deeply troubling message about the value placed on the lives of L.G.B.T. people.

In court papers opposing Mr. Rhines’s request for a fair sentence, South Dakota attempts to brush off this last remark as a “stab at humor” that didn’t land well. But a note from the jury to the sentencing judge leaves little doubt that this extraordinary assumption infected the jury’s decision-making process: “We know what the death penalty means. But we have no clue as to the reality of life without parole.”

In that note, the jurors went on to ask a series of questions aimed at whether Mr. Rhines would be in proximity to other men in prison. Would he “be allowed to mix with the general inmate population?” Would he be permitted “to discuss, describe or brag about his crime to other inmates?” Would he “have a cellmate?”

In other words, some members of the jury thought life in prison without parole would be fun for Mr. Rhines. So they decided to sentence him to death.

Juror deliberations are considered sacrosanct, but last year the Supreme Court carved out an important exception for cases of racial bias in the jury room. In a race discrimination case, there was evidence that the jury decided to convict an accused man of unlawful sexual contact and harassment because “he’s Mexican, and Mexican men take whatever they want,” in the words of one juror. The Supreme Court rightly found that such racial animus interfered with an accused’s person right to a fair and impartial trial.

The same rule should apply when anti-L.G.B.T. prejudice taints juror decision-making. To be sure, the history of racism in America is unique and demands unique safeguards. But that does not make anti-L.G.B.T. discrimination any less objectionable, particularly when it may have made the difference between life and death.

It’s difficult to square allowing the state to execute Mr. Rhines because of his sexual orientation with the Supreme Court’s observation this month that states should prevent the harms of discrimination against L.G.B.T. people. And while bias in the criminal justice system is not always explicit, it was in Mr. Rhines’s case. That makes the court’s decision not to step in even more alarming.

Sadly, the court will almost certainly be presented with more requests to review convictions or sentences poisoned by anti-L.G.B.T. bias. It should take the next opportunity to correct this mistake and recognize that prejudice against people who are L.G.B.T. should play no role in America’s criminal justice system.

However, that will probably come too late for Mr. Rhines.

Ría Tabacco Mar is a staff lawyer for the A.C.L.U.’s Lesbian, Gay, Bisexual, Transgender and H.I.V. Project.

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# Inside The New Movement To Decriminalize Sex Work In NY

BY MELISSA GIRA GRANT  
FEB. 25, 2019 10:59 A.M.  
• 98 COMMENTS



At a rally on Monday afternoon in Foley Square to support the decriminalization of sex work SCOTT HEINS / GOTHAMIST

*This story was co-published with The Appeal, a nonprofit criminal justice news outlet.*

Bianey García arrived in New York City from Mexico in January 2005, 14 years old, alone and without a warm coat. “It was difficult getting here with no family,” she said. “When I got here, I didn’t have anything.” A year later, she was homeless in an expensive city, and still living as a boy.

Then there was a man, she said. He brought her to a restaurant in New Jersey, she remembered, giving her chocolates and flowers, “telling me that he loved me, that he’d do everything for me.” She fell in love with him. She was living on the streets and in the subways, so when he offered her a place to live as his partner, “I thought, ‘Why not?’, to feel safe, protected—but it wasn’t real.”

“At that time, I was scared of being deported, I was afraid of being arrested because of living in the street,” García, now 28, said. Yet the man coerced her into having sex with other men for money, she said, and giving the money to him. He threatened to call ICE on her if she refused.

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García planned her escape from him, saving money from trading sex on the side, not telling him. Being on her own was hard, too. After she transitioned at 18, she had trouble finding other types of work as a trans woman. “I ended up doing sex work again,” she said. “I needed it to survive.” With that came the threat of police.

She recalled a warm night in 2008, on Roosevelt Avenue and 86th Street in Queens, when she was arrested for the first time along with someone she was dating.

“I was walking with my boyfriend,” she said, “and then an undercover police car stopped in front of us, and [the officers] pushed me to the ground and take my purse. They search my purse, they found condoms, and they used that as evidence of prostitution. Even when they was arresting me, my boyfriend told them we were in a relationship, and they don’t care. They said [to him], ‘You have to go, or you’ll be arrested.’”

That night, “I wasn’t doing sex work,” García said. While her boyfriend searched for her at the 110th Precinct, she was locked up in another jail. (A police spokesperson said they could not find a record of her arrest.) After a few hours, she was released, and ultimately, the charges were dismissed, she said.

But the fear of arrest remained and became part of García's reality. It stood in the way of the life she envisioned in New York. "The police act like we are nothing," she said. It made her feel stigmatized, disbelieved, and ignored.

García wants more for herself and for other people in the sex trades, and said she is part of a new coalition that seeks to decriminalize sex work, one that has gained unprecedented momentum, and today, launches officially as Decrim NY.

Formed by people in the sex trades—whether through choice, circumstance, or coercion—Decrim NY links the fight for sex workers' rights with a broader movement to end the criminalization of people of color, trans and gender nonconforming people, and low-income people in New York.

Over the last few years, the issue of decriminalizing sex work has moved into the mainstream—pushed in part by the passage of legislation that took aim at sex workers' use of online ads and in turn sparked their highly visible and organized opposition. Prominent candidates for Queens district attorney, for instance—including Rory Lancman and Tiffany Cabán—have promised to, in some form, stop prosecuting sex workers. And state lawmakers just announced plans to introduce a bill to fully decriminalize sex work, in partnership with Decrim NY.

"Decriminalization has always been urgent," said Nina Luo, a coalition member from the advocacy group VOCAL-NY. But the campaign has added urgency now because the legislative crackdown left people in the sex trades "in a more economically vulnerable place, which means criminalization and policing is having a larger impact on people's lives," she said.

Luo said the coalition's goal is to "decriminalize, decarcerate, destigmatize." That means repealing laws criminalizing sex work, restoring the rights of people who have been prosecuted for prostitution-related offenses, and ensuring all people in the sex trades can meet their basic needs, such as housing and health care, without discrimination.

This new coalition will almost certainly face opposition from law enforcement, but that's not the only obstacle ahead. Its members will also have to contend with social service agencies and elected officials who believe the court system can help people who want to leave sex work or escape trafficking.

For Decrim NY, relying on arrests and courts to help sex workers exposes them to more violence while sending the message that they are people without dignity or choices in their lives.

Shifting law enforcement's focus off sex workers and onto their customers doesn't help either, they say. Decrim NY wants to banish law enforcement from the sex trades entirely. If it succeeds in fully decriminalizing sex work, New York would be the first state in the U.S. to do so.

García recalled the man who told her he would take her in, who made her think he could protect her. "That was the reason I found this person," she said. "This is the reason we need to decriminalize sex work. Because as a sex worker or former sex worker, [then] I can go to the police, I can say, 'Hey, this happened to me,' not feel scared of getting arrested, or even deported. Because to be afraid of the police is real."

## Welcome to Queens

Queens, where García was arrested, has long borne the brunt of the city's anti-prostitution policing, which disproportionately impacts women of color. Transgender Latinx sex workers, and those profiled as sex workers, are arrested on the streets of Jackson Heights, for example, and charged with "loitering for the purposes of prostitution." Massage workers, predominantly of East Asian descent, are subject to police raids in Flushing.

Those raids have had deadly consequences. In 2017, 38-year-old Yang Song, an immigrant from China, fell from the window of a massage establishment on 40th Road in Flushing during a police sting.

Queens DA Richard Brown released a report in 2018 that placed no fault on police for Song's death. "The death of Ms. Song is sad and tragic," Brown said in a statement that accompanied the report's release. "I have always maintained that prostitution is a degrading and humiliating industry."

But advocates blame the raids of massage businesses. "Whether indirectly or directly, her death is on the NYPD," said Red, now a member of Decrim NY, at the time.

Queens is also home to one of the state's first Human Trafficking Intervention Courts, which supporters say are meant to spare people arrested for prostitution from being treated as criminals and instead treat them as victims of human trafficking. To that end, prosecutors in these courts make an offer of services rather than pursuing a criminal conviction. Under Judge Toko Serita, the Queens court came to be regarded as a model for the state's trafficking courts.

“This court is not devised to solve the problems of trafficking,” Serita has said, “but to address one of the unfortunate byproducts, which is the arrest of these defendants on prostitution charges.”

Overall prostitution arrests in the city have decreased roughly 65 percent between 2012 and 2018, from around 4,000 to 1,500 per year, yet some vice policing is on the rise. Arrests for loitering for prostitution spiked 180 percent from 2017 to 2018, according to data obtained by the news site Documented, and half of these arrests were in Queens. (Despite a public records request made in June 2018, the Queens district attorney’s office has not turned over data on their prostitution-related prosecutions.)

According to The Legal Aid Society, which represents many New Yorkers charged with prostitution-related offenses, the upward trend in loitering arrests in Queens has continued into 2019, as have massage business raids.

In a statement, an NYPD spokesperson downplayed the frequency of such arrests.

“The NYPD works to end prostitution conditions and has shifted focus on enforcement operations to target pimps and johns primarily during anti-prostitution investigations and arrests, and on the closure of locations through civil action taken against landlords who are complicit in the illegal business of prostitution,” Sgt. Jessica McRorie said. “When arrests are made for prostitution, those arrested are delivered to a diversion court, where they are offered help and services in lieu of prosecution in criminal court.”

The disconnect between the NYPD’s stated focus and the experiences of sex workers is not lost on this year’s candidates for Queens DA. At least three candidates who seek to replace Brown, who is retiring, say people in the sex trades should not be prosecuted for that work, but their approaches to the issue differ considerably.

Rory Lancman, who leads the New York City Council’s Committee on the Justice System, has positioned himself as a reform candidate in the mold of Philadelphia DA Larry Krasner. In a recent interview with The Appeal, Lancman said he would continue to prosecute anti-prostitution cases involving sex workers’ customers and people who own or operate sex work businesses.

Advocates say Lancman’s language betrays a disdain for sex work. In a 2018 interview, he said the criminal justice system can help people in the sex trades to “break free” and “lead productive normal lives.”

The approach to decriminalization that Lancman supports is the one favored by the human trafficking court service providers like Sanctuary for Families, which backed the controversial SESTA/FOSTA law, targeting websites that sex workers use to look for work, in the name of fighting human trafficking. Manhattan DA Cy Vance joined Sanctuary for Families in support of the law.

Sanctuary often works in concert with anti-sex work lobbying groups such as World Without Exploitation, led by former Brooklyn prosecutor Lauren Hersh, who has served as Sanctuary for Families's director of anti-trafficking policy and advocacy.

"I share the view of organizations that I work with that sex work is not good," Lancman said, referring to those who provide services in the trafficking courts, "but that view has been shaped by those organizations."

Supporters of this approach, known as the "Swedish model" or "End Demand," include feminist author Gloria Steinem. She has called the continued criminalization of customers and third-parties "a third way," a kind of compromise between full criminalization and full decriminalization. But members of Decrim NY say the goal behind it is no different from that of our current laws: to push women out of sex work, whether through criminalizing them or their customers, and to use police to do the pushing.

DA candidate Mina Malik, a former Queens prosecutor, echoed Lancman's stance, saying she would prioritize prosecuting cases of human trafficking involving sex work. Borough President Melinda Katz, who is also seeking the seat, similarly said she would "focus on prosecuting the traffickers, brothel operators and other criminal elements who prey on people in dire situations." Both said they believed people in the sex trades were often victims in need of services, and they would not prosecute them for prostitution-related offenses.

In contrast, Tiffany Cabán, a public defender, supports full decriminalization, including for customers. Cabán said she hopes that declining to prosecute these offenses would provide evidence to state lawmakers in Albany that anti-prostitution laws are not necessary to protect public safety, and that these laws do not protect sex workers. If people in the sex trades experience violence, for instance, that can be addressed through other laws.

"You can still prosecute people for sexual assault, for any crime against a sex worker," she said.

In the past, DAs have taken a “paternalistic approach,” she added. “We can’t do that anymore. … Our policies should be coming from community members that are directly impacted by them.”



Bianey Garcia, holding a megaphone, speaks at a rally for undocumented sex workers on June 12, 2018 (courtesy Melissa Gira Grant)

### Inside the courts

As recently as July 2017, the Queens trafficking court saw as many as 30 cases in a single morning, but this year, two days after Valentine’s Day, only a handful of people facing prostitution-related offenses were on the docket, intermingled with ones facing drug charges. Still, the benches in court were two-thirds full, with defendants in puffy black winter coats mostly on one side, and coatless attorneys and service providers seated on the other.

The court officers shushed the court, and Judge Serita took the bench. One court officer paced the center aisle, arranging the schedule of defendants charged with prostitution who had requested Spanish or Mandarin interpreters. Another court officer, with a brown and gray ponytail, called the cases. In the long pauses between cases, sometimes longer than the cases

themselves, defense attorneys brought their clients into the hall to discuss their options. There were no white defendants.

A woman with a prostitution-related case stood when called, her pink appearance slip tucked in a tote bag. Serita greeted her through a Mandarin interpreter.

"I have a very good letter from Garden of Hope," Serita said, referring to one of the court's service providers, a domestic violence and anti-trafficking program with a Christian bent that focuses on the Chinese community. The letter meant the defendant had completed her mandated services and her case could be sealed in six months if she is not rearrested.

Serita doesn't see such arrangements as pressure. "Nobody is coerced into any kind of program in this court," she said in the middle of one case, more to the courtroom than to the defendant.

At the conclusion of such cases, Serita often tells defendants that their case will be sealed only if they "live a law-abiding life." It may be a standard phrase for judges when giving out an adjournment in contemplation of dismissal, which defendants can get once they complete the court-mandated services. But in these courts, where the defendants are ostensibly "victims," it sounds out of place.

Advocates with Decrim NY question that contradiction, in which defendants are simultaneously treated as victims and perpetrators. While judges and some service providers hailed the trafficking courts as a landmark reform, advocates say that providing services through the court system only perpetuates arrests.

Despite their name, Human Trafficking Intervention Courts don't prosecute human trafficking, they prosecute people—mostly women, cis and trans—charged with prostitution, loitering for prostitution, or practicing massage without a license (a felony charge used against massage workers).

Cecilia Gentili, a member of Decrim NY, has trained judges and social service providers in the trafficking courts on the realities that sex workers in the city face. She immigrated to the United States from Argentina in the early 2000s, and in her first decade in the country was a sex worker who also used drugs. She says the courts should treat people in the sex trades as the experts on their own needs.

“I have to go back to my own experience,” she said. “The first thing on that list was my undocumented status.” She also had to address substance use and mental health issues, and improve her English, she said. And she needed a place to live.

“I don’t know how much of that the court can do,” she said. “I’m glad that the courts are doing this work, but there are many more services that people in the sex trade need.”

Rory Lancman has long been supportive of the city’s human trafficking courts, and he has helped direct more than \$2 million in city funding to them. He said about 1,300 defendants were served by the courts in New York City last year, which he considers a success because it keeps them from being “further enmeshed” in the criminal justice system.

Yet the courts have not provided public data on who those defendants were or how many of them were rearrested, nor does Lancman have this data. “I don’t know the recidivism rate,” Lancman said. “What is the lasting difference in their lives? I don’t know that that’s measured.”

Decrim NY wants the City Council to strip funding from vice policing and the Human Trafficking Intervention Courts and redirect that money to help people in the sex trades get what they need to survive, such as legal services, housing, and health care.

“All the terrible arrests happen because there is money invested in the NYPD to do it,” Gentili said. “It happens because vice is funded. If that money would be diverted to all these services that I spoke of before, the reality of sex work would be totally different.”



Protesters at a rally against SESTA in Washington Square Park, on June 2, 2018  
(courtesy Melissa Gira Grant)

### Changes in Albany

Decrim NY builds off other battles long waged by groups working for trans rights and sex workers' rights. For at least a decade, for example, they have been fighting to end the use of condoms as evidence in New York.

In a 2012 report, Make the Road New York, an advocacy group, surveyed trans residents of Queens who said they were often stopped and searched by police, with police then justifying the search if condoms were found.

In 2014, then-Commissioner William Bratton announced that the NYPD would stop using condoms as evidence for some prostitution charges, which advocates greeted as only a partial victory. Police continue to list condoms as evidence on arrest sheets.

Some of the groups that have come together under the umbrella of Decrim NY were also part of the condoms-as-evidence fight: GMHC, the New York City Anti-Violence Project, Make the Road New York, the Sex Workers Project. They are joined now by such organizations as Womankind, which provides

services in the human trafficking court, and Brooklyn Defender Services, which represents people charged with prostitution-related offenses, along with the Democratic Socialists of America NYC Queer Caucus, Survived and Punished, and the Sylvia Rivera Law Project, among others.

Jessica Raven, executive director of the Audre Lorde Project, is also a member of Decrim NY. She comes to the campaign from a similar effort in Washington, D.C., called DecrimNow DC.

Raven said Decrim NY is meant to encompass all “people in the sex trades,” a term that includes a broad range of experiences of people who have traded sex, whether they identify as sex workers, trafficking victims, or people who traded sex for survival.

“I didn’t identify as a sex worker. I was 15 when I was homeless, and I started trading sex—and I never talked about it,” Raven said. “That was just a strategy for meeting my needs.”

Part of the group’s approach involves pushing for legislation in Albany, with allies like State Senators Jessica Ramos, Julia Salazar, and Brad Holyman, and Assembly Member Richard Gottfried. Those lawmakers plan to introduce a comprehensive decriminalization bill to remove criminal penalties for “consensual sexual exchange between adults.”. The coalition also urges quick passage of two bills already introduced in the state legislature that are getting newfound support.

One of those bills, introduced by Gottfried, would allow judges to vacate trafficking survivors’ past convictions, building off a 2010 law he sponsored. This new bill would expand the kinds of convictions that are eligible for vacature, from prostitution to any offense connected to their trafficking situation.

Gottfried said he supports the full decriminalization of sex work. “I think that is sensible public policy, and obviously, even on the left there are voices on both sides of that issue. But I think on the bottom line, whether you look at it as a civil liberties issue or an economic issue, I think it ultimately makes sense. And I think it’s exciting that this seems to be the moment of public debate when it can be seriously advanced.”

While decriminalization-related bills have failed in the state legislature in the past, Gottfried said the 2018 election was a game-changer. “With a Democratic majority in the state Senate, and such a large number of legislators in both houses who are younger women of color, that really

changes the prospects for legislation on this issue and makes it a lot more likely than ever in the past.”

Salazar and Ramos are among the new class and both represent districts in New York City among those where prostitution laws are most severely enforced, including Jackson Heights, East New York, and Bushwick.

Salazar made repealing the loitering for prostitution law part of her campaign last year, as did sex workers who canvassed on her behalf. Now in office, she has co-sponsored a bill to do that, which was first introduced by State Senator Brad Hoylman.

Meanwhile, outside pressure to repeal the law has been building. A number of women convicted of loitering for prostitution sued New York City in 2016, charging that the law was unconstitutional. The suit brought attention to race- and gender-based profiling in loitering policing, drawing comparisons with the city’s “stop-and-frisk” policy.

Lately, Legal Aid has noticed that when police make loitering arrests, officers are submitting more detailed reports about what they say they witnessed. In one case from December 2018, an officer claimed a woman he arrested in Queens told him, “I’m over there working, sir. I am loitering.” In another arrest that same month, police wrote that they observed a woman in Jackson Heights who had—impossibly—“exposed her cervix area.”

“It’s awful that they [the police] seem to be making things up,” said Salazar, “but on the other hand, it’s interesting and perhaps in a way indicates some progress on the side of advocates, that officers are now feeling the need to justify these arrests.”

Ramos supports repealing these laws because the people the laws often target have also been leaders on decriminalization for a long time—including trans Latinas, she said, like Bianey García. “I think we would be doing a disservice to them to say [the growing momentum is] exclusively about the political climate,” she said.

Like Salazar and Gottfried, Ramos supports full decriminalization of sex work. “I have a big concern with the arrest of johns,” she said. Especially when any police interaction carries with it possible ICE involvement, she said, “It’s very concerning in my district.”

Ramos said that sex work traditionally has been a controversial topic for lawmakers, which is unfortunate. But this year, she added, with Republicans having lost control of the state legislature, “It’s a new day.”

## **Building a movement**

Earlier this month, one gray afternoon, slush piled on the sidewalks and street in Lower Manhattan. A few blocks from City Hall, in a small conference room at the New York City Anti-Violence Project with the heat blasting, Bianey García reclined on a beanbag chair, wearing a rose-gold faux fur jacket over midnight blue capri pants, her dark hair pulled back in a soft bun.

García took a moment to scroll through her phone. A few dozen activists from Decrim NY filled the room. They all, including García, had just attended an invitation-only roundtable meeting convened by City Council Speaker Corey Johnson’s office with members of the council’s women’s caucus. Advocates were told that the meeting was meant to discuss helping sex workers find services, not “debate” decriminalization.

Now the activists—some of whom were also sex workers, or had been sex workers—were debriefing about the discussion. Members of Decrim NY had explained that it was not possible to improve access to services for sex workers in New York without first addressing policing as a source of harm to them.

But some service providers present didn’t want to talk about police, said Gentili, who was until recently head of policy at GMHC (one of the oldest HIV/AIDS care and prevention providers). These providers seemed to see the police as helpers. One of the groups named, Sanctuary for Families, did not respond to a request for comment.

Gentili balked at the idea that the police could be trained to be more sensitive. “Maybe you can train them for a hundred years, and in a hundred years there will be a group of officers who have a better understanding … but we need these changes now,” she said. Gentili said that as a sex worker in New York, she had been arrested many times. “I know what I’m talking about. I’ve been there.”

Though Decrim NY members got policing and criminalization on the agenda, they had to fight to do so, said Luo. If they hadn’t been there, she said, “the table would have been overwhelmingly advocates with zero lived experience on the issue.”

When it comes to what the police should do, Bianey García said, "I always say that sex work is work. It's not easy—just leave us alone."

García said she only found the help she needed well after her last arrest when she met advocates from Make the Road New York, a group that is now part of Decrim NY. Then she became an advocate herself.

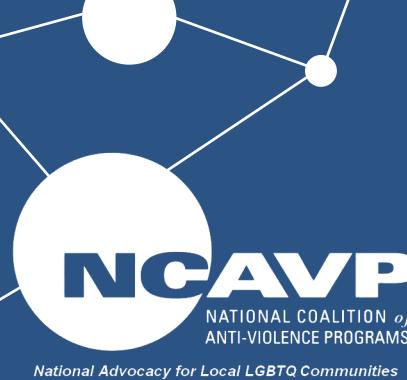
That last time she was arrested, said García, was in October 2009. It was around 3 a.m. in Queens and she and a friend were waiting for García's boyfriend so they could go to a club. At Roosevelt Avenue and 94th Street, they were accosted by a man hurling homophobic slurs at them. The man began beating García's friend, so García pushed the man and picked her friend up off the ground. The man followed them, even as they crossed paths with a police car. "We tried to explain to the officer that he was attacking us," she said, but "the guy started to explain to the police we attacked him."

García said she and her friend were arrested and she spent 18 months locked up on Rikers Island. While working to resolve that case, she discovered the Sex Workers Project, which provides free legal services to people in the sex trades. García learned that as someone who had been trafficked, she was entitled to a T-visa, which enabled her to legally remain in the United States. And after that, she joined Make The Road.

With all she had experienced, "I wanted to change the law," she said. "I wanted to change the police."

*Melissa Gira Grant is a senior staff reporter at The Appeal.*

#BROKEN WINDOWS #NYPD #POLICING #QUEENS #SEX WORK #SEX WORKERS



# **Lesbian, Gay, Bisexual, Transgender, Queer and HIV-Affected Hate and Intimate Partner Violence in 2017**

**A REPORT FROM THE NATIONAL COALITION  
OF ANTI-VIOLENCE PROGRAMS**

# This report was written by the National Coalition of Anti-Violence Programs.

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# Mission

The National Coalition of Anti-Violence Programs (NCAVP) works to prevent, respond to, and end all forms of violence against and within lesbian, gay, bisexual, transgender, queer, (LGBTQ), and HIV-affected communities.

NCAVP is a national coalition of local member programs and affiliate organizations who create systemic and social change. We strive to increase power, safety, and resources through data analysis, policy advocacy, education, and technical assistance.

# Executive Summary

## **For the first time ever, NCAVP has opted to combine our two annual reports on intimate partner violence and hate violence.**

For the first time ever, NCAVP has opted to combine our two annual reports on intimate partner violence and hate violence, to show more of the full impact of this current era of violence and to situate LGBTQ violence squarely within the context of efforts to address hate violence, sexual violence and harassment in this country. NCAVP's LGBTQ and HIV-Affected Intimate Partner Violence and Hate Violence in 2017 report looks at the experiences of survivors who reported to NCAVP member programs. This hate and intimate partner violence data, in combination with other recent research, is analyzed together in order to better grasp the causes, contexts, and consequences of violence that impacts LGBTQ and HIV-affected communities, and to provide insight on response and prevention strategies.

**For the year of 2017, NCAVP collected data about 2,144 survivors of reports of intimate partner violence (IPV) and 825 reports of hate violence (HV).**

## Key Findings

### **HATE VIOLENCE REPORTING ON THE DECLINE**

*Reports of hate violence decreased 20% and have been on a gradual decline since 2010.*

NCAVP does not believe this decrease in hate violence incidents reports to be reflective of an actual decrease of hate violence against LGBTQ and HIV-affected peoples. In fact, we have documented a 21-year high in the number of hate violence homicides and there has been an overall increase in reported hate violence to other data collection systems. Two factors have likely contributed to this multi-year decline: a decreased capacity of organizations to collect information due in part, to funding cuts; and the normalization of hate violence among LGBTQ and HIV-affected people.

## RECORD NUMBERS OF HATE VIOLENCE HOMICIDES IN 2017

NCAVP recorded 52 reports of hate violence related homicides in 2017, the highest number ever recorded in the 21 years of collecting this data and an 86% increase in single incident reports compared to 2016.<sup>1</sup>

Consistent with previous years, people of color and transgender or gender nonconforming (TGNC) people were most often victims of hate violence homicides (71% of victims were people of color, 52% were TGNC, 40% were transgender women of color.) This data marks a five year steady rise in recorded homicides of transgender women of color.

Thirty-eight percent of victims were cisgender men. In 2017, hate violence homicides of cisgender men increased 400% from 2016 (4 reported homicides in 2016 to 20 reported homicides in 2017). Forty-five percent of the homicides of cisgender men were related to hook-up violence, through online hooking up or through personal ads.

## INCREASED SEVERITY OF REPORTED VIOLENCE IN 2017

*Rates of violence involving weapons, injuries sustained and medical attention sought by survivors increased in 2017 for hate and intimate partner violence.*

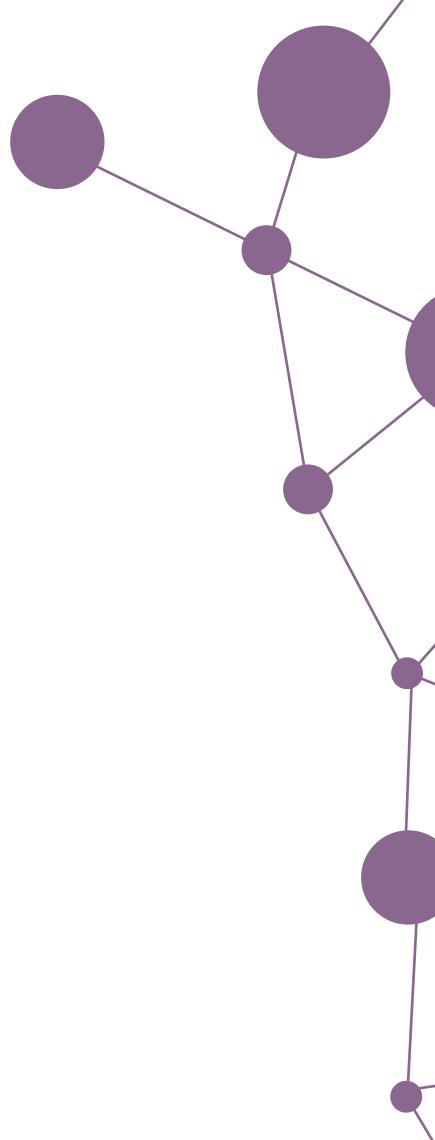
For survivors of IPV, 48% sustained an injury in 2017 compared to 28% in 2016, 45% reported seeking medical attention in 2017 compared to 20% in 2016, and 23% reported that weapons were used during the incidents of violence in 2017 compared to 12% in 2016. For HV survivors, 46% sustained an injury in 2017 compared to 31% in 2016, 42% reported seeking medical attention in 2017 compared to 23% in 2016, and 27% reported that weapons were used in 2017 compared to 13% in 2016.

## HATE VIOLENCE COMMITTED BY PEOPLE WHOM SURVIVORS KNOW

*A majority (57%) of hate violence survivors reported that they knew the person who harmed them and they were most often: an employer or co-worker (22%), a relative or family member (21%), and a landlord or neighbor (20%).*

This continues a three year trend in which the majority of HV survivors have reported knowing the person who harmed them. In addition, the most common locations hate violence took place were in private residences (29%) or workplaces (24%).

<sup>1</sup> "A Crisis of Hate." NYC Anti-Violence Project, [avp.org/crisisofhate](http://avp.org/crisisofhate)



## **POLICE VIOLENCE**

*LGBTQ survivors still face the real risk that interactions with the police will be violent or even deadly.*

In three out of 52 or 6% of the hate violence homicides recorded in 2017, the victims were killed by police responding to incidents.

Additionally, 43% of hate violence survivors and 60% of intimate partner violence survivors reported interacting with law enforcement. Of the HV survivors, 55% reported that law enforcement was indifferent towards them and 20% reported that law enforcement was hostile. Of IPV survivors, 47% reported that law enforcement was indifferent towards them and 11% reported that law enforcement was hostile. Thirteen percent of HV survivors who reported about interactions with the police also reported police misconduct. Of these, 44% reported excessive force was used. Five percent of IPV survivors who interacted with the police reported experiencing police misconduct and of these, 20% reported excessive force was used.

## **ACCESSING SERVICES**

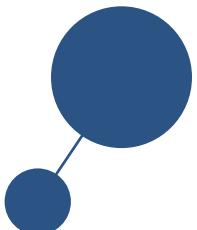
*The services and referrals survivors accessed through NCAVP member organizations point to their greatest needs: safety planning, legal services, mental health counseling, housing security and emergency shelter.*

In 2017, 66% of all survivors of IPV and 63% of HV survivors who reported incidents to NCAVP members, accessed safety planning services. High rates of IPV survivors accessed referrals for legal services (30%), mental health counseling (16%), domestic violence (15%) and housing (13%) services. IPV survivors also accessed individual advocacy related to housing (25%), legal (24%) and mental health services (22%). The most common referrals given to HV survivors were for legal services (21%), mental health counseling (21%), housing (10%), shelter (10%) and medical services (10%). The most common types of individual advocacy sought after by HV survivors were related to mental health (17%), housing (15%) and legal services (15%).

Nearly half (43%) of IPV survivors who sought shelter, reported being denied access to shelter and of those, nearly one third (32%) were turned away because of their gender identity.

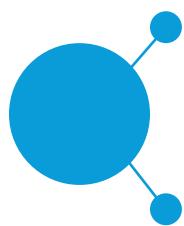
## **Key Recommendations**

In order to address and prevent the violence that LGBTQ and HIV-affected survivors experience, we recommend the following actions to be taken.



### **ENCOURAGE REPORTING**

Increase efforts to encourage reporting of hate violence, emphasizing multiple reasons and methods for reporting, and increase community-based reporting infrastructure.



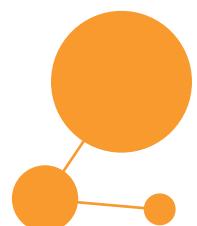
### **INCREASE FUNDING FOR PROGRAMS**

Expand state and local funding for LGBTQ-specific and affirming services for survivors of violence.



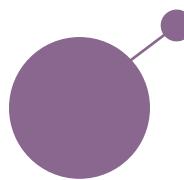
### **EXPAND & IMPROVE MEDIA COVERAGE**

Increase media coverage of violence impacting LGBTQ and HIV-affected communities beyond hate violence homicides.



### **PUSH FOR SYSTEMIC CHANGE**

Advocate for and implement comprehensive, long-term systemic change that includes affordable housing, non-discriminatory employment, living wage and anti-discrimination policies that transform LGBTQ survivors' access to basic needs.



### **PRACTICE ALTERNATIVE SOLUTIONS**

Support models of creative, community-based solutions to violence that are designed by the most impacted people.

# Hate Violence and Intimate Partner Violence: The Current Context

**In 2017, LGBTQ and HIV-affected communities in the United States experienced significant backlash, threats and attacks from a newly elected President and a revitalized conservative base.**

As soon as they took office, the new administration proceeded to strip away rights from LGBTQ, immigrant and other communities, turning the hateful rhetoric of the campaign trail into dangerous policies and proclamations.

By July 2017, the foundation had already been laid for a massive rollback of protections through a series of administrative actions including:

- the Departments of Justice and Education (DOJ and DOE) withdrawing guidance for how schools must protect transgender students;
- the Department of Health and Human Services (HHS) eliminating questions about LGBT people from important data collection tools;
- the Census bureau retracting a proposal to collect information about the LGBT people in the 2020 census;
- and the Department of Justice arguing that the Civil Rights Act does not prohibit discrimination based on sexual orientation or gender identity.

The administration's attacks on immigrants, Muslims and other marginalized communities also impacted the LGBTQ community, particularly those already most impacted by violence.

In the midst of a near-constant stream of anti-LGBTQ executive orders, memos, and more, violence against marginalized communities became commonplace.

At least thirteen LGBTQ centers across the country, including some organizations that are members of NCAVP, were vandalized or attacked by arson or gunfire in early 2017. Racist and anti-LGBTQ hate groups such as neo-Nazis became increasingly emboldened throughout the year. In October 2017, a mass "Unite the Right" march of white supremacist groups in Charlottesville, NC resulted in the hate violence homicide of a young woman who was run over when a man plowed his car into a crowd of counter protesters. And our community watched and counted as the losses of LGBTQ people to hate violence mounted throughout the year. At the start of 2018, NCAVP released a special report, *Crisis of Hate*, to bring attention to the record-breaking number of LGBTQ hate violence related homicides in 2017.

For survivors of hate violence, being targeted because of who they are and how they express themselves has long-term emotional, social, financial, physical, and other consequences. One study found that survivors of hate violence experience depression, anxiety, anger, and fear for up to five years after their experience, compared to only two years for survivors of non-bias motivated attacks.<sup>2</sup> LGBTQ and HIV-affected survivors experience higher rates of violence in employment and higher rates of housing discrimination, which contribute to higher rates of poverty, particularly for LGBTQ people of color, LGBTQ people with disabilities, and other marginalized identities. New research is beginning to show higher levels of symptoms of trauma, including anxiety, isolation, and fear across LGBTQ communities, regardless of whether an individual has personally experienced a traumatic experience of hate violence.<sup>3</sup> For example, one study found that repeated confrontation with daily forms of heterosexist oppression elicits post-traumatic stress disorder among lesbian, gay and bisexual community members who have not directly experienced physical trauma, but still suffer consequences of the threat of violence and the invalidation of their identities.

As hate and discrimination were being codified into policies and fueling violence against community members and safe spaces, violence in relationships in the LGBTQ and HIV-affected communities was on the rise in 2017. Anti-LGBTQ violence interacts with and exacerbates intimate partner violence in LGBTQ communities, yet the connections and interrelationship are rarely discussed. For example, a person who loses their job because of anti-trans bias may be more financially reliant on an unhealthy relationship. Or an abusive partner may use the violence that an LGBTQ person experiences from their family as a way of isolating that person even further. In this polarizing political climate, it is likely that one or more partners in an LGBTQ relationship have experienced some kind of bias, even if that bias did not escalate to the level that they would consider reporting it.

*The conversation and activism around the #MeToo movement often left out members of the LGBTQ community, despite the fact that LGBTQ people face disproportionately high rates of intimate partner and sexual violence, as compared to cisgender, heterosexual people.*

2 Bell, J. G., & Perry, B. (2014). Outside Looking In: The Community Impacts of Anti-Lesbian, Gay, and Bisexual Hate Crime. *Journal of Homosexuality*, 62(1), 98-120. doi:10.1080/00918369.2014.957133.

3 Bandermann, K. M., & Szymanski, D. M. (2014). Exploring coping mediators between heterosexist oppression and posttraumatic stress symptoms among lesbian, gay, and bisexual persons. *Psychology of Sexual Orientation and Gender Diversity*, 1(3), 213-224. doi:10.1037/sgd0000044

One bright spot in 2017 was the national outcry and push to spotlight and end sexual violence and harassment. Reenergized by accusations of sexual violence against Donald Trump during the presidential campaign, and further fueled by accounts of sexual assault and violence by celebrities and other well-known figures, the #metoo movement, originally started by activist Tarana Burke, activated thousands of survivors, mainly cisgender women, to share their stories of sexual violence on social media platforms and demand accountability and prevention. This conversation and activism, however, often left out members of the LGBTQ community as sexual and intimate partner violence are generally seen only as cisgender men committing violence against cisgender women, despite the fact that LGBTQ people face disproportionately high rates of intimate partner and sexual violence, as compared to cisgender, heterosexual people.

## **For the first time ever, NCAVP has opted to combine our two annual reports on intimate partner violence and hate violence.**

This report highlights some of the specific ways that LGBTQ and HIV affected people are impacted by violence, how the systemic discrimination that LGBTQ people experience exacerbates the violence in relationships, and the importance of looking at violence holistically. NCAVP's *LGBTQ and HIV-Affected Hate and Intimate Partner Violence in 2017* report looks at the experiences of survivors who reported to NCAVP member programs. This hate and intimate partner violence data, in combination with other recent research, is analyzed together in order to:

- show more of the full impact of this current era of violence;
- situate LGBTQ violence squarely within the context of efforts to address both hate violence and sexual violence and harassment in this country;
- and to provide insight on response and prevention strategies.



# Findings

## Homicides of LGBTQ People in 2017

NCAVP recorded 52 reports of hate violence related homicides and 15 reports of intimate partner related homicides in 2017, a record number of hate violence (HV) homicides and consistent reports of intimate partner (IPV) homicides over previous years.

Consistent with previous years, people of color and TGNC people were most often victims of hate violence homicides. This data marks a five year steady rise in recorded homicides of transgender women of color.

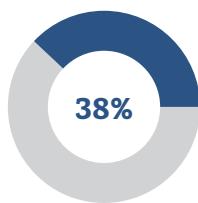
In 2017, however, there was a sharp and stark increase in homicides of cisgender men. Hate violence homicides of cisgender men increased 400% from 2016 (4 reported homicides in 2016 to 20 reported homicides in 2017). Forty-five percent of the homicides of cisgender men were related to hook-up violence, and most of these were related to hooking up online or through personal ads.

Guns were used in 28 (59%) of the total number of homicides where information about cause of death is known, including three shootings by police.

### Hate Violence Homicides in 2017



22 homicide victims  
were trans women  
of color



20 homicide victims  
were cisgender men

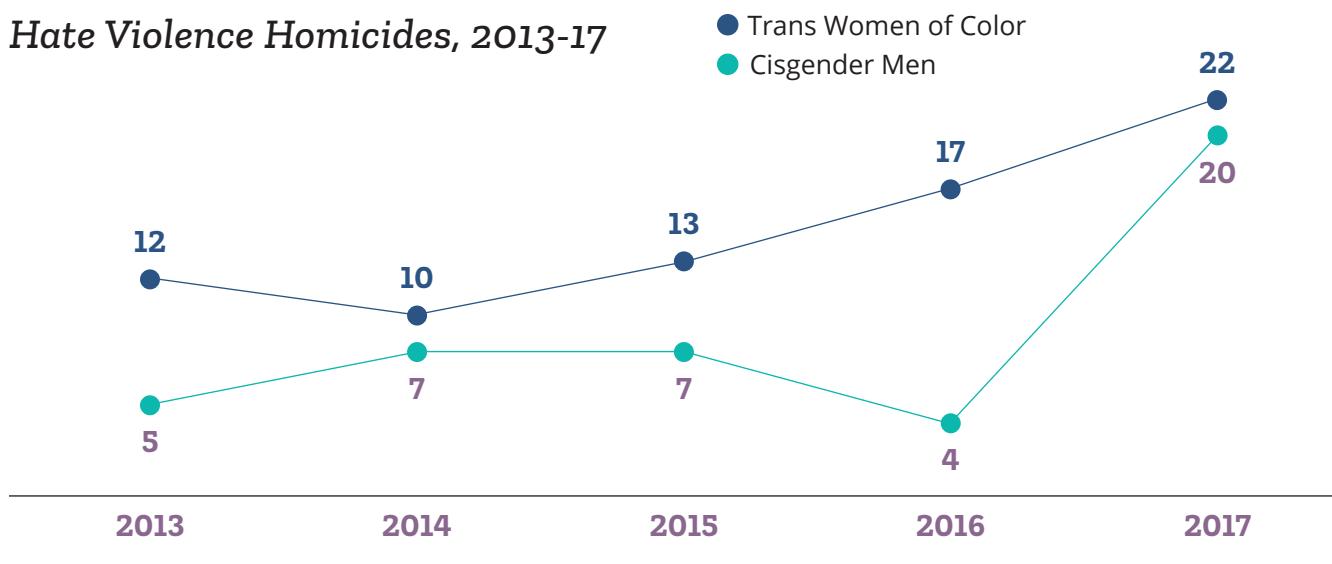
- 37 (71%) homicide victims were people of color
- 35 (67%) of victims were 35 years old or younger
- 27 (52%) were transgender or gender non-conforming

## Individual Reports of Anti-LGBTQ Homicides, 2011-17



\*In 2016, the total number of reports of anti-LGBTQ homicides was 77, including the 49 lives taken during the shooting at Pulse Nightclub in Orlando, Florida. 28 listed here represent the total single-incident homicides.

## Hate Violence Homicides, 2013-17



The number of reports of intimate partner violence homicides in 2017 was slightly higher than the homicides recorded in 2016. Of the 16 IPV homicide reports:

- 9 victims (56%) were cisgender men
- 5 (31%) were cisgender women
- 1 victim (6%) was a transgender man

Neither homicide numbers for intimate partner violence nor for hate violence accurately represent the total numbers of these homicides of LGBTQ and HIV-affected people. Given that it is known that LGBTQ people experience similar if not higher rates of intimate partner violence compared to their cisgender or straight counterparts, it is likely that these numbers only represent a portion of the actual number of IPV related homicides of LGBTQ people.

Often the sexual orientation or gender identity of victims is not shared or is inaccurately cited in media or police reports. Transgender victims are frequently misgendered and deadnamed in media reports. Intimate partner relationships of same gender couples are often reduced to friendships or other relationships, (e.g. "roommates"), essentially making the LGBTQ identities of intimate partner violence homicide victims invisible. Bisexual, gender non-conforming, and other non-binary identities are rarely considered and may not be uncovered or reported. Until LGBTQ identities are counted and affirmed, it will be difficult to know exactly how many LGBTQ people are impacted by homicides related to hate and intimate partner violence. It is vital that data collection systems that track information about homicides take into account the systemic erasure of LGBTQ identities and attempt to create better systems for tracking and understanding both HV and IPV related homicides of LGBTQ people.

For more information on the hate violence related homicides of LGBTQ people in 2017, read the NCAVP Crisis of Hate report at [avp.org/crisisofhate](http://avp.org/crisisofhate).

## **Reporting of Hate Violence to LGBTQ Service Providers Continues Multi-Year Decline, Reporting of Intimate Partner Violence Increasing**

NCAVP received 825 reports of hate violence in 2017, a 20% decrease from 1,036 reports in 2016. This number also represents a steady decline in reports of incidents of hate violence since 2010 when NCAVP received 2,503 hate violence reports.

In contrast, the rate of reporting IPV rose almost 6% from 2,032 reports of IPV in 2016 to 2,144 reports of IPV in 2017.

NCAVP does not believe this decrease in hate violence homicides to be reflective of an actual decrease of hate violence against LGBTQ and HIV-affected peoples. In fact, these numbers have been recorded in a year in which we have documented a 21-year high in the number of hate violence homicides and there has been an overall increase in reported hate violence to other data collection systems. There are several factors that have likely contributed to this multi-year decline, including: a decreased capacity of organizations to collect information due in part to funding cuts; and the normalization of hate violence among LGBTQ and HIV-affected people.

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### ***Reports of Hate Violence and Intimate Partner Violence Incidents, 2010-17***

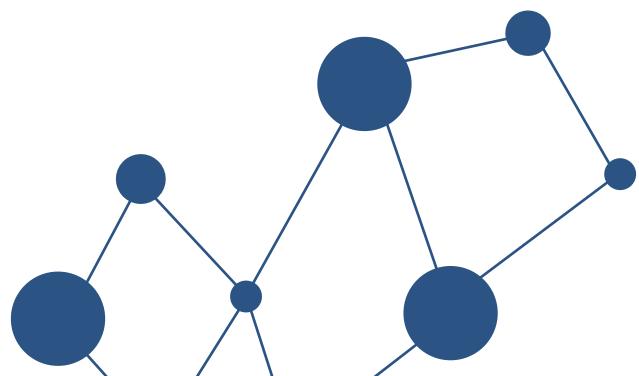


## DECREASED CAPACITY OF ORGANIZATIONS

One important factor in the seven-year trend in decreased reporting of HV incidents to NCAVP member organizations is a decrease in number of organizations tracking and -reporting this data. In 2010, the 1036 reports of HV incidents were compiled from 17 reporting organizations, while this year's 825 reports are compiled from only 10 organizations. Over the years, less organizations have been able to sustain their ability to collect and report on hate violence due to lack of funding and other organizational resources. Data collection and reporting is staff and time-intensive, and when faced with the need to make difficult cuts, groups are more likely to reduce this work, rather than cutting direct services for survivors. Some groups have also experienced funding cuts that limit their ability to conduct the important outreach that notifies survivors of their services, thus reducing the number of survivors accessing services and reporting. There is also a link to accessing services and reporting incidents of violence. Funding cuts impact a group's ability to provide direct services to HV survivors. Without the opportunity to access services, survivors may have fewer interaction with NCAVP member organizations, and therefore do not report incidents to these groups.

## NORMALIZATION OF HATE VIOLENCE

A second factor that may be impacting the number of hate violence reports is the normalization of hate violence, especially those incidents that are less severe and do not involve physical violence, require medical attention, or other support. Normalization refers to social processes through which ideas and actions come to be seen as 'normal' and become taken-for-granted or 'natural' in everyday life. There have been numerous articles written recently that point to the way hate speech, rhetoric, and hate-based policies of the Trump administration have contributed to the normalization of hate violence in the United States. One result of normalization can be that survivors come to expect and accept hate violence, making them less likely to report or seek services. NCAVP data shows that in 2017, a greater portion of HV incidents reported to member organizations were severe enough to result in physical injury to survivors. In 2017, nearly half (46%) of all HV incidents reported resulted in injury, compared to 31% of incidents reported in 2016 causing injuries. While this could mean that the severity of incidents overall has increased, it may also be due to normalization, making survivors less likely to report less severe incidents.



## **Types of Violence and Bias Experienced by Hate Violence and Intimate Partner Violence Survivors**

**Hate and intimate partner violence survivors who reported to NCAVP organizations experienced similar types of violence and bias.**

### **TYPES OF VIOLENCE**

In 2017, both hate and intimate partner violence survivors most commonly reported experiencing verbal harassment (17% of HV survivors and 19% of IPV survivors). Other types of violence frequently experienced by HV and IPV survivors included physical violence (10% of HV survivors, 16% of IPV survivors), threats and intimidation (13% of HV and 11% of IPV survivors) and harassment via a telephone or online (5% of HV survivors and 6% of IPV survivors). Additionally, hate violence survivors experienced significant rates of discrimination (10%) and bullying (9%). Both IPV and HV survivors often experienced more than one form of violence in the incident(s) they reported.

Some groups of survivors were disproportionately likely to experience particular types of violence:

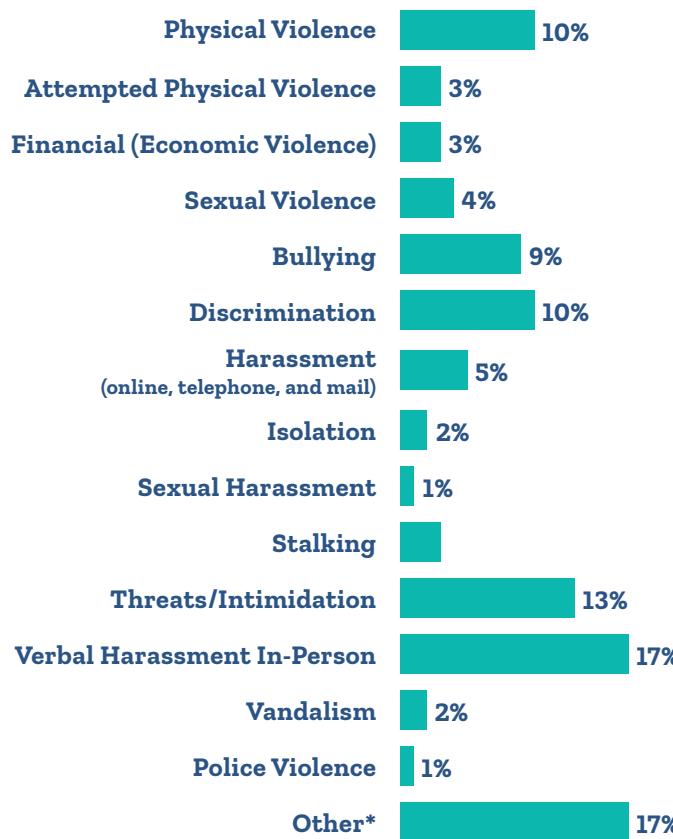
- Transgender women who experienced IPV were nearly two and a half times more likely to experience sexual violence and nearly four times more likely to experience financial abuse than survivors who did not identify as transgender women.
- Black survivors of hate violence were three times as likely to experience sexual violence and twice as likely to experience threats and intimidation compared to non-black survivors.
- Additionally, cisgender men surviving hate violence were nearly four times more likely to report experiences of sexual violence than survivors who did not identify as cisgender men.

### **BIASES**

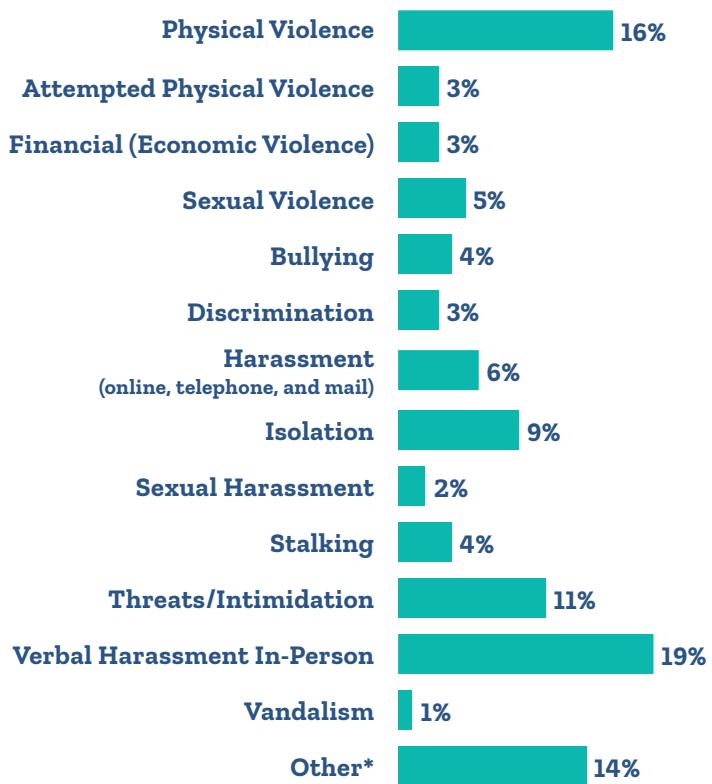
NCAVP collects information on the types of social biases that are used in intimate partner violence relationships as well as in hate violence incidents.

Survivors are able to choose more than one type of bias. Of the total 682 responses about social bias in IPV incidents, the most common bias used against survivors was heterosexist or anti-LGBTQ bias (37%). Other types of biases used against IPV survivors included anti-transgender bias (33%), HIV/AIDS related bias (8%), anti-immigrant bias (7%), and anti-sex worker bias (4%). Survivors of hate violence also most commonly identified the bias used against them as heterosexist or anti-LGBTQ bias (60%), followed by anti-transgender bias (17%), religious bias (7%), racist bias (4%), and anti-sex worker bias (3%).

## Type of Violence in Reported Hate Violence in 2017<sup>t</sup>



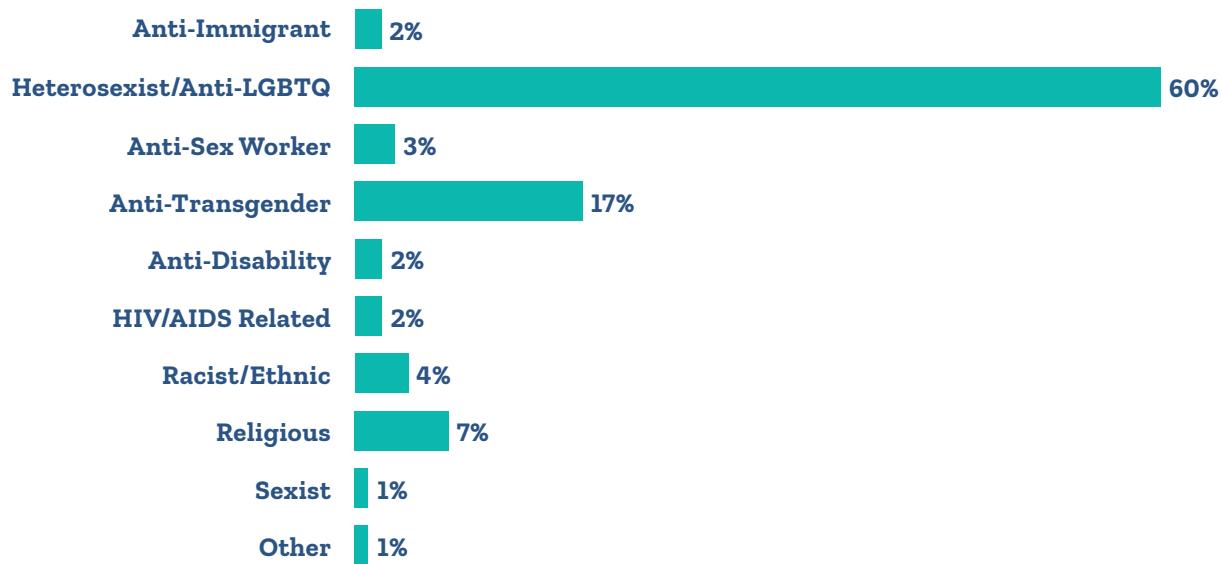
## Type of Violence in Reported Intimate Partner Violence in 2017<sup>t</sup>



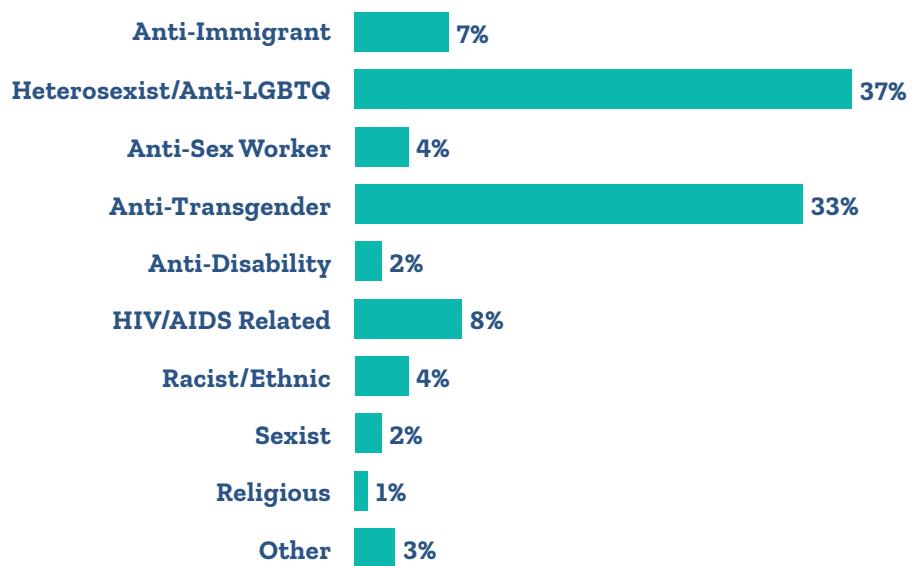
<sup>t</sup> For these variables, survivors were able to choose more than one answer choice. The numbers and percentages reflect the total number of responses to this variable rather than respondents.

\* Violence types included a number of other types of violence that represented less than one percent of the total responses, including but not limited to murder, attempted murder, blackmail, medical violence, and eviction.

## *Types of Bias in Reported Hate Violence in 2017*



## *Types of Bias in Reported Intimate Partner Violence in 2017*



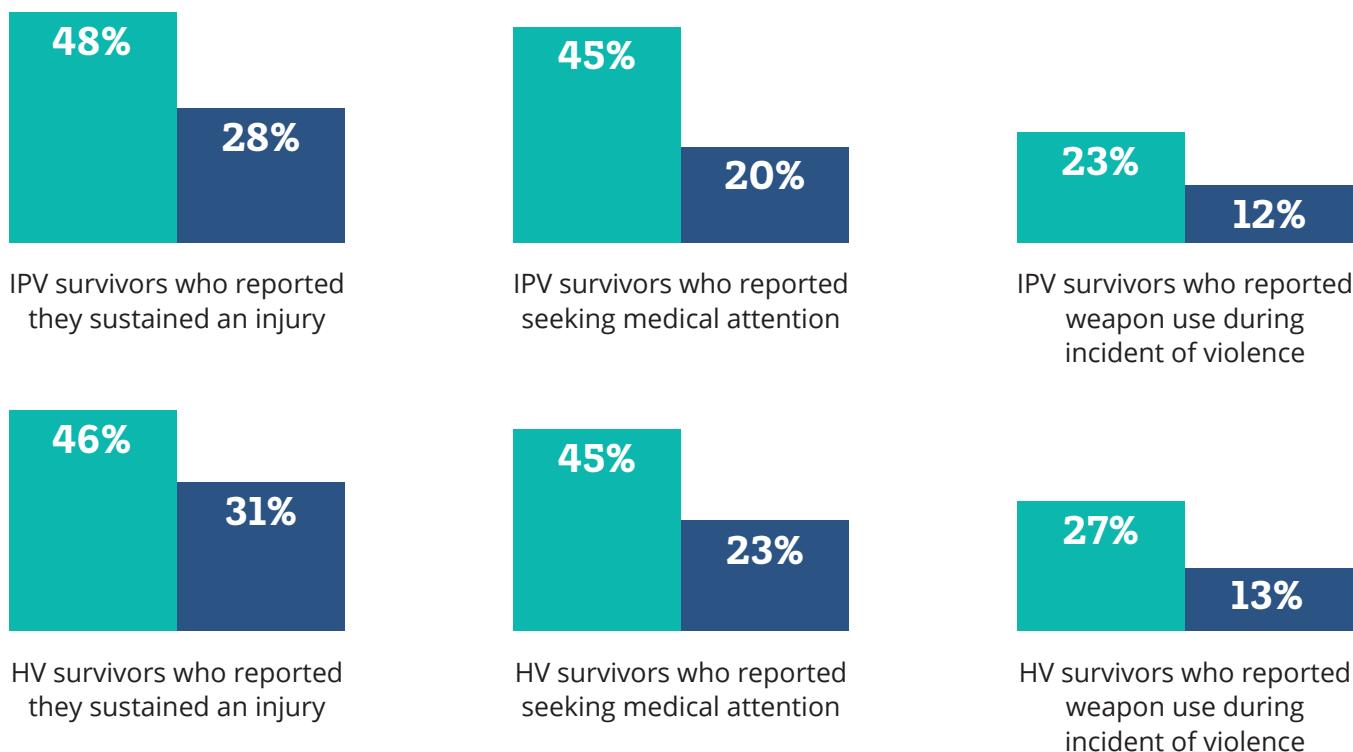
## Severity of Violence Reported

Incidents of IPV and HV reported to NCAVP in 2017 appear to be more severe than those reported in 2016 as indicated by increased rates of injuries sustained, rates of survivors seeking medical attention, and higher rates of incidents in which weapons were used.

Of both HV and IPV survivors who reported information on whether or not they were injured, nearly half sustained some type of injury during the incident of violence and rates of reports of injuries were at the highest level recorded by NCAVP for several years. Reports of use of weapons in HV and IPV incidents and survivors seeking medical attention after incidents of violence were also higher than previous years.

### Severity of Violence in 2017 Compared to 2016

■ 2017 ■ 2016



## Who Harms LGBTQ People, and Where Does Violence Happen?

Though it is obvious that in intimate partner violence incidents, the person doing the harm is known to the survivor, a majority of survivors of hate violence reported they knew the person who harmed them and the incidents occurred someplace they frequent, like at work or at home.

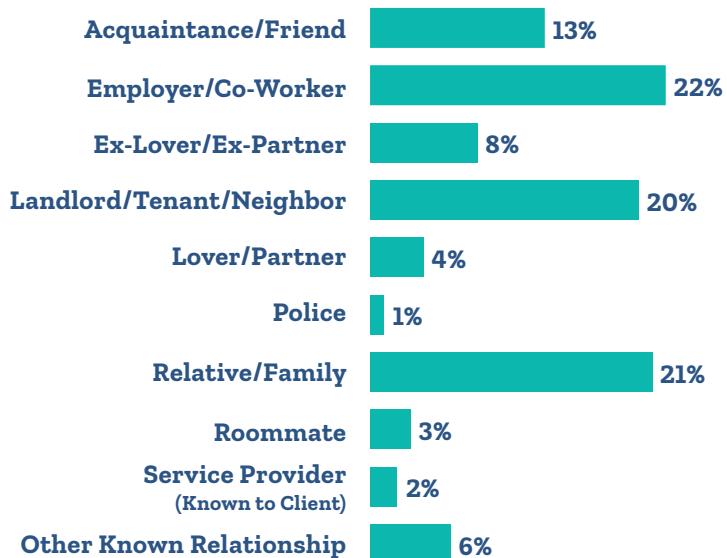
Of the 775 hate violence survivors who reported information about their relationship to the person or persons who perpetrated hate violence against them, 57% knew the person(s). This continues a three year trend in which the majority of HV survivors have reported knowing the person who harmed them. Consistent with previous reports, the most common known relationships were an employer or co-worker (22%), a relative or family member (21%) and a landlord or neighbor (20%).

- Survivors of color were three times more likely to experience violence by an employer or co-worker compared to white survivors.
- Cisgender men were three times as likely to experience violence by strangers compared to survivors who did not identify as cisgender men.

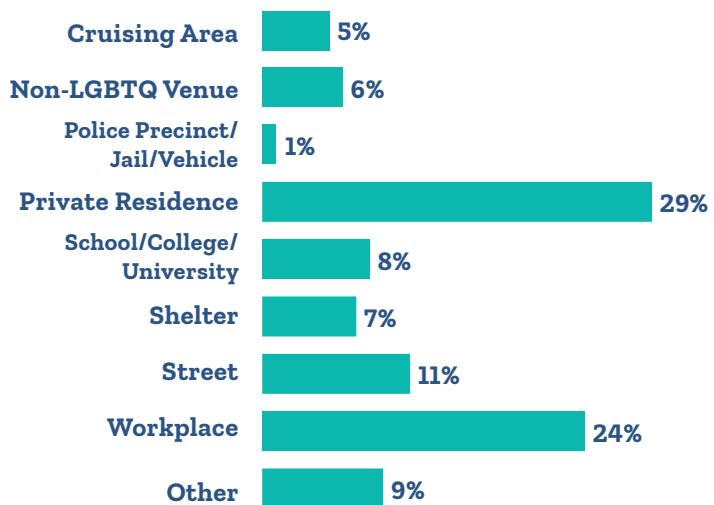
NCAVP reports consistently demonstrate that LGBTQ people experience hate violence in the everyday places where they live and work. The most common location was in private residences (29%) followed by the workplace (24%). Additionally, 11% of survivors reported experiencing hate violence on the street, 8% on a school or university campus, and 7% experienced violence in a shelter.

- Transgender women were nearly three times more likely to experience violence on the street compared to survivors who did not identify as transgender women.

## Relationship Types of Known Offenders to Survivors of Hate Violence in 2017



## Hate Violence Incident Locations in 2017



The most common relationship between an IPV survivor and the abusive person were ex-lover or ex partners (45%), followed by current lover or partner (31%). Other relationships between the survivor and abusive person included an acquaintance or friend (6%), relative or family member (6%) and landlord or neighbor (3%).

- Survivors who identified as lesbian were five times more likely to report experiencing violence by a current partner compared to survivors who identified with other sexual orientations.
- Native survivors were nearly two and a half times more likely to report experiencing violence from an ex-partner or lover compared to survivors of other races or ethnicities.
- Survivors with disabilities were twice as likely as survivors without disabilities to report experiencing violence by a landlord or neighbor.

## Police Response to Survivors of Violence

In 2017, a significant percentage of all LGBTQ survivors reporting to NCAVP programs continue to report having negative interactions with law enforcement.

Of the survivors who shared information about their interactions with police to NCAVP member programs in 2017, 43% of hate violence survivors reported interacting with law enforcement in some way as a result of the violence that they had experienced. A majority of intimate partner violence survivors (60%) reported interacting with law enforcement in 2017, compared to 39% of IPV survivors in 2016. NCAVP members did not collect information on whether or not survivors actively called law enforcement.

In terms of reports of police misconduct, forty-seven (13%) HV survivors who reported on interactions with the police also reported police misconduct. Of these, 44% reported excessive force was used and 56% reported being unjustifiably arrested. Fifty-four (54%) of IPV survivors who interacted with the police reported experiencing police misconduct. Of these, 20% reported excessive force and 80% reported unjustifiable arrest.

*It is important to note that in 6% of the documented hate violence related violence homicides (or 3 of 52), the victims were killed by police responding to incidents.*



HV survivors who reported law enforcement was courteous



HV survivors who reported law enforcement was indifferent



HV survivors who reported law enforcement was hostile



IPV survivors who reported law enforcement was courteous



IPV survivors who reported law enforcement was indifferent



IPV survivors who reported law enforcement was hostile

## Accessing Services

A majority of all survivors accessed safety planning services from NCAVP member organizations. The services and referrals survivors accessed through NCAVP member organizations point to their greatest needs: safety planning, legal services, mental health counseling, housing security and emergency shelter.

NCAVP collects information about the direct services, referrals, and advocacy support LGBTQ and HIV-affected survivors access through member organizations.

Many of the services survivors need, such as domestic violence shelters, counseling, and legal services, have not historically been inclusive of, or accessible to, LGBTQ communities. The most common service that LGBTQ survivors of IPV and HV accessed from NCAVP member organizations was safety planning. A safety plan is a personalized, practical plan that can help a survivor avoid and or navigate a dangerous situation.

Often safety planning is accessed when a survivor is in immediate crisis. In 2017, 66% of all survivors of IPV and 63% of HV survivors who reported incidents to NCAVP members, accessed safety planning services.

Survivors also accessed referrals and individual advocacy support. The most common referrals for IPV survivors were for legal services (30%), mental health counseling (16%), domestic violence (15%), and housing (13%) services. And the most common types of individual advocacy received by survivors of IPV were related to housing (25%), legal (24%), and mental health services (22%).

The most common referrals given to HV survivors were for legal services (17%), mental health counseling (15%), housing (10%), shelter (10%), and medical services (10%). The most common types of individual advocacy sought after by HV survivors related to mental health (17%), housing (15%), and legal services (15%).

Thirteen percent of IPV survivors reported attempting to access shelter, yet nearly half (43%) of those survivors reported being denied access to shelter. Of IPV survivors who reported being denied shelter, nearly one third (32%) were turned away because of their gender identity. And for some survivors who did access shelter, they experienced violence and discrimination in those shelter programs.

- Bisexual IPV survivors were nearly two times as likely to report experiencing violence or discrimination in a shelter, compared to survivors who did not identify as bisexual.
- Transgender women who were IPV survivors were nearly two and a half times more likely to experience violence in a shelter, compared to survivors who did not identify as transgender women.

*Housing and job instability are not only systemic forms of violence, but also make LGBTQ people more vulnerable to other forms of violence by limiting their choices and making them more likely to rely on precarious situations.*

# Recommendations and Discussion

In order to address and prevent the violence that LGBTQ and HIV-affected survivors experience, we need to take the following measures:

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## **Increase efforts to encourage reporting of hate violence, emphasizing multiple reasons and methods for reporting and increase community-based reporting infrastructure.**

NCAVP believes that reporting and documenting violence can help address violence and prevent future incidents. Reporting can help survivors get the support they need, like safety planning and counseling, to help break the cycle of violence. Reporting can help advocates notice trends that may lead to proposed solutions to prevent incidences of violence. Reporting gives us critical data than can help shape policy recommendations and influence policy makers. Reporting can tell critical stories that shape public opinion and encourage individuals to take action. And reporting can serve additional purposes for survivors and communities.

Despite an increasingly hostile environment for LGBTQ and HIV-affected communities in the United States and some evidence of increased hate violence nationally, NCAVP found that this year the number of reports to NCAVP member programs of hate violence against LGBTQ people went down, continuing a five year decline. Hate violence homicides of LGBTQ people, however, hit a record high. And reports of LGBTQ intimate partner violence increased overall.

A significant factor in this decline has been the decrease of member organizations able to collect and compile this data pool. Only 10 NCAVP member organizations were able to contribute to this data set this year due to reduced resources and organizational capacity, as compared to 17 member organizations reporting in 2010.

As organizations are forced to respond to the increased needs of survivors in their communities with less, they are often forced to make the difficult decision to prioritize direct services over data collection. Because NCAVP is the only source for this degree of incident-level data on hate violence, more funding and support is needed to increase the infrastructure of anti-violence organizations so they can continue playing this vital role.

There also appears to be a degree of normalization of the hate violence that LGBTQ people experience. For example, LGBTQ survivors may not report a one-time experience of violence, but may wait until the violence reaches a certain level of severity that they deem as impactful enough. NCAVP found that of the incidents that were reported in 2017, more involved a weapon, resulted in an injury, or required medical attention, indicating that while reports decreased in number, the severity of the violence that people were reporting increased.

NCAVP members shared that although hate violence reports decreased, they have experienced an increase in overall number of hotline calls for general support, including emotional support around fear of experiencing discrimination and violence as well as legal advice, particularly for undocumented LGBTQ people. A national survey of 841 LGBT adults showed that almost two-thirds of respondents reported feeling less safe because

NCAVP members shared that although hate violence reports decreased, **they have experienced an increase in overall number of hotline calls for general support**, including emotional support around fear of experiencing discrimination and violence as well as legal advice, particularly for undocumented LGBTQ people.

of their sexual orientation or gender identity since Donald Trump has taken office.<sup>5</sup>

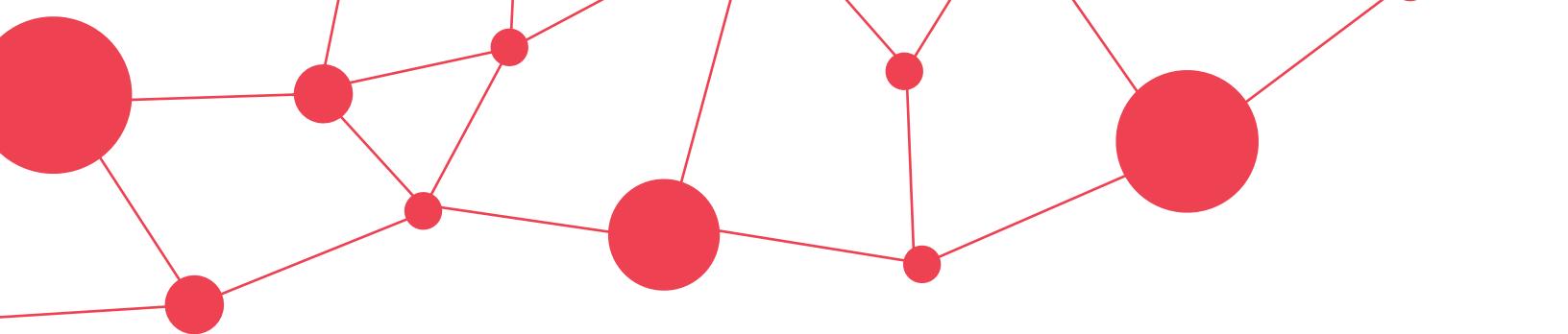
It is abundantly clear that the decreased hate violence numbers are not the result of an improved environment for LGBTQ and HIV-affected people, especially as providers report that many survivors come in seeking help around IPV and, after receiving services, later mention experiences of hate violence, such as housing or job discrimination. Rather, this data suggests that what is needed is greater education and emphasis on the importance of reporting hate violence and increased support for LGBTQ anti-violence organizations to improve their data collection tools

and increase capacity. One important message that needs to be conveyed is the importance of reporting incidents even if survivors do not need or want to access services or the criminal legal system. Educational efforts should also include allies and bystanders, encouraging them to actively report incidents they witness.

Organizations collecting data also need additional and consistent resources so that reporting and data collection can be maintained alongside their other work. Increased tools such as a better use of technology such as simple online reporting and texting options can also make reporting more convenient and immediate.

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<sup>5</sup> Steinmetz, K. (2017, July 10). LGBT Poll: People Feel Less Safe Under Donald Trump. Retrieved from <http://time.com/4842910/donald-trump-lesbian-gay-bisexual-lgbt-poll-safe/>



## Expand state and local funding for LGBTQ-specific and affirming services for survivors of violence.

Since President Trump took office in January 2017, there have been efforts to pass sweeping anti-LGBTQ bills and to rollback protections and funding for LGBTQ-affirming services and programs, leaving LGBTQ HIV-affected communities vulnerable to identity-based discrimination and sending the message that discriminating against LGBTQ people based on their identity and self-expression is both acceptable and legal.

An environment of violence and discrimination, as well as dwindling resources and support systems for LGBTQ people, has had an impact on the prevalence and severity of intimate partner violence in LGBTQ relationships. NCAVP found that the number of reports of LGBTQ IPV went up in 2017. We must acknowledge how this current political climate of stress and hostility has rendered our communities more vulnerable to multiple kinds of violence, including violence community

members enact on one another, with fewer support systems to recover from and prevent that violence. This has also had an effect on advocates and service providers, many of whom share impacted identities with their clients, are survivors themselves, and have reported experiencing more stress and less capacity to support survivors. Finally, the impact of the anti-LGBTQ bias coming from the federal government has also resulted in a loss of funding for many anti-violence programs.

When violence occurs, survivors must have access to culturally responsive, inclusive, and affirming reporting mechanisms, services, and healing spaces, to ensure that they can re-establish safety and move forward. While federal resources are being cut or eliminated, state and local municipalities must step up to help fill the void and provide additional resources to help address and prevent violence in the LGBTQ and HIV-affected communities.

<sup>6</sup> Lopez, G. (2018, January 22). Trump promised to be LGBTQ-friendly. His first year in office proved it was a giant con. Retrieved from <https://www.vox.com/identities/2018/1/22/16905658/trump-lgbtq-anniversary>

## **Increase media coverage of violence impacting LGBTQ and HIV-affected communities beyond hate violence homicides.**

We have seen over the past years the power the media can have in elevating the crisis of hate violence homicides of TGNC people, particularly transwomen of color. While we are still far from curbing this epidemic or even building a concerted national commitment to addressing this hate violence, the media spotlight has increased the attention paid to these homicides and the seriousness with which activists and advocates are taken, as we call for effective solutions.

The issues of violence in our country and the violence experienced by the LGBTQ and HIV-affected communities are complex and so must be our examination of the causes and solutions needed to curb and end violence. This first report combining data on hate violence and intimate partner violence shows the interrelationship between these forms of violence that happen both against and within the LGBTQ and HIV-affected communities.

In order to understand violence, it's important to recognize the context in which hate and intimate partner violence manifest. Both are compounded at the intersections of various forms of oppression such as homophobia, biphobia, transphobia, racism, ableism, ageism, sexism, classism, anti-immigrant bias, anti-sex worker bias, and anti-HIV bias, causing those who hold multiple marginalized identities to experience disproportionate rates of violence. Incidents of violence against LGBTQ communities occur within these systems of oppression, which are historical and institutional, and also manifest in interpersonal relationships. These forms

of oppression also create barriers which limit LGBTQ and HIV-affected survivors'—and IPV survivors'—access to necessary resources such as safety planning, crisis intervention, supportive counseling, health care, law enforcement support, legal remedies, shelter, and housing.

We challenge media professionals to find ways to more fully report on and explore these and other issues related to violence against and within LGBTQ and HIV-affected communities. By solely focusing on counting and recording hate violence homicides, we are not representing the extent to which violence impacts these communities.

Media professionals should report on nonfatal hate violence incidents in their communities and look for patterns of violence locally and nationally. They should also develop more in-depth stories about intimate partner violence, state violence and other forms of violence and discrimination alongside and in addition to hate violence. They should develop relationships with local and national LGBTQ and HIV-affected activists, service providers and advocates to ensure that reports center survivors of violence, allow them to tell their own stories and discuss solutions, community strength, and resilience. And they should highlight the life-saving work being done across the country to support survivors, change policies and create safety for LGBTQ community members. In all of this, they should use affirming language to describe LGBTQ identities, using accurate names, pronouns, and identities when referencing survivors or victims. Misgendering and deadnaming survivors and victims compounds violence.

## **Advocate for and implement comprehensive, long term systemic change that includes affordable housing, a living wage and non-discrimination policies that transform LGBTQ survivors' access to basic needs.**

NCAVP data shows that people with multiple marginalized identities are more vulnerable to violence, as well as people who are economically insecure. To end and prevent violence against LGBTQ people, we need to ensure that individuals are less vulnerable.

High rates of discrimination against LGBTQ and HIV-affected people in housing and employment has material effects on survivors' lives. Housing and job instability are not only systemic forms of violence, but also make LGBTQ people more vulnerable to hate violence.

Housing discrimination and underemployment also affect LGBTQ people's intimate partner relationships, and can exacerbate LGBTQ people's experience of IPV. LGBTQ people are particularly vulnerable to verbal harassment and financial abuse as power and control tactics in IPV, as they experience higher rates of bias motivated violence in other areas of their lives, such as in their families, workplaces, and schools. Because of housing and job insecurity, LGBTQ people may also be forced to rely on abusive partners financially, including for housing.

This dynamic does not affect all survivors equally. NCAVP found that transgender women were nearly four times more likely to experience financial abuse than survivors who did not identify as transgender. Furthermore, transgender women were nearly two and a half times more likely to experience violence in a shelter making them not only more vulnerable to experiencing sexual violence and financial abuse, but they also are more likely to experience violence even when seeking support.

NCAVP data points to the fact that solutions to violence must be comprehensive, long-term and systemic. Non-discrimination protections are crucial to the well-being and support of LGBTQ survivors of violence. In order to address both hate violence and intimate partner violence, advocates must seek to pass non-discrimination protections that ensure LGBTQ people easier access to housing and economic security. Governments must develop an interdisciplinary approach to responding to and preventing violence in order to meet the myriad of needs and ways multiple forms of violence and oppression affect and impede the healing of the most impacted LGBTQ survivors.

**Many member organizations believe that *enacting stiffer punishment for perpetrators of hate violence is not the key to healing communities* impacted by bias-motivated violence.**

## **Support models of creative, community-based solutions to violence that are designed by the most impacted people.**

LGBTQ and HIV-affected communities have historically and continually experienced discriminatory policing and police violence, in fact, resistance to discriminatory policing was a major part of the birth of the modern-day LGBTQ rights movement. NCAVP data has consistently shown that of the portion of survivors who interact with police, many continue to report those interactions as negative and sometimes re-victimizing and re-traumatizing. LGBTQ people experience high rates of violence and discrimination within all branches of the criminal legal system. This leads to mistrust in law enforcement, courts, and the prison system, and fewer survivors seeking help or accountability through the criminal legal system.

Pushing for recognition of incidents of hate violence as “hate crimes” and demanding enhanced penalties for hate violence was once a major focus of the LGBTQ anti-violence movement, because of the inherent injustices within the criminal legal system. Yet, many NCAVP member organizations’ positions concerning hate crimes legislation and criminalization is evolving. There is a growing understanding that increasing criminal penalties

for hate crimes does not reduce anti-LGBTQ bias or violence. Many member organizations believe that enacting stiffer punishment for perpetrators of hate violence is not the key to healing communities impacted by bias-motivated violence. Furthermore, increased penalties are applied disproportionately for people of color and other people with marginalized identities.

While strides have been made in addressing biased policing, and it is imperative to continue to work towards reforming the criminal legal system, many groups are turning to other solutions to address violence that do not inflict more violence on individuals and communities. Additional community-based solutions to violence must be designed and supported. These solutions do not always rely on laws or elected officials to create safety, and often incorporate restorative and transformative justice practices to build safety and accountability. Efforts to envision, practice and evaluate these solutions, especially those led by survivors, need to be included in comprehensive prevention plans and must be resourced in order to build successful, replicable models.

# Conclusion and 2018 Homicide Preview

This report highlights some of the unique ways that LGBTQ and HIV affected people are impacted by violence, how the systemic discrimination that LGBTQ people experience exacerbates violence in relationships, and the importance of looking at violence holistically.

While many of the tactics of IPV reported here are common in all IPV relationships, they have unique impacts on LGBTQ and HIV-affected survivors who experience systemic inequities and other forms of bias motivated violence. This is especially true for those who hold additional marginalized identities, such as LGBTQ people of color, LGBTQ people with disabilities, and LGBTQ immigrants. It is imperative that these broader social and cultural impacts are a part of the conversation when discussing and addressing hate violence and IPV impacting LGBTQ and HIV affected communities.

We cannot afford to ignore LGBTQ IPV, and the impact on these marginalized communities—rather, we must look to cultivate discussion around how hate violence and systemic discrimination impacts LGBTQ communities' ability to negotiate safety in relationships, to recognize unhealthy relationship dynamics, what healthy relationships can look like in LGBTQ communities, and how we can work to address LGBTQ IPV within and as a vibrant, diverse community.

Hate violence against LGBTQ and HIV-affected communities is complex and takes on many different forms. This year's findings once again show that LGBTQ people of color, transgender and gender nonconforming people, and cisgender men are severely impacted by hate violence. The 2017 findings highlight the importance of expanding the narrative of violence from singular acts of homicide and extreme physical violence to include the everyday and more insidious violence that occurs in workplaces, homes, and schools as well as the importance of reporting and collecting data on the wide range of types of violence that impact LGBTQ and HIV-affected communities.

Finally, as our conversation and analysis of violence expands and deepens, so must our strategies to address and end violence. Comprehensive and community-based solutions that incorporate and are based in restorative and transformative justice need to be developed, invested in and evaluated.

While this report represents data from 2017, policy and other attacks on the LGBTQ and HIV-affected communities have continued in 2018, as have incidents of hate and intimate partner violence. Early data on homicides indicate a decrease in reported homicides in 2018, yet continued violence impacted LGBTQ people with multiple marginalized identities.

**As of December 2018, NCAVP has recorded seven intimate partner violence related homicides and 33 hate violence related homicides. Of these, four of the IPV victims and 27 of the HV victims were people of color\*, one IPV victim was transgender, 27 HV homicide victims were TGNC and 23 HV homicide victims were transgender women of color.**

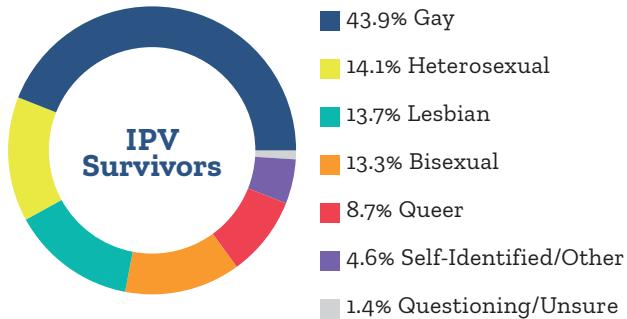
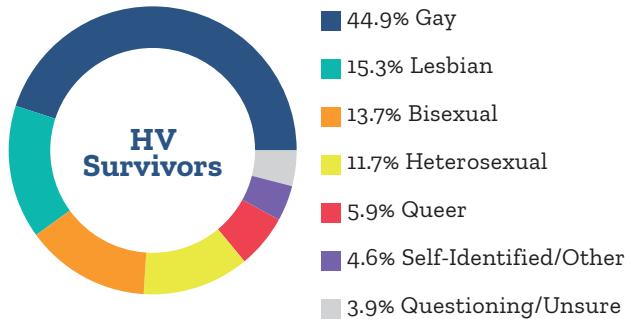
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\* The racial identities of one IPV and two HV homicide victims remains unknown to NCAVP at this time.

# Overall Demographics of Survivors

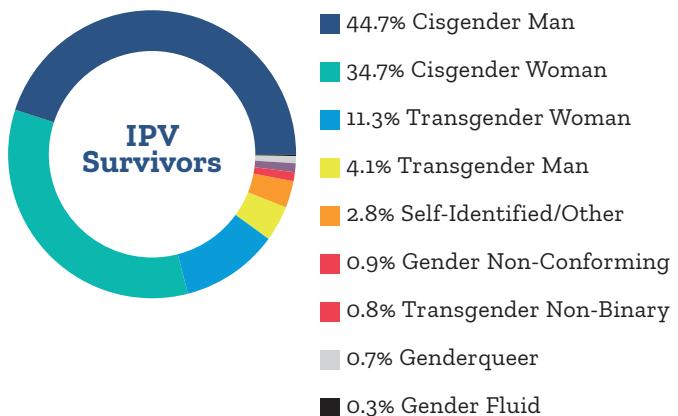
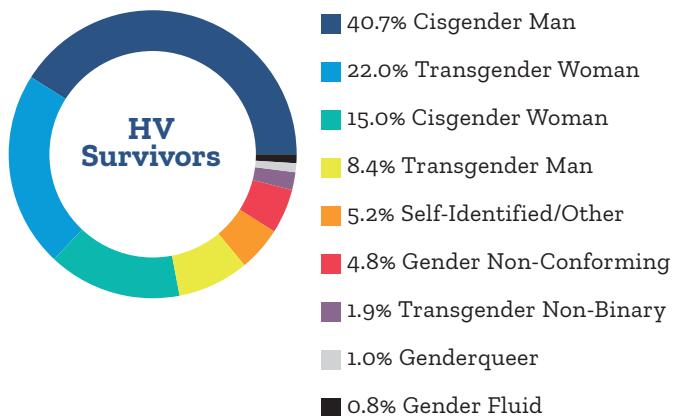
## Sexual Orientation

The largest group reporting HV or IPV to NCAVP member organizations identify as gay.

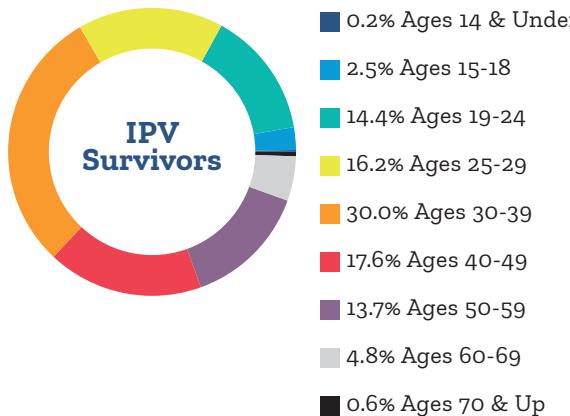
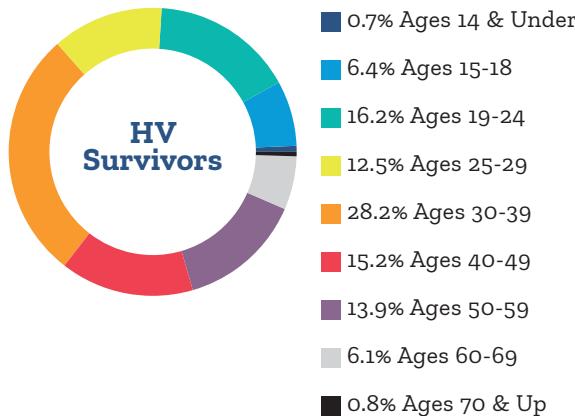


## Gender Identity

Cisgender men remain the largest group reporting hate violence or intimate partner violence to NCAVP member organizations.

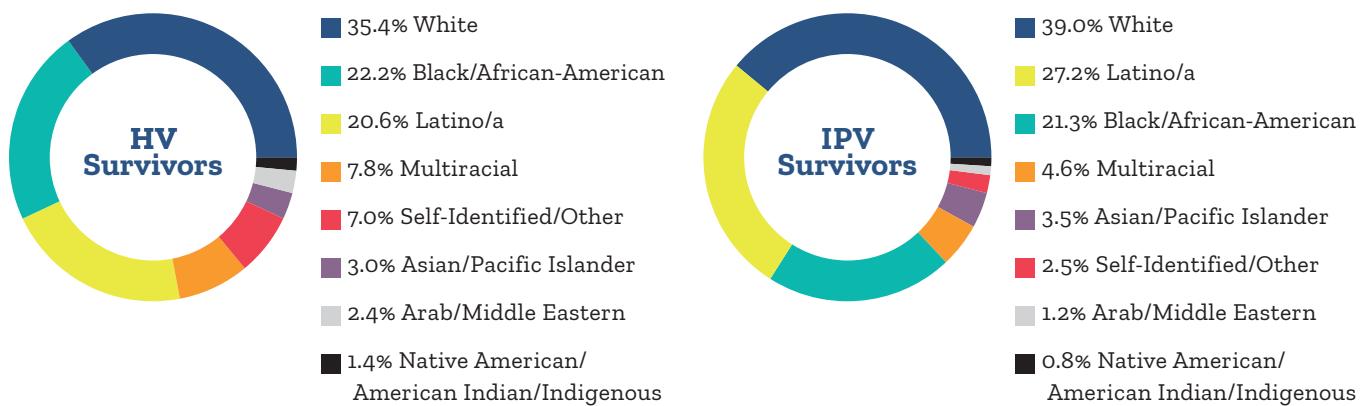


## Age



## Race and Ethnicity

A majority of all survivors reporting intimate partner violence or hate violence identified as people of color. Survivors were able to choose more than one racial or ethnic identity. For example, a survivor could choose both Black/African American and Latinx. Of the survivors who reported experiencing intimate partner violence, 59% identified as people of color and 39% identified as white. For identities of color, the most commonly selected identity was Latinx (27%) and Black (21%). Of the survivors who reported experiencing hate violence, 57% chose identities of color and 35% identified as white. Of those people of color, 22% identified as Black and 21% identified as Latinx. Of those survivors who reported information on their citizenship status, 7% of those who reported experiencing intimate partner violence and 11% of those who reported hate violence were undocumented.



## Disability and HIV Status

In 2017, 44% of the survivors of intimate partner violence and 38% of the survivors of hate violence reported having a disability. Of the survivors who reported experiencing intimate partner violence and reported living with a disability, 48% reported having a mental health disability, 37% had a physical disability, and 12% had a learning disability. Of the survivors who experienced hate violence and reported living with a disability, 52% had a mental health disability, 29% had a physical disability, and 14% had a learning disability. Of those who reported information on HIV status, 38% of those who reported experiencing intimate partner violence and 35% of those who experienced hate violence reported being HIV positive.



## Immigration Status

In 2017, 77% of the survivors of hate violence identified as United States citizens, 17% identified as undocumented and 2% identified as permanent residents. Of IPV survivors, 78% identified as United States' citizens, 7% were undocumented and 4% identified as permanent residents.

# Methodology

## Data Collection

NCAVP collected both aggregate and incident level data from local member organizations for this report. Organizations collected this information either directly from survivors or public sources. Survivors contacted LGBTQ and HIV-affected anti-violence programs by contacting a program or hotline, filling out surveys, connecting through community outreach or organizing, or making a report online. Most NCAVP member programs used NCAVP's Uniform Incident Reporting Form (see Appendix 1) to document the demographics of survivors and the details of the violence that occurred. Some

organizations have adapted and incorporated the form into other data collection systems.

Incident level data allowed NCAVP to anonymously analyze multiple variables about one victim or survivor in connection to their specific race, gender identity, sexual orientation, or age subcategory.

NCAVP collected data on 825 incidents of hate violence against LGBTQ and HIV-affected people from 10 local NCAVP member organizations in 10 states and 2144 incidents of intimate partner violence affecting LGBTQ and HIV-affected people from 14 local NCAVP member organizations in 11 states.

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## Data Compilation and Analysis

The majority of the information in this report was analyzed in Microsoft® Excel by aggregating the totals of each category across member organizations. In some instances, survivors were allowed to select more than one answer to a question so as to best represent their identities and experiences. For example, NCAVP allowed individuals to select more than one category when identifying their race. For these categories, the n value, or total, represents the number of

responses, rather than the number of respondents for each question, with unknowns or undisclosed responses removed unless stated otherwise.

NCAVP selected statistics for publication based upon their relevance and with 95% confidence intervals, listed with the odds ratios. Additional data not included in the report may be available upon request by contacting NCAVP. In order to protect survivor confidentiality, not all information is available to the public.

## Limitations of the Findings

This report uses a convenience sample of LGBTQ and HIV-affected survivors of hate and/or intimate partner violence who sought support from NCAVP member programs, as well as information collected from public records. Since NCAVP only analyzes data collected from individuals who self-reported and from other public sources, the information presented is not representative of the experiences of all LGBTQ and HIV-affected survivors of hate violence or intimate partner violence in the United States. NCAVP's data may omit populations such as incarcerated people, people in rural communities, people who may not know about their local NCAVP member organization, people where the closest NCAVP member organization is too far away to reach, and people who face other barriers to accessing services or reporting. Therefore, while the information contained in this report provides a detailed picture of the individual survivors who reported to NCAVP member programs, it cannot and should not be extrapolated to represent the overall LGBTQ and HIV-affected communities in the United States.

NCAVP members' capacity for data collection varied based upon the program's resources, staffing, available technology, and other factors. These considerations resulted in some programs submitting partial information in some categories, which creates incomplete and dissimilar amounts of data for different variables within the 2017 data set. Moreover, because of the nature of crisis intervention and direct service work that is done, as data is collected through NCAVP's incident form, missing values are common. Missing values do not affect the accuracy of the data and data analysis as long as individuals are omitting information at random. This can, however, affect the accuracy

of the data if certain survivors are uncomfortable with disclosing information on race, gender identity, or other characteristics because they belong to a specific subcategory of interest (i.e. if gender nonconforming individuals consistently left their gender identity blank) and therefore are not omitting information at random. Bias can also be introduced if individuals who completed the incident forms had different definitions and protocols for the same categories. These variations can exist between staff at the same program or staff at different organizations.

In addition, not all NCAVP member organizations can collect data in the same way. NCAVP member organizations receive instructions on data collection and technical assistance to help ensure that data is both accurate and reliable. Some NCAVP members have more capacity (i.e., staff, volunteers, and time) to collect aggregate and person-level data, as well as conduct outreach to educate and inform LGBTQ and HIV-affected survivors of their services, thereby increasing reporting. Some organizations have less capacity and are unable to submit both aggregate and person-level data. This disparity reflects the historic lack of funding, resources and capacity-building for LGBTQ and HIV-specific organizations, particularly those outside of urban areas. NCAVP is working to increase the capacity to report for all member programs throughout the United States and to increase funding and capacity-building support for these programs. NCAVP's efforts to improve and increase data collection among member programs and affiliates are ongoing. Despite these limitations, this report contains some of the most detailed and comprehensive data on LGBTQ and HIV-affected hate violence and intimate partner violence nationally.

# Definitions in This Report

## BISEXUAL

Those who are sexually and/or romantically attracted to two or more genders.

## CISGENDER

Used to describe an individual whose self-perception of their gender matches the sex they were assigned at birth.

## DEADNAME

The act of using the birth name of a person who no longer uses that name (can also be used as a noun).

## GAY

describes a person who is sexually and/or romantically attracted to people of the same gender identity. Increasingly, the term is used to describe someone who identifies as a man who is primarily or exclusively attracted to other people who identify as men. It is also sometimes used as an umbrella term to describe LGBTQ communities.

## GENDER IDENTITY

Describes how a person identifies their gender. A person's gender identity may be different than social norms and/ or stereotypes of the sex they were assigned at birth. There are a wide range of gender identities, including identifying as a man, woman, transgender, genderqueer, and/ or identifying as gender nonconforming. Gender identity is not static and can change over time.

## GENDER NON-CONFORMING

Describes a person whose gender expression is different from the societal expectations based on their assigned sex at birth.

## HATE VIOLENCE

What defines hate violence, in comparison to other forms of violence, is that hate violence explicitly targets people and groups based on their actual or perceived identities. Many LGBTQ and HIV-affected people hold multiple marginalized identities, such as LGBTQ and HIV – affected people who are immigrants, are people of color, or have disabilities, and are at risk of multiple and unique forms and consequences of hate violence. The identity-based nature of hate violence contributes to the severity of the attacks and their aftermath.

## HETERONORMATIVE

A viewpoint that expresses heterosexuality as a given instead of being one of many possibilities for a person's sexual orientation.

## HIV- AFFECTED

Describes HIV positive people, people living with HIV/AIDS, partners, friends, lovers, family members, and communities that are impacted by HIV/AIDS.

## HOOK UP VIOLENCE

Violence that occurs in the context of dating or hooking up for sex, through personal ads, meeting up at LGBTQ venues, or increasingly through apps or online dating sites. This can include people targeting LGBTQ people through false profiles, then robbing them and/or harming them through physical or sexual violence.

## **INTIMATE PARTNER VIOLENCE**

A pattern of behavior where one intimate partner coerces, dominates, or isolates another intimate partner to maintain power and control over the partner and the relationship." IPV may be perpetrated in many different ways, including: psychological/emotional abuse, economic abuse, physical abuse, verbal abuse, sexual abuse, cultural abuse, isolation, and intimidation.

## **LESBIAN**

Describes a person who identifies as a woman who is primarily or exclusively sexually and/or romantically attracted to other people who identify as women.

## **MISGENDER**

Intentionally or unintentionally using incorrect pronouns when referring to a person.

## **QUEER**

A political and sometimes controversial term that some LGBTQ people have reclaimed. Used frequently by younger LGBTQ people, activists, and academics, the term is broadly inclusive, and can refer either to gender identity, sexual orientation or both. It is also sometimes used as an umbrella term to describe LGBTQ communities.

## **NON-BINARY**

Describes a person who identifies outside a binary gender context, who identifies as neither a man nor a woman.

## **RESTORATIVE JUSTICE**

A theory of justice that emphasizes repairing the harm inflicted on individuals or communities by violent behavior. It is best accomplished through cooperative processes that allow all willing stakeholders to meet, although other approaches are available when that is impossible. This can lead to the transformation of people, relationships and communities (via restorativejustice.org).

## **SEXUAL ORIENTATION**

Describes a person's sexual and/or romantic attraction to people of a specific gender or multiple genders. It is the culturally defined set of meanings through which people describe their attractions. Sexual orientation is not static and can change over time.

## **TRANSGENDER**

A term used to describe individuals whose gender identity and how it is expressed, to varying degrees, is different than the sex assigned at birth. Transgender identity relates to a person's gender identity.

## **TRANSFORMATIVE JUSTICE**

A liberatory approach to justice which seeks safety and accountability without relying on alienation, punishment, State or systemic violence, including incarceration or policing. (via usprisonculture.com).

## **SAFETY PLANNING**

A safety plan is a personalized, practical plan that can help a survivor avoid and or navigate a dangerous situation.

# Homicide Narratives

Every year as NCAVP documents LGBTQ and HIV-affected lives lost to hate or intimate partner violence we attempt to honor and remember those lives as the whole person they were.

The following pages list the recorded victims lost to hate or intimate partner violence related homicides. NCAVP recognizes this list is not exhaustive.

These narratives were included because they were either captured by NCAVP members through reporting or media reports. They were selected due to the strong likelihood that hate or intimate partner violence was the motivation, or contributing factor, to the homicide. It can sometimes be difficult to determine victim's racial, ethnic, gender, or sexual orientation, still NCAVP attempts to collect as much information that is available and confirmed about the victims as possible.

NCAVP wrote these narratives using information from media outlets, family and friends, and local NCAVP members. NCAVP is not responsible for the complete accuracy of these narratives and the specific details pertinent to allegations, police investigations, and criminal trials.

These narratives show the need for the existence and expansion of LGBTQ and HIV-affected anti-violence programs. If you are interested in starting an anti-violence program, becoming a member of the National Coalition of Anti-Violence Programs, or if you would like more information, contact NCAVP at [info@ncavp.org](mailto:info@ncavp.org) or 212.714.1184.



### **MARK J. MORRISON**

**52, White Cisgender Man, Oneonta, NY**

Mark Morrison died of blunt force trauma by a bodybuilding weight on Jan 1, 2017.

### **MESHA CALDWELL**

**41, Black Transgender Woman, Canton, MS**

Mesha Caldwell was killed and her body was found along a rural roadside in Canton, Mississippi on January 4, 2017.

### **SAYVON ZABAR**

**54, Cisgender Man, New York, NY**

Savyon Zabar was found strangled in his Upper West Side New York apartment on January 4, 2017.

### **JAMIE LEE WOUNDED ARROW**

**28, Native Transgender/Two Spirit Woman, Sioux Falls, SD**

Jamie Lee Wounded Arrow was found dead in Sioux Falls, South Dakota, on January 6, 2017.

### **SEAN RYAN HAKE**

**23, White Transgender Man, Sharon, PA**

Sean Ryan Hake was fatally shot by police responding to a call about a domestic incident at Hake's home on January 6, 2017.

### **BILL DENHAM**

**53, White Cisgender Man, Tampa, FL**

Bill Denham was beaten to death on January 14, 2017 while he was out taking a walk in Tampa, Florida, where he lived.

### **DONTAE LAMPKINS**

**25, Black Cisgender Man, Tampa, FL.**

Dontae Lampkins was found dead in an alley in Tampa, Florida on January 26, 2017.

### **JOJO STRIKER**

**23, Black Transgender Woman, Toledo, OH**

JoJo Striker was killed in Toledo, Ohio on February 8, 2017.

### **JAQUARRIUS HOLLAND**

**18, Black Transgender Woman, Monroe, LA**

Jaquarrius Holland was shot during a verbal altercation on February 19, 2017.

### **KEKE COLLIER/ TIARA RICHMOND**

**24, Black Transgender Woman, Chicago, IL**

Keke Collier, also known to friends as Tiara Richmond, was shot while walking near her home on February 22, 2017.



### **SAMARA ROUTENBERG & LISA DAWN FUILLERAT**

**39, White Cisgender Woman, Brandon, FL & 51, White Cisgender Woman, Brandon, FL**

Samara Routenberg and her partner Lisa Dawn Fuillerat died by gun violence at the hand's of Lisa's ex husband on February 24, 2017.

### **CHYNA GIBSON/ CHYNA DOLL DUPREE**

**31, Black Transgender Woman, New Orleans, LA**

Chyna Gibson, also known by her performing name, Chyna Doll Dupree, was killed in New Orleans, Louisiana on February 25, 2017.

### **GLENSEN SOLIMAN**

**44, Asian Cisgender Man, Harris, TX**

Glenser Soliman is believed to have been lured to his death while using a dating or hook up app and found dead on February 25, 2017.

### **CIARA MCELVEEN**

**25, Black Transgender Woman, New Orleans, LA**

Ciara McElveen was stabbed to death on February 27, 2017.

### **ALPHONZA WATSON**

**38, Black Transgender Woman, Baltimore, MD**

Alphonza Watson was shot to death on March 22, 2017.

### **ANDREW NESBI**

**46, White Cisgender Man, Madison, WI**

Andrew Nesbi was found stabbed to death in his apartment in Madison, Wisconsin on March 27, 2017.

### **AN VINH NGUYEN**

**26, Asian Cisgender Man, Harris County, TX**

An Vinh Nguyen was last seen on March 31, 2017 and is presumed dead.

### **KENNE MCFADDEN**

**27, Black Transgender Woman, San Antonio, TX**

Kenne McFadden was killed in San Antonio, Texas on April 8, 2017.

### **JAMES JOHNSON**

**41, Cisgender Man, Brooklyn, NY**

James Johnson died after being stabbed on April 9, 2017.



### **BRUCE GARNETT**

**67, White Cisgender Man, Chesterfield, VA**

Bruce Garnett was found stabbed to death in his home on April 21, 2017.

### **CHAY REED**

**28, Black Transgender Woman, Miami, FL**

Chay Reed was shot in Miami, Florida on April 21, 2017.

### **MX. BOSTICK**

**59, Black Transgender Person, New York, NY**

Mx. Bostick was found unconscious with head trauma on April 25, 2017 on a street corner in Manhattan.

### **EARL ENGLISH**

**28, Black Cisgender Man, DeKalb, GA**

Earl English was found shot and killed inside his home in DeKalb, Georgia on May 16, 2017.

### **IMER ALVARADO**

**34, Latinx Cisgender Man, Fresno, CA**

Imer Alvarado was killed on the night of May 16, 2017 in Fresno, California.

### **SHERRELL FAULKNER**

**46, Black Transgender Woman, Charlotte, NC**

Sherrell Faulkner was killed in Charlotte, North Carolina. She was found beside a dumpster on November 30, 2016 with trauma from an assault. She passed away from injuries related to that assault on May 16, 2017.

### **KEVIN WIRTH**

**27, White Cisgender Man, Lansing, MI**

Kevin Wirth was found beaten and stabbed to death inside his home in Lansing, Michigan on May 21, 2017.

### **DAVID SWARTLEY**

**66, White Cisgender Man, Elkhart County, IN**

David Swartley was killed on May 25, 2017 in Elkhart County, Indiana by a person who responded to the personal ad he placed for "casual encounters."

### **RAFAEL (RALFIE) REYES**

**Unknown age, Houston, TX**

Rafael Reyes, known by friends and family as Ralfie, died by gunshot on May 29, 2017



### MATTHEW MURREY

**26, Black Cisgender Man, Hyattsville, MD**

Matthew Murrey was found was found stabbed to death in his Hyattsville apartment on May 30, 2017.

### JOSIE BERRIOS / KENDRA ADAMS

**28, Latinx Transgender Woman, Ithaca, NY**

Josie Berrios was killed in Ithaca, New York on June 13, 2017.

### NEIL RODNEY SMITH

**57, White Cisgender Man, Brooklyn, NY**

Neil Rodney Smith was found dead of apparent suffocation in his apartment on June 19, 2017.

### RICHELLE HORSLEY

**47, Cisgender Woman, Salt Lake City, UT**

Richelle Horsley died by gunshot on June 22, 2017.

### GERALD MOORE

**52, Black Cisgender Man, Madison, WI**

Gerald Moore was stabbed and died on June 24, 2017.

### AVA LE'RAY BARRIN

**17, Black Transgender Woman, Athens, GA**

Ava Le'Ray Barrin was shot after an argument in Athens, Georgia on June 25, 2017.

### MICHAEL "CHRIS" JONES

**Black Cisgender Man, Mount Vernon, NY**

Michael Jones, known to friends and family as Chris, died after his head struck the pavement during a fight on June 27, 2017.

### EBONY MORGAN

**28, Black Transgender Woman, Lynchburg, VA**

Ebony Morgan was killed in Lynchburg, Virginia on July 2, 2017.

### ROBERT LEE COVINGTON

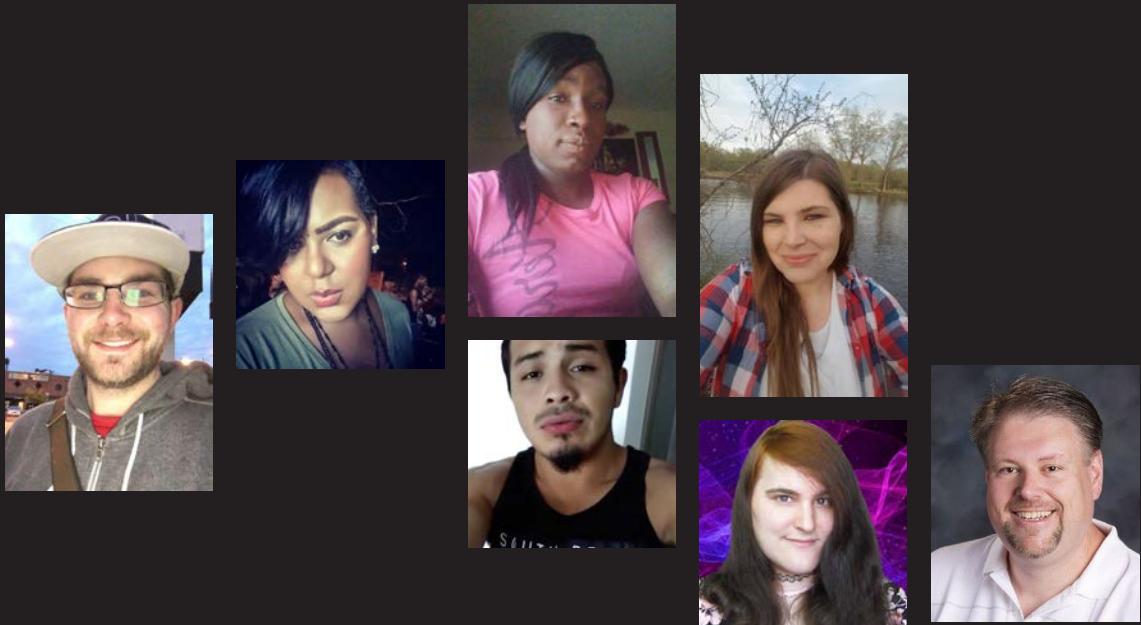
**54, White Cisgender Man, Dallas, TX**

Robert Lee Covington was found suffocated to death in his home in Dallas on July 7, 2017.

### RODRIGUEZ MONTEZ BURKS

**23, Black Cisgender Man, Munising, MI**

Rodriguez Montez Burks was killed by a fellow inmate in his cell at the Alger County Correctional Facility on July 20, 2017 in Munising, Michigan.



### TRENTON CORNELL-DURANLEAU

**26, White Cisgender Man, Chicago, IL**

Trenton Cornell-Duranleau was stabbed and died on July 27, 2017.

### TEETEE DANGERFIELD

**32, Black Transgender Woman, Atlanta, GA**

TeeTee Dangerfield was fatally shot while parked in her vehicle on the morning of July 31, 2017 in Atlanta, Georgia.

### JOHN JOLLY

**55, Black Cisgender Man, New York, NY**

John Jolly was stabbed to death on a street corner in Manhattan on August 2, 2017.

### JAYLOW MC

**29, Black Transgender Woman, Alexandria, LA**

Jaylow MC was killed in a residence on August 4, 2017 in Alexandria, Louisiana.

### JUAN JAVIER CRUZ

**22, Latinx Cisgender Man, Lake Worth, FL**

Juan Javier Cruz was fatally shot after defending his group of friends against homophobic slurs on August 6, 2017 in Lake Worth, Florida.

### FELICIA DORMANS

**29, White Cisgender Woman, Mount Holly, NJ**

Felicia Dormans died by gunshot on August 6, 2017.

### GWYNEVERE RIVER SONG

**26, White Transgender Person, Waxahachie, TX**

Gwynevere River Song was fatally shot on August 12, 2017, after an argument at home escalated into fatal violence.

### MARK BRANN

**67, Cisgender Man, Key West, FL**

Mark Brann was stabbed and died on August 15, 2017.

### RYAN D. THOMPSON

**35, White Cisgender Man, Portland, OR**

Ryan D. Thompson was strangled and stabbed on August 21, 2017.

### MIKE COLLINS

**46, White Cisgender Man, St. Clair County, AL**

Mike Collins was found dead in his apartment on August 21, 2017.



### KIWI HERRING

**30, Black Transgender Woman, St. Louis, MO**

Kiwi Herring was killed in St. Louis, Missouri on August 22, 2017.

### CARZELLA LITTLE

**20, Black Cisgender Woman, Huntsville, AL**

Carzella Little was fatally shot on August 26, 2017.

### KASHMIRE REDD

**28, Black Transgender Man, Gates, NY**

Kashmire Redd was stabbed and died on September 4, 2017.

### ALLY LEE STEINFELD

**17, White Transgender Woman, Texas County, MO**

Ally Lee Steinfeld was killed in Texas County, Missouri, on September 5, 2017.

### ANTHONY TORRES (BUBBLES)

**44, Cisgender Man, San Francisco, CA**

Anthony Torres, also known as Bubbles, was fatally shot on the sidewalk in the Tenderloin neighborhood of San Francisco on September 10, 2017.

### DERRICKA BANNER

**26, Black Transgender Woman, Charlotte, NC**

Derricka Banner was shot and killed in a vehicle on September 12, 2017 in Charlotte, North Carolina.

### ARIEL GONZALEZ

**50, Latinx Cisgender Man, Broward County, FL**

Ariel Gonzalez was found dead in his apartment on September 13, 2017.

### SCOUT SCHULTZ, 21

**White Nonbinary & Intersex Person, Atlanta, GA**

Scout Schultz was shot and killed on September 16, 2017 by Georgia Tech Campus Police in Atlanta, Georgia.

### GIOVANNI MELTON

**14, Black Cisgender Man, Henderson, NV**

Giovanni Melton was was fatally shot by his father, Wendell Melton, on October 2, 2017.

### ELIZABETH STEPHANIE MONTEZ

**47, Latinx Transgender Woman, Robstown, TX**

Elizabeth Stephanie Montez was fatally shot on October 21, 2017 near Robstown, Texas.



## CANDACE TOWNS

### **30, Black Transgender Woman, Macon, GA**

Candace Towns was fatally shot on October 31, 2017 in Macon, Georgia.

## SYDNEY LOOFE

### **24, White Cisgender Woman, Lincoln, NE**

Sydney Loofe was reported missing on November 16, 2017 after meeting up with a woman she met on a dating app.

## BROOKLYN BREYANNA STEVENSON

### **31, Black Transgender Woman, Oklahoma City, OK**

Brooklyn BreYanna Stevenson was fatally shot on November 27, 2017 in Oklahoma City, Oklahoma.

## DEVON WADE

### **Black Cisgender Man, Houston, TX**

Devon Wade was fatally shot early on the morning of November 27, 2017.

## BRANDI SEALS

### **26, Black Transgender Woman, Houston, TX**

Brandi Seals was fatally shot on December 13, 2017 in Houston, Texas.

## SHANTA MYERS & BRANDI MELLS

### **36, Black Cisgender Woman, Troy, NY &**

### **22, Black Cisgender Woman, Troy, NY**

Shanta Myers and her partner, along with two of their children, **Jeremiah** and **Shanise**, were bound and killed on December 26, 2017 in Troy, New York.

## KERRICE LEWIS

### **23, Black Cisgender Woman, Washington, D.C.**

Kerrice Lewis was killed in Washington, D.C. on December 28, 2017 after being shot and locked in the trunk of a car, which was then set on fire.

## KALADAA CROWELL

### **36, Black Cisgender Woman, West Palm Beach, FL**

Kaladaa Crowell and her daughter, **Kyra Inglett**, were fatally shot on December 28, 2017.

NCAVP is aware of the homicides below, however, little information is known about the circumstances of these cases. NCAVP lists their names here in remembrance, and in the hope that their loved ones can find some peace.

**ALEJANDRO SOLARTE**

**THEODORE MOORE**

**ARIEL GONZALEZ**

**GEORGE YUREK**

Your Name: \_\_\_\_\_  
Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ Time of Intake: \_\_\_\_ AM/PM  
 Staff       Volunteer       Intern      Location of Intake

## CALLER INFORMATION

Case Number: \_\_\_\_\_

Intake Type:  
 Hotline/Phone     Email  
 Mail     Ofc/Walk-in  
 Media     Website

Entered Into Database \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
Call Back Needed     Yes     No  
Primary Language \_\_\_\_\_

**Case Type(s)**  
(select all that apply):

**B:** Hate Violence    **I:** Intimate Partner Violence    **H:** HIV-related    **NA:** Hotline  
**P:** Police Violence    **S:** Sexual Violence    **Z:** Pick-up violence

Caller's Name: \_\_\_\_\_  
Caller's Address: \_\_\_\_\_

**Caller presents as** (check one):

Family     Friend     Lover/Partner     Offender  
 Organizational Survivor/Victim     Service provider  
 Survivor/Victim     Witness     Other

(specify): \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ Ok to call?   
Alt Phone: (\_\_\_\_) \_\_\_\_\_ Ok to call?   
Caller's E-mail: \_\_\_\_\_  
Ok to email?

**Caller assessed as** (For IPV cases, complete after using IPV Assessment Form):

Family     Friend     Lover/Partner     Offender  
 Organizational Survivor/Victim     Service provider  
 Survivor/Victim     Witness     Other

(specify): \_\_\_\_\_

**Caller Was Referred By** (Check one)

AVP Publicity     Court     Family     Friend     Hospital \_\_\_\_\_     Internet     LGBTQ Org \_\_\_\_\_  
 Media \_\_\_\_\_     Non-LGBTQ org     Phone Book     Police     Other (specify): \_\_\_\_\_

## SURVIVOR/VICTIM #1

## SURVIVOR/VICTIM INFORMATION

Number of Survivors/Victims: \_\_\_\_\_

(Attach 'Additional Survivor/Victims Form' to document other survivor/victims)

Survivor/Victim is:  Person     Organization

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Prefers contact via:     Phone     Email

OK to say 'AVP'?     Yes     No     Unk.

OK to leave message?     Yes     No     Unk.

OK to email 'AVP'?     Yes     No     Unk.

OK to receive mail?     Yes     No     Unk.

**AGE:**

< 14     40-49  
 15-18     50-59  
 19-24     60-69  
 25-29     70-79  
 30-39     > 80

Not disclosed

Age (if known): \_\_\_\_\_

D.O.B: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**GENDER ID** (check one that best fits the person's primary gender identity):

Transgender Woman  
 Transgender Man  
 Transgender Non-Binary  
 Cisgender Man  
 Cisgender Woman  
 Genderqueer  
 Gender Non-Conforming  
 Gender fluid  
 Self-Identified/Other (specify): \_\_\_\_\_

Unknown

**INTERSEX:**

Yes     No     Not disclosed

**RACE/ETHNICITY** (check all that apply):

Arab/Middle Eastern  
 Asian/Pacific Islander  
 Black/African American/  
African Descent  
 Indigenous/First People/  
Native American/ American Indian  
 Latina/o  
 White  
 Self-Identified/Other (specify): \_\_\_\_\_

**SEXUAL ORIENTATION:**

Bisexual  
 Gay  
 Heterosexual  
 Lesbian  
 Queer  
 Questioning/  
Unsure  
 Self-Identified/  
Other (specify): \_\_\_\_\_

**IMMIGRATION STATUS:**

U.S. citizen  
 Permanent resident  
 Undocumented  
 Other  
 Not disclosed

**INCOME:**

Yearly \_\_\_\_\_

Monthly \_\_\_\_\_

Do you receive any  
form of government  
assistance?  
Yes    No

**HIV STATUS:**

Survivor/victim is HIV+?  Yes     No     Not disclosed

**DISABILITY:**

Survivor/victim has a disability?  Yes     No     Not disclosed

If yes, check all that apply and specify:

Blind/Visually impaired: \_\_\_\_\_  
 Deaf/Hard of hearing: \_\_\_\_\_  
 Learning disability: \_\_\_\_\_

Mental health: \_\_\_\_\_

Physical: \_\_\_\_\_

**SURVIVOR/VICTIM USE OF ALCOHOL/DRUGS**Alcohol involved?  Yes  No  Not disclosedDrugs involved?  Yes  No  Not disclosed

If yes, describe: \_\_\_\_\_

**CASE/INCIDENT INFORMATION****2**

Date of Incident: \_\_\_/\_\_\_/\_\_\_ Time of Incident: \_\_\_:\_\_\_ am/pm

Location/ Address of

Precinct where incident occurred:

Incident: \_\_\_\_\_

ZIP \_\_\_\_\_

Is this a Serial Incident?  Yes  No  Unk.Previous police report filed?  Yes  No  Unk.If Yes: Number of Previous Incidents  1  2-5  6-10  11+  Unk. Ongoing since: \_\_\_ / \_\_\_**TYPE(S) OF VIOLENCE** (check all that apply): **VIOLENCE AGAINST PERSON** (check all that apply):

- Physical violence against person** (check all that apply):
- Forced use of alcohol/drugs
  - Murder
  - Attempted murder
  - Physical violence
  - Attempted physical violence
  - Robbery
  - Attempted robbery
  - Sexual violence
  - Attempted sexual violence
  - Self-injury
    - Suicide
    - Attempted suicide
    - Other self-harming behavior (*cutting, etc.*)

Was a weapon involved?

 Yes  No  Unknown

List weapon: \_\_\_\_\_

Did the person die?

 Yes  No  Unknown

Was the person injured?

 Yes  No  Unknown

If yes, severity of injury:

- No injuries requiring medical attention
- Injuries requiring medical attention (specify):
  - Needed but not received
  - Outpatient (Clinic/MD/ER)
  - Hospitalization/Inpatient
- Not disclosed

Type of injury (specify):  
\_\_\_\_\_  
\_\_\_\_\_ **Other violence against person** (check all that apply):

- Blackmail
- Bullying
- Discrimination
- Eviction
- False police reporting
- Financial
- Harassment (NOT in person: mail, email, tel. etc.)
- Isolation
- Limiting/restricting bathroom access
- Medical
- Psychological/Emotional abuse
- Sexual harassment
- Stalking
- Threats/Intimidation
- Use of children (threats, outing, etc.)
- Use of immigration status
- Verbal harassment in person
- Violence against pet
  - Pet injured
  - Pet killed
- Other (specify):  
\_\_\_\_\_

 **Police violence/misconduct** (check all that apply):

- Excessive force
- Police entrapment
- Police harassment
- Police raid
- Unjustified arrest
- Use of condoms as evidence

*Reported to internal/external police monitor?*

- Yes  No  Will Report
- Attempted, complaint not taken
- Not available  Unknown

 **Other** (specify): \_\_\_\_\_**SITE TYPE** (check one):

- Cruising area
- In or near LGBTQ-identified venue
- Media
- Non-LGBTQ-identified venue (bar, restaurant, etc.)
- Online/Internet
- Police precinct/ jail/ vehicle
- Public Transportation
- Private residence
- School/college/university
- Shelter
  - DV/IPV
  - Non-DV/IPV
- Street/public area
- Other (specify): \_\_\_\_\_
- Workplace (place where survivor or abusive partner is employed)
- Not disclosed

Was this incident related to pick-up violence?  Yes  No  Unknown

If yes, did survivor/victim &amp; offender meet through cruising website or phone app?

 Yes  No  Unknown

If yes, specify website/app:

- Adam4adam  Craigslist  Eros
- Grindr  Manhunt  Rentboy
- Other website/app (specify): \_\_\_\_\_

**MOTIVE** (check all that apply):

- Intimate partner violence
- Economic
- Pick-up violence
- Police violence
- Sexual violence
- Bias violence
  - Anti-Homelessness/Classism
  - Anti-Immigrant
  - Anti-LGBQ/Homophobia/ Biphobia
  - Anti-Sex worker
  - Anti-Transgender/Transphobia
  - Disability
  - HIV/AIDS-related

**VIOLENCE AGAINST PROPERTY** (check all that apply):

- Arson  
 Theft  
 Vandalism  
 Other (specify): \_\_\_\_\_

\*Est. stolen/damaged property value:

\$ \_\_\_\_\_

 Racist/Anti-ethnic Religious (specify perceived religion): \_\_\_\_\_ Sexist Other (specify): \_\_\_\_\_ Unknown**OFFENDER INFORMATION****3****Total Number of Offenders:**Is offender a member of identifiable **hate group?**  Yes  No  Unk.

Hate group's name(s): \_\_\_\_\_

Vehicle used in case/incident?  Yes  No If yes, describe vehicle:

License #:

**Note: If there is more than one offender, CREATE A DESIGNATION FOR EACH OFFENDER for use in the blank following each demographic category below (A, B, C, etc.)**

Offender A Name: \_\_\_\_\_ Offender B Name: \_\_\_\_\_ Offender C Name: \_\_\_\_\_

**OFFENDER(S) KNOWN TO SURVIVOR?**  Yes  No If YES, fill out 1), below. If NO, fill out 2).**1) KNOWN OFFENDER(S): RELATIONSHIP TO SURVIVOR/VICTIM:**

- Acquaintance/Friend  Employer/Co-Worker  Ex-Lover/Partner ( Live-in  Non Live-In)  Landlord  
 Lover/Partner ( Live-in  Non Live-In)  Pick-Up  Police  Other law enforcement (FBI, ICE, etc.)  
 Other first responder (EMT, Court personnel, etc.)  Relative/Family  Roommate  Service provider  
 Tenant/Neighbor  Other (specify): \_\_\_\_\_  Unknown

**2) UNKNOWN OFFENDER: RELATIONSHIP TO SURVIVOR/VICTIM:**

- Police  Other law enforcement (FBI, ICE, etc.)  Other first responder (EMT, Court personnel, etc.)  
 Pick-Up  Stranger  Other (specify): \_\_\_\_\_  Unknown

**AGE:**

- 14 or under \_\_\_\_\_  
 15-18 \_\_\_\_\_  
 19-24 \_\_\_\_\_  
 25-29 \_\_\_\_\_  
 30-39 \_\_\_\_\_  
 40-49 \_\_\_\_\_  
 50-59 \_\_\_\_\_  
 60-69 \_\_\_\_\_  
 70-79 \_\_\_\_\_  
 80 or over \_\_\_\_\_  
 Not disclosed \_\_\_\_\_  
Age (if known) \_\_\_\_\_  
D.O.B: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**GENDER ID** (check all that apply):

- Man \_\_\_\_\_  
 Woman \_\_\_\_\_  
 Non-Transgender \_\_\_\_\_  
 Transgender \_\_\_\_\_  
 Self-Identified /Other \_\_\_\_\_  
(specify): \_\_\_\_\_  
 Not Disclosed \_\_\_\_\_  
 Unknown \_\_\_\_\_

**INTERSEX:**

- Yes  No  
 Not disclosed  Unknown

**RACE/ETHNICITY**

(check all that apply):

- Arab/Middle Eastern \_\_\_\_\_  
 Asian/Pacific Islander \_\_\_\_\_  
 Black/African American/  
African Descent \_\_\_\_\_  
 Indigenous/First People/  
Native American/  
American Indian \_\_\_\_\_  
 Latina/o \_\_\_\_\_  
 White \_\_\_\_\_  
 Self-Identified /Other \_\_\_\_\_  
(specify): \_\_\_\_\_  
 South Asian \_\_\_\_\_  
 Not disclosed \_\_\_\_\_  
 Unknown \_\_\_\_\_

**SEXUAL ORIENTATION:**

- Bisexual \_\_\_\_\_  Gay \_\_\_\_\_  
 Heterosexual \_\_\_\_\_  Lesbian \_\_\_\_\_  
 Queer \_\_\_\_\_  Questioning/Unsure \_\_\_\_\_  
 Self-Identified/Other \_\_\_\_\_  
(specify): \_\_\_\_\_  
 Not disclosed \_\_\_\_\_  Unknown \_\_\_\_\_

**OFFENDER USE OF ALCOHOL/DRUGS**

Alcohol involved?

- Yes  No  Not disclosed  Unk.

Drugs involved?

- Yes  No  Not disclosed  Unk.

If yes, describe:

\_\_\_\_\_  
\_\_\_\_\_**POLICE/COURT RESPONSE**Did survivor/victim interact with police in any way?  Yes  No  Unknown**POLICE RESPONSE**

What was police attitude toward survivor/victim?

- Courteous  Indifferent  Hostile  Unk.

Did police do any of following to survivor/victim?

(check all that apply):

- Arrest survivor/victim  
 Verbal abuse  
 Use slurs or bias language

**POLICE REPORTING**

Did survivor/victim report incident to police?

- Yes  No  Unknown  Will report

Did the police take a complaint?  Yes  No Complaint # \_\_\_\_\_Did the police arrest the offender(s)?  Yes  No  Unknown

Police involved (check all that apply):

- City/Muni.  County  State  Federal (specify): \_\_\_\_\_

- Physical violence  
 Police refused to take compliant  
 Sexual violence  
 Other negative behaviors (specify): \_\_\_\_\_

Other (please specify): \_\_\_\_\_ Police Badge # \_\_\_\_\_

#### PROTECTIVE ORDERS

Was a protective order sought by survivor/victim?

- Yes  No  Unknown

Was the protective order granted?

- Yes  No  Unknown

Protective order obtained (check all that apply):

- By survivor/victim  By offender  Both survivor/victim & offender  
 Civil  Criminal  DV  Non-DV  Temporary  Permanent  
 Unknown

## POLICE/COURT RESPONSE (continued)

4

#### DOMESTIC VIOLENCE CLASSIFICATION

N/A

Did the survivor/victim identify the case/incident as domestic violence?  Yes  No  Unknown

Did the police classify the case/incident as domestic violence?  Yes  No  Unknown

If criminal case, was the case/incident classified as domestic violence by prosecutors?

- Yes  No  In process  Unknown

#### BIAS INCIDENT CLASSIFICATION

N/A

Did the survivor/victim describe the incident as hate-motivated?

- Yes  No  Unknown

Did the police classify the incident as hate-motivated?

- Yes  No  Unknown

Was the incident classified as a hate crime by prosecutors?

- Yes  No  In process  Unknown

## SERVICES PROVIDED

GENERAL SERVICES	ADVOCACY (check all types that apply):	REFERRALS (check all that apply):	FOLLOW-UP NEEDED?
<input type="checkbox"/> Counseling <input type="checkbox"/> Safety planning	<input type="checkbox"/> Housing <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Mental health  <input type="checkbox"/> Police <input type="checkbox"/> Public benefits <input type="checkbox"/> Disability/SSD <input type="checkbox"/> Medicaid/Medicare <input type="checkbox"/> Public Assistance/Food Stamps <input type="checkbox"/> Shelter/Housing <input type="checkbox"/> Unemployment  <input type="checkbox"/> Other (specify): _____	<input type="checkbox"/> Housing <input type="checkbox"/> Legal <input type="checkbox"/> Shelter <input type="checkbox"/> DV <input type="checkbox"/> Homeless <input type="checkbox"/> Medical <input type="checkbox"/> Police <input type="checkbox"/> Other (specify): _____	<input type="checkbox"/> Agency follow-up <input type="checkbox"/> Caller follow-up

#### CASE STATUS & MANAGEMENT (Staff Only)

Case Opened **Assigned to:** \_\_\_\_\_

Case Closed

Case Reassignment **Re-assigned to:** \_\_\_\_\_

Case Data Update

Re-Opened Closed Case **Assigned to:** \_\_\_\_\_

Quality Status Review

Case Conference Presentation

## NARRATIVE

In your description of the case/incident, please make sure that you give the scenario of the violence, including the use of weapons, the specific anti-LGBTQ words used (if any), and extent of injuries.

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# Total Aggregate Figures

## Description of IPV Survivors Who Reported to NCAVP

Age	Count	% of Total
18 and younger	39	2%
19-29 years old	449	30%
30-39 years old	441	30%
40-49 years old	259	18%
50-59 years old	201	14%
60-69 years old	70	5%
70 years old and older	9	1%
Gender Identity	Count	% of Total
Transgender Women	191	11%
Transgender Man	70	4%
Cisgender Woman	580	34%
Cisgender Man	754	45%
Transgender Non-Binary	13	1%
Gender Non-Conforming	15	3%
Gender Fluid	5	<1%
Gender Queer	12	1%
Self-identified/Other	48	3%
Gender	Count	% of Total
Bisexual	196	13%
Gay	648	44%
Heterosexual	208	14%
Lesbian	202	14%
Queer	129	9%
Questioning/Unsure	21	1%
Self-Identified	71	5%

Race & Ethnicity*	Count	% of Total
Arab/Middle Eastern	18	1%
Asian/Pacific Islander	54	4%
Black/African American	327	21%
Native American/ American Indian	12	1%
Latino/a/@	417	27%
Multiracial	70	5%
White	598	39%
Self-Identified/Other	38	2%
Disability Status	Count	% of Total
Disability reported	278	44%
Disability not reported	355	56%
Type of Disability	Count	% of Total
Blind	3	1%
Deaf	4	2%
Learning disability	25	12%
Mental Health Disability	103	48%
Physical Disability	41	37%
HIV Status	Count	% of Total
HIV Positive	236	38%
HIV Negative	390	62%
Immigration Status	Count	% of Total
US Citizen	740	78%
Permanent Resident	34	4%
Undocumented	70	7%
Other	106	11%

\* For these variables, survivors were able to choose more than one answer choice. The numbers and percentages reflect the total number of responses to this variable rather than respondents.

## Description of HV Survivors Who Reported to NCAVP

<b>Age</b>	<b>Count</b>	<b>% of Total</b>
18 and younger	42	7%
19-29 years old	170	16%
30-39 years old	167	28%
40-49 years old	90	15%
50-59 years old	82	14%
60-69 years old	36	6%
70 years old and older	5	1%
<b>Gender Identity</b>	<b>Count</b>	<b>% of Total</b>
Transgender Women	147	22%
Transgender Man	56	8%
Cisgender Woman	100	15%
Cisgender Man	272	41%
Transgender Non-Binary	13	2%
Gender Non-Conforming	32	5%
Gender Fluid	5	1%
Gender Queer	7	1%
Self-identified/Other	35	5%
<b>Gender</b>	<b>Count</b>	<b>% of Total</b>
Bisexual	84	14%
Gay	275	45%
Heterosexual	72	12%
Lesbian	94	15%
Queer	36	6%
Questioning/Unsure	24	4%
Self-Identified	28	5%

Race & Ethnicity*	Count	% of Total
Arab/Middle Eastern	15	2%
Asian/Pacific Islander	19	3%
Black/African American	139	22%
Native American/ American Indian	9	1%
Latino/a/@	129	21%
Multiracial	49	8%
White	221	35%
Self-Identified/Other	44	7%
Disability Status	Count	% of Total
Disability reported	162	38%
Disability not reported	259t	62%
Type of Disability	Count	% of Total
Blind	6	4%
Deaf	1	1%
Learning disability	20	14%
Mental Health Disability	74	52%
Physical Disability	41	29%
HIV Status	Count	% of Total
HIV Positive	93	35%
HIV Negative	176	65%
Immigration Status	Count	% of Total
US Citizen	425	80%
Permanent Resident	21	4%
Undocumented	57	11%
Other	27	5%

\* For these variables, survivors were able to choose more than one answer choice. The numbers and percentages reflect the total number of responses to this variable rather than respondents.

## Information About Incidents of Hate Violence

<b>Violence Type**</b>	<b>Count</b>	<b>% of Total</b>
Physical Violence	187	10%
Attempted Physical Violence	45	3%
Financial (Economic Violence)	45	3%
Sexual Violence	64	4%
Bullying	154	9%
Discrimination	187	10%
Harassment (online, telephone, and mail)	98	5%
Isolation	34	2%
Sexual Harassment	18	1%
Stalking	60	3%
Threats/Intimidation	225	13%
Verbal Harassment in Person	312	17%
Vandalism	34	2%
Police Violence	16	1%

<b>Survivor Injured?</b>	<b>Count</b>	<b>% of Total</b>
Yes	175	46%
No	207	54%

<b>Medical Attention Sought?</b>	<b>Count</b>	<b>% of Total</b>
Yes	138	42%
No	192	58%

<b>Underlying Bias*†</b>	<b>Count</b>	<b>% of Total</b>
Anti-Immigrant	16	2%
Heterosexist/Anti-LGBTQ	495	60%
Anti-Sex Worker	21	3%
Anti-Transgender	142	17%
Anti-Disability	14	2%
HIV/AIDS Related	16	2%
Racist/Ethnic	29	4%
Sexist	15	1%
Religious	61	7%
Other	13	1%

<b>Site Type</b>	<b>Count</b>	<b>% of Total</b>
Cruising Area	30	5%
LGBTQ Venue	2	<1%
Non-LGBTQ Venue	34	6%
Police Precinct, Jail, Vehicle	8	1%
Private Residence	168	29%
School, College, University	45	8%
Shelter	39	7%
Street	67	11%
Workplace	140	24%
Other	53	9%

\* For these variables, survivors were able to choose more than one answer choice. The numbers and percentages reflect the total number of responses to this variable rather than respondents.

§ Violence types included a number of other types of violence that represented less than one percent of the total responses, including but not limited to murder, attempted murder, blackmail, medical violence, and eviction.

† Anti-religious bias was another type of bias but equaled less than 1%.

## Information About Police Responses to Survivors of Hate Violence

<b>Survivor Interacted with Police?</b>	<b>Count</b>	<b>% of Total</b>
Yes	200	44%
No	265	57%
<b>Police Attitudes When Reporting</b>	<b>Count</b>	<b>% of Total</b>
Courteous	41	24%
Indifferent	93	55%
Hostile	34	20%
<b>Police Misconduct</b>	<b>Count</b>	<b>% of Total</b>
Any Misconduct	47	13%
No Misconduct	315	87%
<b>Type of Misconduct Reported</b>	<b>Count</b>	<b>% of Total</b>
Excessive Force	16	44%
Entrapment	0	0%
Police Raid	0	0%
Unjustified Arrest	20	56%
<b>Police Behavior</b>	<b>Count</b>	<b>% of Total</b>
Arrest Survivor	19	25%
Verbal Abuse	12	16%
Slurs or Bias Language	24	32%
Physical Violence	6	8%
Sexual Violence	1	1%
Other Negative	14	18%

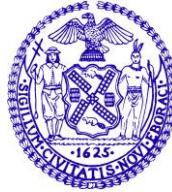
## Services Provided to HV Survivors

Referrals	Count	% of Total
Counseling	355	21%
Housing	174	10%
Legal	350	21%
Shelter	171	10%
Domestic Violence	114	7%
Homeless	86	5%
Medical	175	10%
Police	46	3%
Other	226	13%
Advocacy	Count	% of Total
Housing	193	15%
Legal	276	15%
Medical	146	4%
Mental Health	174	17%
Public Benefits	87	4%
Police	98	8%
Other	225	37%
Unknown	3	1%

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The City of New York  
Department of Investigation

MARK G. PETERS  
COMMISSIONER

Inspector General Philip K. Eure  
Office of the Inspector General for the NYPD

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[nyc.gov/doi](http://nyc.gov/doi)

**FOR IMMEDIATE RELEASE  
TUESDAY, NOVEMBER 21, 2017**

**CONTACT: DIANE STRUZZI  
NICOLE TURSO  
(212) 825-5931**

**DOI INVESTIGATION FINDS GAPS IN NYPD'S IMPLEMENTATION OF 2012 PATROL GUIDE REVISIONS  
FOR LGBTQ AND TGNC PEOPLE**

The New York City Department of Investigation ("DOI") issued a Report today examining the New York City Police Department's ("NYPD") implementation of Department protocols, revised in 2012, which govern officer interactions with transgender and gender nonconforming ("TGNC") people. The protocols represent an important step in improving police interactions with the LGBTQ community. However, the Report found some gaps in NYPD's implementation of the revisions, such as not all officers have received training on the new policies. DOI's Report also found certain flaws in the Department's ability to track Lesbian, Gay, Bisexual, Transgender and Queer ("LGBTQ")-related complaints that allege police misconduct. A copy of DOI's Report is attached to this release and can be found at the following link: <http://www1.nyc.gov/site/doi/newsroom/public-reports.page>

Commissioner Mark G. Peters said, "The NYPD's protocols are an important step in making sure that the rights of all New Yorkers are protected and respected. We must now make sure that all NYPD officers get full training and that the NYPD can fully track issues going forward."

DOI's Inspector General for the NYPD Philip K. Eure said, "These Patrol Guide changes are a significant statement of proper interaction between police officers and LGBTQ people. Victims of crime and witnesses to crime who identify as LGBTQ will be more likely to work with law enforcement when the Patrol Guide changes are fully implemented throughout the entire force."

The 2012 Patrol Guide revisions reviewed in this Report were largely intended to improve NYPD engagement with LGBTQ people during arrest processing and to improve community relations. The revisions stemmed from past negotiations between the NYPD, members of the New York City Council, and representatives from the LGBTQ community. The revisions affected 12 Patrol Guide procedures, ranging from requiring officers to address people who are arrested by their preferred name to prohibiting strip searches to determine gender.

DOI's Report found that although the NYPD has developed trainings on LGBTQ and TGNC issues and the corresponding Patrol Guide provisions, not all members of the police force have received instruction on the revised protocols. Instead, the training has been limited to academy recruits, starting with the class of 2012, newly-promoted sergeants, lieutenants, and captains, and optional in-service training at precincts, as needed. DOI found that while trainings for recruits and officers receiving promotions were comprehensive, the impact and reach of in-service trainings have been insufficient. For example, according to records kept by the NYPD Community Affairs Bureau, between 2012 and 2016 only six of NYPD's 77 precincts received this training.

The investigation also determined that NYPD does not currently track all LGBTQ-related complaints alleging bias by police officers. While NYPD has tracked “profiling” complaints since 2014 and certain offensive language complaints since January 2017, these categories do not capture other LGBTQ-related complaints that may violate the Patrol Guide revisions or involve other types of biased conduct. This means that the NYPD’s Internal Affairs Bureau (“IAB”) is not properly classifying and tracking all complaints from the LGBTQ community. As a result, NYPD is limited in its ability to detect violations of the Patrol Guide changes, perform internal assessments regarding the possible existence of biased policing issues affecting the LGBTQ community, and implement new training to reduce instances of discrimination. Notably, NYPD has not substantiated any allegations of profiling since this category was created in 2014.

The Report makes several recommendations in the areas of training, name recording on forms and databases, and properly categorizing and tracking LGBTQ-related complaints from the public. Some key recommendations include:

- NYPD should provide mandatory in-service training and accompanying resource materials on the 2012 Patrol Guide revisions to all uniformed members during roll call sessions in each precinct through the NYPD-U webinar platform. Training attendance and completion should be tracked to ensure that all members of the police force have received this training.
- NYPD should, within six months, report to DOI on whether and how the Department will change remaining forms and databases to record an individual’s preferred name in a separate field.
- NYPD should ensure that police stations are using updated forms, especially those documents pertaining to the 2012 revisions.
- NYPD IAB’s complaint system should be configured to classify and track all LGBTQ-related complaints alleging bias (not just profiling and offensive language allegations). Such allegations would include violations of the 2012 Patrol Guide revisions.
- NYPD IAB should report patterns and trends associated with LGBTQ-related complaints to the LGBT Liaison to the Police Commissioner to track and monitor LGBT issues.

*DOI is one of the oldest law-enforcement agencies in the country and New York City's corruption watchdog. Investigations may involve any agency, officer, elected official or employee of the City, as well as those who do business with or receive benefits from the City. DOI's strategy attacks corruption comprehensively through systemic investigations that lead to high-impact arrests, preventive internal controls and operational reforms that improve the way the City runs.*

DOI's press releases can also be found at [twitter.com/doinews](http://twitter.com/doinews)  
**Bribery and Corruption are a Trap. Don't Get Caught Up. Report It at 212-3-NYC-DOI.**



**New York City Department of Investigation's  
Office of the Inspector General for the NYPD**

**REVIEW OF NYPD'S IMPLEMENTATION OF PATROL GUIDE  
PROCEDURES CONCERNING TRANSGENDER AND GENDER  
NONCONFORMING PEOPLE**

**MARK G. PETERS  
COMMISSIONER**

**PHILIP K. EURE  
INSPECTOR GENERAL FOR THE NYPD**

**November 2017**

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## I. Executive Summary

In June 2012, the New York City Police Department (NYPD) revised Patrol Guide protocols governing officer interactions with transgender and gender nonconforming (TGNC) people.<sup>1</sup> These changes were made after lengthy negotiations between NYPD and representatives of the New York City Council, and the Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) community. They marked a shift in NYPD and LGBTQ community relations in a city with both the largest police department and the greatest population of LGBTQ people in the nation.<sup>2</sup>

The Patrol Guide revisions stemmed from decades of a historically tumultuous relationship between NYPD and the LGBTQ community, which has been well documented.<sup>3</sup>

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\* NYC Department of Investigation Commissioner Mark G. Peters and Inspector General for the NYPD Philip K. Eure thank the staff of OIG-NYPD for their efforts in helping to produce this Report, especially Asim Rehman, General Counsel; Candace McCoy, Director of Policy Analysis; Hassan Naveed, Director of Outreach; David Rozen, Assistant Counsel; Adrian Amador, Policy Analyst; Percival Rennie, Investigative Auditor; and Brigitte Watson, Senior Investigator; as well as other current and former staff. Our gratitude is also extended to the New York City Police Department for its cooperation during the preparation of this Report.

<sup>1</sup> See New York City Police Department Patrol Guide, NYPD, [http://www.nyc.gov/html/nypd/downloads/pdf/public\\_information/public-pguide1.pdf](http://www.nyc.gov/html/nypd/downloads/pdf/public_information/public-pguide1.pdf) (last visited November 17, 2017). Throughout this Report, "TGNC" is used to describe people who identify as transgender or whose gender does not conform to a binary male/female identity. "LGBTQ" is used as a more comprehensive acronym to describe the broader community. This Report recognizes that no acronym is completely inclusive.

<sup>2</sup> See Frank Newport and Gary J. Gates, *San Francisco Metro Area Ranks Highest in LGBT Percentage*, GALLUP, March 20, 2015, available at <http://www.gallup.com/poll/182051/san-francisco-metro-area-ranks-highest-lgbt-percentage.aspx> (last visited November 17, 2017). The San Francisco metropolitan area has the highest percentage of LGBTQ residents, while the New York City metropolitan area has the highest population in total numbers.

<sup>3</sup> See Civilian Complaint Review Board, PRIDE, PREJUDICE AND POLICING: AN EVALUATION OF LGBTQ-RELATED COMPLAINTS FROM JANUARY 2010 THROUGH DECEMBER 2015, June 30, 2016, available at <http://www.nyc.gov/html/ccrb/downloads/pdf/LGBTQ-Report.pdf> (last visited November 17, 2017). See also The Center for Constitutional Rights, STOP AND FRISK, THE HUMAN IMPACT: THE STORIES BEHIND THE NUMBERS, THE EFFECTS ON OUR COMMUNITIES, July 26, 2012, available at <https://ccrjustice.org/sites/default/files/attach/2015/08/the-human-impact-report.pdf> (last visited November 17, 2017).

Following a series of allegations of police misconduct in the mid-2000s, some of which resulted in legal action, LGBTQ groups joined together to advocate for revisions to the Patrol Guide.<sup>4</sup>

These 2012 Patrol Guide revisions established policies that:

- Require that people be referred to by names, titles of respect, and pronouns consistent with their gender identities as expressed by the individual, whether or not these are reflected on legal identification documents. (P.G. § 203-10)
  - Require that NYPD use a person's preferred name in addition to legal name on specific forms: *Prisoner Pedigree Card*, *Prisoner Movement Slip*, and *On Line Booking System Arrest Worksheet*.<sup>5</sup> (P.G. § 208-03)
  - Prohibit using the fact that a person gave a preferred name rather than a legal name as evidence of a charge of "false personation." (P.G. §§ 208-02;208-28; 208-54; 209-24; 209-26)
  - Extend the prohibition on the use of discourteous or disrespectful remarks by members of NYPD to include remarks about gender identity or expression.
- (P.G. § 203-10)

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<sup>4</sup> The allegations included conducting strip searches to determine gender, handcuffing TGNC detainees to benches and railings for long periods of time, and physically abusing TGNC people. Two transgender women of color successfully challenged their arrests for loitering for the purposes of prostitution in New York City in 2008 (*Lamot v. City of New York et al.*, S.D.N.Y., 08cv5300) and 2011 (*Combs v. City of New York et al.*, S.D.N.Y., 11cv3831). See also *Angelina Mavilla v. The City of New York*, S.D.N.Y., 110cv00617 and Amended Complaint and Demand for Jury Trial, *Breslauer v. City of New York*, S.D.N.Y., 12CV558.

<sup>5</sup> *Prisoner Pedigree Cards* record identifying information about detainees. *Prisoner Movement Slips* document identifying information of prisoners at the precinct or Central Booking and document strip searches. The *On Line Booking System Arrest Worksheet* is completed during the booking process and serves as a paper copy of information that will ultimately be recorded in the *OmniForm* database, NYPD's repository of arrests and crime complaints.

- Prohibit searches conducted for the sole purpose of determining a person's gender and prohibit officers from asking questions about an arrestee's anatomy without a reasonable basis for the questioning. (P.G. § 208-05)
- Prohibit NYPD School Safety Agents from strip searching any students. (P.G. § 215-18)
- Require that searches of people in custody be conducted by an officer of the gender requested by the arrestee, or, if not possible, to note the reason in the command log. (P.G. §§ 208-05; 210-08)
- Require that at no time may individual arrestees who self-identify as male be detained in the same holding pen as arrestees who self-identify as female. (P.G. §§ 203-10; 210-01; 210-08)
- Consider transgender people as "Special Category Prisoners" and hold them separately from other prisoners *only* when there is an articulable safety risk posed to such individuals or other detainees.<sup>6</sup> (P.G. §§ 208-27; 210-17)
- Prohibit NYPD officers from handcuffing Special Category Prisoners (which can include transgender people) to objects like rails, bars, or chairs for "extended" periods of time. (P.G. § 210-17)
- Prohibit NYPD officers from "profiling" based on sexual orientation, gender identity, or gender expression. (P.G. § 203-25)

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<sup>6</sup> A "Special Category Prisoner" is a person in custody who should not be placed in a holding cell with other detainees due to a medical concern, safety risk, or health risk. See New York City Police Department Patrol Guide, *supra* note 1 at P.G. § 210-17. There is no automatic "at-risk" determination simply because a person is transgender and/or gender non-conforming.

Despite these new protocols, many LGBTQ organizations and service providers maintain that certain rules in the revised Patrol Guide are not being followed. The Department of Investigation's (DOI) Office of the Inspector General for the NYPD (OIG-NYPD) gathered information from these organizations through interviews, attendance at LGBTQ town halls meetings with transgender groups, and attendance at events focusing on policing.<sup>7</sup>

Specifically, community members reported officers ignoring preferred names and gender identities, using slurs related to gender identity and sexual orientation, and refusing to take crime reports from transgender and gender nonconforming individuals. TGNC people of color in particular reported feeling targeted by prostitution stops due to community perspectives of officers' misconceptions that transgender people are more likely to be sex workers. LGBTQ groups stated that some community members feel uncomfortable approaching police to report crimes and seldom file complaints against police officers due to fears of reprisal. These community concerns, while general and anonymous in nature, underscored the importance of investigating whether NYPD has sufficiently implemented and trained on the Patrol Guide revisions.

Echoing community concerns, OIG-NYPD received a number of requests to investigate NYPD's compliance with the revised protocols, including from New York City Council Member Ritchie Torres. In addition, in 2016 the Speaker of the New York City Council's Young Women's Initiative recommended an audit of the implementation of the 2012 Patrol Guide revisions.

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<sup>7</sup> Many of these organizations provide services to TGNC victims of violence and some groups collect self-reported data on alleged police misconduct, offering OIG-NYPD a great deal of information not otherwise obtainable through traditional data collection methods.

DOI's OIG-NYPD opened an investigation into: 1) NYPD's implementation of and adherence to the 2012 Patrol Guide revisions and 2) NYPD's handling of complaints of officer misconduct where the subject's actual or perceived sexual orientation or gender identity may be related to their complaint, including allegations of bias.

OIG-NYPD's review found clear gaps in NYPD's implementation of and training on the revisions as well as inadequacies in how the Department tracks LGBTQ-related complaints alleging police misconduct.<sup>8</sup> Specifically:

- Although NYPD trainings cover LGBTQ and TGNC issues and corresponding Patrol Guide provisions, not all members of the police force have received this instruction.
- Even though NYPD has given out the revised protocols to its uniformed personnel, the Department has not explained to all officers why the changes were necessary or that they specifically apply to TGNC people.
- NYPD changed the way it records preferred name on three forms: the *Prisoner Pedigree Card*, the *On Line Booking System Arrest Worksheet*, and the *Prisoner Movement Slip*. Yet there are a number of other important forms that NYPD uses to document significant police interactions and to identify TGNC victims, complainants, and arrestees that have not been changed to record preferred name. (As discussed below, NYPD may need to consider changes to at least some of these forms as well.)

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<sup>8</sup> As discussed throughout this Report, it is difficult to determine compliance with some of the revised protocols because NYPD does not track all Patrol Guide violations relating to interactions with people who openly identify as TGNC. For instance, while "strip searches solely to determine gender" are prohibited, NYPD does not track alleged violations of this rule.

- NYPD does not currently capture and track all LGBTQ-related allegations implicating biased conduct. While the Department has tracked “profiling” complaints (“any action taken or not taken due to bias on the part of the officer”) since 2014, this category does not capture other bias allegations pertinent to the LGBTQ community, such as violations of some Patrol Guide revisions. Even the new “Offensive Language: Gender Identity” and “Offensive Language: Sexual Orientation” classifications, as titled, do not fully capture potentially biased conduct. Notably, NYPD has not substantiated any allegations of profiling since it created that category in 2014.
- NYPD’s current complaint system limits the Department’s ability to detect violations of the revisions, perform internal assessments regarding the possible existence of biased policing issues affecting the LGBTQ community, and adopt policies and implement training to reduce instances of discrimination.

As part of its review, OIG-NYPD’s investigation resulted in several recommendations proposing how NYPD can improve its processing of TGNC arrestees and interactions with LGBTQ and TGNC communities. These recommendations include:

- Within six months, NYPD should report to OIG-NYPD whether and how the Department will change remaining forms and databases to record an individual’s preferred name in a separate field.
- NYPD should provide mandatory in-service training and accompanying resource materials on the 2012 Patrol Guide revisions to all uniformed members through the NYPD-U webinar platform. Training attendance and completion should be tracked

to ensure that all members of the police force have received this training. NYPD should conduct this training within the next six months.

- NYPD should consult with its LGBT Advisory Committee to re-examine whether and how to record gender identity information of TGNC people on NYPD forms and databases.<sup>9</sup> The collection of this information is a sensitive matter for some members of the LGBTQ community. Any changes in how such information is recorded must not interfere with NYPD's ability to describe and circulate descriptions of suspects and persons of interest for purposes of apprehension.
- NYPD Internal Affairs Bureau's (IAB) complaint system should be configured to categorize and track all LGBTQ-related allegations that implicate biased conduct, and not just "profiling." LGBTQ-related allegations involving bias would include violations of the 2012 Patrol Guide revisions and "offensive language."
- IAB should report patterns or trends associated with LGBTQ-related complaints to NYPD's LGBT Liaison to the Police Commissioner as well as to DOI pursuant to NYPD's reporting obligations under Local Law 70.

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<sup>9</sup> This committee is comprised of community stakeholders who work directly with NYPD's LGBT Liaison to the Police Commissioner in order to strengthen relations between NYPD and the LGBTQ community.

## **II. Methodology**

OIG-NYPD began its investigation with a review of policy materials, then interviewed NYPD personnel and LGBTQ community representatives who participated in the negotiation process that resulted in the Patrol Guide revisions. OIG-NYPD also reviewed NYPD's training materials, observed classes on LGBTQ and TGNC issues for recruits and newly-promoted sergeants, lieutenants, and captains, and interviewed the police personnel who develop and teach the courses. In addition, OIG-NYPD investigated NYPD's implementation plan for launching the Patrol Guide revisions by interviewing several high-ranking members of NYPD. To determine NYPD's compliance with the new protocols requiring the use and recording of preferred names, OIG-NYPD examined select NYPD forms and databases used for arrest processing and the recording of crime complaints. To ascertain whether the new forms were being used, OIG-NYPD staff visited several police stations and asked to see the versions of the forms in use. Finally, to assess how NYPD tracks and investigates LGBTQ-related complaints against the police, OIG-NYPD interviewed staff at NYPD's Internal Affairs Bureau and conducted an in-depth analysis of allegations filed with the Department in 2015.

## **III. Findings**

### **A. NYPD's Implementation of the Patrol Guide Revisions**

#### ***1. Communicating the Revisions to Members of Service***

Writing new rules is only the first step in changing police practices. A full implementation plan involves informing NYPD personnel that protocols have changed,

incorporating training on gender identity and sexual orientation, and conveying that NYPD takes seriously its commitment to an improved relationship with the TGNC community. OIG-NYPD's investigation found instances of deficient implementation in each of these areas.

NYPD released the new protocols through interim orders in June and September 2012.<sup>10</sup> The Department reports that it took the following initial steps to ensure that its personnel understood them: 1) a Training Memorandum to the Police Academy in October 2012 summarizing the changes; 2) an October 2012 in-service training at the Police Academy to advise training sergeants on the new rules; and 3) new curricula regarding the revisions for recruit training and promotional training.<sup>11</sup> More recently, on May 26, 2017, after OIG-NYPD commenced this investigation, NYPD sent an email to all officers, reiterating that searches to determine gender and questions about anatomy are not permitted.<sup>12</sup> NYPD sent the email following numerous meetings with and documents submitted by OIG-NYPD to NYPD about the Patrol Guide changes.

Despite these steps, the Department did not issue a Memo Book insert on protocols for engaging with TGNC people, a practice that is used to remind officers of proper procedure or

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<sup>10</sup> An Interim Order is a temporary document detailing a new protocol. These orders are issued to NYPD personnel when new rules go into effect, and, barring any intervening edits, they become permanent in the next edition of the Patrol Guide.

<sup>11</sup> See Appendix A for the full text of the October 2012 Police Academy Training Memorandum.

<sup>12</sup> See Appendix B for the full text of this email.

legal definitions. These inserts can be used as immediate resources in the field and underscore the importance that the Department places on particular issues.<sup>13</sup>

NYPD's October 2012 Training Memorandum adequately summarized the new rules and provided a comprehensive explanation about the revisions. NYPD, however, distributed this memo only to Police Academy staff and some training sergeants who attended an October 2012 command level training. NYPD reported to OIG-NYPD that 16 out of 97 commands did not attend that training. This means many training sergeants within the Department did not attend the October 2012 training. Training sergeants serve as the primary instructors and are required to attend monthly training modules at the Police Academy. As a result of the 2012 training, only a limited percentage of the police force received direct instruction on the purpose and content of the Patrol Guide revisions at the time they were implemented. During the course of OIG-NYPD's investigation, NYPD conducted another command level training in October 2016 on LGBTQ issues, including the Patrol Guide revisions, which all but one of 97 commands attended. NYPD asserts that since these police supervisors are aware of or were trained on the revisions, then all officers are expected to know it. As detailed below, however, not all officers have received direct training on the Patrol Guide revisions, including its relevance to the TGNC community.

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<sup>13</sup> Officers carry memo books during their tours to record calls, encounters with the public, locations visited, and other activities that occur during their shifts. For example, NYPD uses a 14-page memo book insert to remind officers about a number of quality-of-life offense descriptions and statutory sections, with accompanying enforcement notes. See e.g., NYPD, COMMON SUMMONS VIOLATIONS QUICK REFERENCE GUIDE, PD 160-103 (Feb. 1997). NYPD has not issued such an insert for protocols on dealing with TGNC members of the public.

## ***2. Academy and In-Service Training***

Training is crucial to ensuring that interactions between officers and TGNC people are constitutional and compliant with both the Patrol Guide and New York City Human Rights Law (NYCHRL).<sup>14</sup> These encounters impact the broader relationship between NYPD and the TGNC community. In its review, OIG-NYPD found that, just as there were no Department-wide trainings on the Patrol Guide revisions when they were introduced in June 2012, there is currently no comprehensive training related to the 2012 LGBTQ Patrol Guide revisions provided to all NYPD officers. Rather, such training is currently limited to certain categories of officers.<sup>15</sup>

NYPD uses three modules to train officers about LGBTQ and TGNC-related issues and Department policies: 1) recruit training, offered as a 4.5-hour module; 2) promotional training, offered as a 1-hour module for newly-promoted sergeants, lieutenants, and captains; and 3) in-service training, offered to precincts at roll call as needed.<sup>16</sup> DOI analyzed all materials associated with instruction and observed the courses as they were taught.<sup>17</sup>

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<sup>14</sup> The New York City Human Rights Law (NYCHRL), Title 8 of the Administrative Code of the City of New York, protects individuals from discrimination in employment, public accommodations and housing, and from discriminatory law enforcement contact such as harassment and biased profiling. In 2002, the New York City Council passed the Transgender Rights Bill to expand the scope of the NYCHRL gender-based protections for people whose “gender and self-image do not fully accord with the legal sex assigned to them at birth.” The amended NYCHRL states that “gender-based discrimination including, but not limited to, discrimination based on an individual’s actual or perceived sex, and discrimination based on an individual’s gender identity, self-image, appearance, behavior, or expression constitutes a violation of the City’s Human Rights Law.”

<sup>15</sup> While NYPD does conduct other trainings that touch on LGBTQ related issues, this Report is specifically focused on trainings related to the 2012 revisions.

<sup>16</sup> Roll call is a brief meeting of uniformed officers in a precinct who are beginning a tour, during which assignments are given and announcements and brief training presentations are made.

<sup>17</sup> OIG-NYPD staff attended NYPD's *Basic Recruitment Course for Policing the LGBTQ Community* at the Police Academy in November 2016, which was presented by seven members of service associated with the Gay Officers Action League (GOAL). In addition, OIG-NYPD attended NYPD's *LGBTQ Sensitivity and Gender Identity Training* for sergeants at the Police Academy in February 2017, which was given by the NYPD's LGBT Liaison.

*i. Recruit and Promotional Training*

For new recruits, the Gay Officers Action League (GOAL), a fraternal organization, has, since 2013, developed and taught a course entitled “LGBTQ Workshop” which covers the Patrol Guide revisions. Separately, as part of the promotional training curriculum in NYPD’s Basic Management Operations Course (BMOC-1) and the Advanced Leadership Training Course (BMOC-2), new sergeants, lieutenants, and captains participate in a course entitled “The Lesbian, Gay, Bisexual, Transgender and Queer Community” taught by NYPD’s LGBT Liaison. This promotional training covers similar topics as recruit training, but focuses heavily on the role of NYPD supervisors. Both recruit and promotional modules include lectures, role-playing scenarios, and comprehensive discussions of the 2012 Patrol Guide revisions, including an explanation of the protocols and the history of the changes. That context is important because when the new protocols were first released, their connection to LGBTQ and TGNC people was not highlighted. NYPD officers received no explanation of why the Patrol Guide revisions were necessary and that they apply to TGNC people.<sup>18</sup>

Recruit training additionally provides a handout entitled “Lesbian, Gay, Bisexual, Transgender (LGBT) Communities.” It contains reference materials including a glossary of terms, a “know your rights” section about restroom usage, and a list of community resources. The handout, however, only included the revised protocols related to searches, and does not contain the October 2012 Training Memo or information on preferred name protocols.

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<sup>18</sup> For example, NYPD’s arrest protocol states that “questions regarding an arrestee’s anatomy” may not be asked “without a reasonable basis,” but it is not clear that the intention of this revision is to address concerns of TGNC people being strip searched or to ask invasive questions to determine gender. See New York City Police Department Patrol Guide, *Supra* note 1 at P.G. § 208-05. This context is not given during training.

Furthermore, the handout includes outdated reports and statistics, the most recent being nearly a decade old that no longer reflect the current environment, and a limited list of LGBTQ and TGNC community organizations. By contrast, promotional training includes a handout entitled “LGBTQ Sensitivity and Gender Identity Training.” It is more comprehensive and covers the 2012 Patrol Guide revisions and summarizes a range of LGBTQ and TGNC issues, definitions, and NYPD forms.

Overall, OIG-NYPD found that the recruit and promotional training modules were comprehensive, covering LGBTQ and TGNC issues and corresponding Patrol Guide provisions.

*ii. In-Service Training*

NYPD's LGBT Liaison and the Bureau of Community Affairs conduct in-service training at precincts on an as-needed basis, sometimes incorporating speakers from the LGBTQ community and LGBTQ members of NYPD. This training is similar to the recruit and promotional training modules, but shorter (about 10-15 minutes) because it is offered only at roll call. Although limited, the training covers LGBTQ and TGNC issues and the Patrol Guide revisions. Officers are also given handouts that complement the training which include a glossary of LGBTQ-related terms, the 2012 Training Memorandum, revised forms, and all the changed protocols and explanations of them.

The reach and impact of this training, however, is insufficient. Precinct commanders can request the training, but it is often in response to incidents and events that come to the attention of NYPD's LGBT Liaison. According to records kept by the Community Affairs Bureau,

between 2012 and 2016, only six of NYPD's 77 precincts received this limited in-service training.<sup>19</sup> Consequently, a significant contingent of officers have not been trained on the Patrol Guide provisions and corresponding LGBTQ and TGNC issues. For instance, an officer who joined NYPD's Academy prior to 2012, was not promoted to a position requiring the previously referenced promotional training, and who worked somewhere other than those six precincts would probably not have received this training.

NYPD's limited training on the revisions and the infrequency of roll call trainings are significant gaps in implementation. In addition, the units responsible for the in-service modules are understaffed. The LGBT Liaison Unit is staffed by three members of NYPD and NYPD's LGBT Liaison to the Police Commissioner is a single-person office.<sup>20</sup> This is a small number considering that NYPD is the largest police force in the nation and New York City's metropolitan area has the largest concentration of LGBTQ people in the country. Comparatively, the metropolitan area of Washington, D.C. has an LGBTQ population that is significantly smaller than New York City's and the District of Columbia's Metropolitan Police Department (MPD) has nine times fewer sworn officers than NYPD.<sup>21</sup> Yet, MPD has a core staff of five in its LGBT Liaison Unit and 57 unit-affiliate officers stationed across its police districts and specialized units.<sup>22</sup>

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<sup>19</sup> Those precincts are the 28<sup>th</sup>, 52<sup>nd</sup>, 83<sup>rd</sup>, 120<sup>th</sup>, 121<sup>st</sup>, and 122<sup>nd</sup>.

<sup>20</sup> NYPD's LGBT liaisons conduct training, community partnerships, attend LGBTQ community meetings and events, connect people to appropriate service providers, and respond to complainants who allege NYPD misconduct. LGBTQ community members report that the liaisons have been responsive to their needs, but also expressed concerns about staffing and resources.

<sup>21</sup> See *supra* note 2.

<sup>22</sup> See the Special Liaison Division website of the Metropolitan Police Department, available at <https://mpdc.dc.gov/node/139172> (last visited November 17, 2017).

### ***3. NYPD's Documentation and Use of Preferred Names and Gender Identities***

The Patrol Guide revisions: 1) direct members of NYPD's police force to record and use each arrestee's preferred name; 2) require the use of pronouns and honorifics consistent with a person's gender identity; and 3) prohibit discrimination based on gender identity or expression. Identifying (or "pedigree") information about an arrestee, including preferred name, is initially recorded by the arresting officer when an arrestee is brought to the precinct. This information follows arrestees as they move through arrest processing. How pedigree information is recorded and used affects NYPD's compliance with the Patrol Guide revisions and NYCHRL.

Patrol Guide §208-02 outlines NYPD's protocols for processing arrests and defines preferred name as the "name an arrestee prefers to be called based on their gender identity." This name may be different from the name on identification documents in the arrestee's possession.<sup>23</sup>

#### *i. Preferred Names*

The personal identities and preferred names of TGNC people often differ from the information recorded on legal documents. Consistent and comprehensive policies that govern the use of TGNC people's preferred names are crucial to ensuring that NYPD personnel can easily incorporate preferred names into everyday interactions with TGNC individuals.

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<sup>23</sup> See *supra* note 1 at P.G. § 208.02.

Pursuant to the Patrol Guide revisions, NYPD has made some changes to how a person's preferred name is recorded in its arrest-and-crime-complaint database (*OmniForm*) and three forms related to arrest processing: the *Prisoner Pedigree Card*, the *On Line Booking System Arrest Worksheet*, and the *Prisoner Movement Slip*. Based on recent changes to the *Prisoner Movement Slip*, which were finalized after the commencement of OIG-NYPD's investigation, all three documents are now consistent with the Patrol Guide revisions. There are, however, a number of other important forms that NYPD did not alter pursuant to the expectations of the Patrol Guide revisions. Many of these forms are used to document significant police interactions and to identify TGNC victims, complainants, and arrestees.

*a. Patrol Guide Revisions*

The 2012 Patrol Guide revisions were limited to the *OmniForm* database and the three forms. OIG-NYPD reviewed blank or redacted copies of the current versions of the forms to determine how arrestees' preferred names were being recorded. As described in Table 1, all three of these forms play a significant role in the arrestee booking process. OIG-NYPD obtained copies of these forms from NYPD headquarters and from select police stations to determine how the 2012 changes were implemented at various police sites.<sup>24</sup>

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<sup>24</sup> OIG-NYPD visited the 6<sup>th</sup>, 10<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup>, 41<sup>st</sup>, 43<sup>rd</sup>, 52<sup>nd</sup>, 77<sup>th</sup>, 81<sup>st</sup>, 83<sup>rd</sup>, 110<sup>th</sup>, and 115 Precincts in February 2017. These precincts were selected after a series of interviews with LGBTQ community advocates, who identified them as precincts where there are both higher rates of LGBTQ New York City residents and higher rates of complaints to LGBTQ advocacy groups regarding interactions between NYPD and members of the LGBTQ community. OIG-NYPD also visited PSA 4 in the Lower East Side of Manhattan and the Union Square station of the NYPD Transit Bureau. These sites were selected because they are busy locations serving large numbers of people.

**Table 1**

Form	Patrol Guide Instructions <sup>25</sup>
<b>Prisoner Pedigree Card:</b> The form where the arresting officer records the arrestee's identifying information (name, sex, gender, etc.) immediately upon arrival at the precinct. <sup>26</sup>	Preferred name is to be listed in the "Preferred name" section of the PRISONER PEDIGREE CARD.
<b>On Line Booking System Arrest Worksheet:</b> A worksheet that is completed during the booking process. The worksheet serves as a paper copy of information that will ultimately be recorded in OmniForm. This form is also sometimes used to document strip searches. <sup>27</sup>	Preferred name is to be listed in the "Nickname/Alias/Maiden Name" section of the ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159), prefaced by "P -".
<b>Prisoner Movement Slip:</b> An electronically generated document used to record identifying information for arrestees who will be held as detainees at the precinct or Central Booking. This form is automatically generated from information recorded in the <i>On Line Booking System Arrest Worksheet</i> .	Preferred name is to be listed in the "Defendant's Name" section of the PRISONER MOVEMENT SLIP, prefaced by "Preferred Name:"

The *Prisoner Pedigree Card* contains an actual field for recording an arrestee's preferred name, and all but one of the 14 NYPD sites that OIG-NYPD visited were using the current version of the *Prisoner Pedigree Card*. The 26<sup>th</sup> Precinct was using a photocopied version of an old *Prisoner Pedigree Card* lacking a preferred name field. Although not all officers received

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<sup>25</sup> See *supra* note 1. All of these Patrol Guide instructions are recorded in P.G. § 208.02. The provision further states, "Consistent with P.G. § 203-10, "Public Contact – Prohibited Conduct," subdivision "a" following step "1", regardless of whether the name on the arrestee's identification coincides with the arrestee's gender identity, the member of the service shall refer to the arrestee by the preferred name, if any, as requested. The member shall use the pronouns consistent with that name in addressing or referring to the arrestee."

<sup>26</sup> NYPD Form No. PD 244-092.

<sup>27</sup> NYPD Form No. PD 244-159.

training on these forms, NYPD has provided instructions in the Patrol Guide and ensured near agency-wide dissemination of these forms.

DOI, however, initially discovered inconsistencies and unresolved technical issues during precinct visits in February 2017 in relation to how preferred names are recorded on the *Prisoner Movement Slip*. At the precinct level, the *Prisoner Movement Slip* is auto-generated from the information that had previously been entered in the *On Line Booking System Arrest Worksheet*. During the visits to police stations, OIG-NYPD observed that the precincts' version of the form did *not* include a preferred name field in the Defendant's name section. As a result, the preferred name would have to be handwritten on the *Prisoner Movement Slip*. NYPD personnel were not able to edit the slip through the software to add preferred name. In contrast, when the arrestee was taken to court (also known as "Central Booking"), a new *Prisoner Movement Slip* was created which *did* include a preferred name field. At the end of October 2017, NYPD informed OIG-NYPD that the software in all precincts was updated so that the precinct-level *Prisoner Movement Slip* contains a preferred name field.

*b. Other Forms*

Beyond the forms discussed above, DOI reviewed 28 other forms that are commonly used by NYPD when engaging with the public. These forms record stop, question, and frisk encounters; circumstances in which arrestees require medical attention; documentation of crime complaints, missing persons, desk appearance tickets; and the roster of prisoners being held at the precinct. None of these 28 forms had fields to record preferred names, and the Patrol Guide does not contain any instructions on how NYPD personnel are expected to record

the preferred names on these 28 forms.<sup>28</sup> Since TGNC people can be regarded as Special Category Prisoners, members of service are also required to fill out the *Medical Treatment of Prisoner Form*.<sup>29</sup> This form does not have a preferred name field.<sup>30</sup> Overall, the policies and instructions on recording preferred names do not conform to the spirit of the 2012 Patrol Guide provisions.

*ii. Gender Identity*

In arrest processing, NYPD's Patrol Guide directs officers to "write an arrestee's name and gender as it appears on a driver's license, permit, or non-driver photo identification," and NYPD's forms record gender as "male" or "female."<sup>31</sup> Documenting legal gender is essential for several reasons, including NYPD's ability to pursue and apprehend criminal suspects, engage with TGNC victims, and identify missing persons, among other law enforcement activities. At the same time, P.G. § 203-10 directs NYPD to identify individuals in a manner consistent with their gender identity, even when such identity is different from the legal sex assigned to that person at birth. The challenge is whether and how NYPD should seek to understand a person's gender identity so as to ensure that the Department is addressing the individual's current gender.

Reconciling this latter directive with law enforcement needs can be complicated. During OIG-NYPD's investigation, community representatives raised concerns about police invasively

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<sup>28</sup> These additional forms are listed in Appendix C, along with the form numbers, where applicable.

<sup>29</sup> See *supra* note 1 at P.G. § 210-17.

<sup>30</sup> NYPD Form No. PD 244-150.

<sup>31</sup> See *supra* note 1 at P.G. § 208-02

questioning people about their gender identity and sexual orientation.<sup>32</sup> Some cited privacy concerns while others expressed fear of harmful tactics like strip searches to determine gender. In 2012, LGBTQ advocates and senior NYPD officials examined the issue. Given the time that has past and differing viewpoints of some community organizations, a re-examination is warranted.

Accordingly, NYPD should further consider whether its forms should allow for the entry of current gender identity in addition to legal gender identity. This review should involve discussion with LGBTQ community representatives, such as the Department's LGBT Advisory Committee, so that NYPD takes account of TGNC people's concerns in developing new documentation.

### **B. NYPD's Handling of LGBTQ-Related Complaints**

Members of the public have a number of ways to report alleged misconduct by NYPD officers, including violations of the revised Patrol Guide, by filing complaints with the Civilian Complaint Review Board (CCRB), the Law Enforcement Bureau of the NYC Commission on Human Rights (LEB), or the Department of Investigation's Office of the Inspector General for the NYPD.<sup>33</sup> IAB investigates allegations of serious misconduct, corruption, and criminal activity

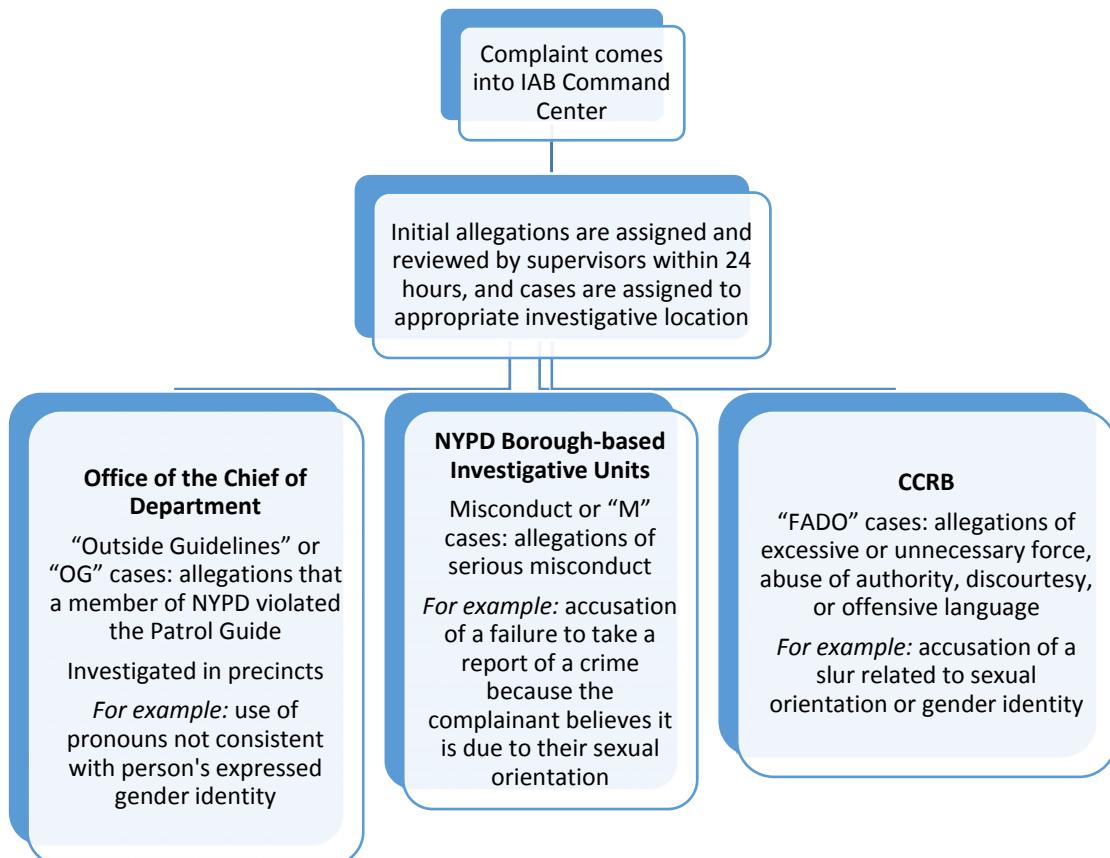
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<sup>32</sup> Similar issues were found by the U.S. Department of Justice Office of Community Oriented Policing Services, which found that advocacy groups "emphasized that data concerning an individual's sexual orientation or gender identity should never be collected by law enforcement officers as a matter of course during stops, arrests, or in use of force reports to avoid the unintentional consequences of causing harm or reinforcing bias." See James E. Copple & Patricia M. Dunn, Gender, Sexuality, and the 21<sup>st</sup> Century Policing: Protecting the Rights of the LGBTQ+ Community, Community Oriented Policing Services of the United States Department of Justice, 2017, at 20.

<sup>33</sup> CCRB investigates police wrongdoing that falls into the categories of excessive or unnecessary force, abuse of authority, courtesy, and/or offensive language ("FADO" complaints). LEB investigates violations of the New

by members of NYPD, including allegations of biased policing. As described in the following chart, allegations made to IAB where the subject's actual or perceived sexual orientation or gender identity may be related to their complaint can follow several paths.<sup>34</sup>

**Figure 1: The Process of LGBTQ-related Complaint Investigations**



OIG-NYPD conducted a number of interviews with senior staff at IAB to determine how its investigators classify and investigate LGBTQ-related complaints.<sup>35</sup> Currently, the only types

York City Human Rights Law, including allegations of retaliation, discriminatory harassment, or "bias-based profiling" by NYPD.

<sup>34</sup> For more information on the IAB complaint process, see OIG-NYPD's Report *Addressing Inefficiencies in NYPD's Handling of Complaints: An Investigation of the "Outside Guidelines" Complaint Process*, released on February 7, 2017 (available on DOI's website).

<sup>35</sup> OIG-NYPD focused on IAB for its review because CCRB does not investigate allegations of "profiling."

of LGBTQ-related allegations that NYPD tracks are “profiling” and certain “offensive language” complaints that IAB does not even investigate. As described below, this hinders NYPD from identifying and addressing other patterns or trends that may also implicate biased conduct, including potential violations of the 2012 revisions.

NYPD created the “profiling” category in October 2014 as a way to track complaints alleging bias with respect to race, color, ethnicity, nationality, religion, gender, gender identity, sexual orientation, age, housing status, citizenship status, or disability.<sup>36</sup> IAB defines profiling as “any action taken or not taken due to bias on the part of the officer.”<sup>37</sup> For example, a complaint alleging that an officer used an identity slur and that the officer stopped the complainant for being transgender would qualify as a “profiling” case. IAB currently uses a computer system called the Internal Case Information System (ICIS) to track and manage its complaint investigations, including those relating to profiling due to sexual orientation and gender identity. To date, NYPD has not substantiated any allegations of profiling since it created this category in 2014.<sup>38</sup>

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<sup>36</sup> NYPD began classifying profiling cases as “Misconduct” (“M”), the second most serious IAB category, in January 2015. The most serious category is “Corruption,” and these cases are investigated by IAB. “M” cases are investigated by borough-based investigative units or, if the allegation is against a police executive or involves a related corruption allegation, by IAB itself. Prior to January 2015, profiling complaints were classified as “Outside Guidelines”—the least serious complaint category—and investigated at the borough or precinct level. IAB executives, including the Deputy Commissioner of IAB, review all profiling complaints at steering meetings several times per year.

<sup>37</sup> All investigators at IAB receive training on how to probe for the possibility of profiling claims during communications with complainants, for instance by asking whether they believe that the alleged behavior was related to their identity.

<sup>38</sup> At present, the majority of profiling cases are sent to patrol borough investigative units for investigation. Changes to the way IAB handles allegations of profiling, including centralizing all profiling complaints under IAB and assigning investigators at the borough instead of precinct level, were the result of intervention related to the federal monitorship of NYPD under the cases of *Floyd v. City of New York*, *Ligon v. City of New York*, and *Davis v.*

By contrast, an allegation that an officer used an LGBTQ-related slur, without any accompanying action, would *not* be classified and tracked as “profiling” because, under NYPD’s interpretation of the profiling definition, words alone are not considered “action.” Instead, an LGBTQ-related slur would be classified by IAB as “Offensive Language: Gender Identity” or “Offensive Language: Sexual Orientation.” NYPD added “Offensive Language: Gender Identity” and “Offensive Language: Sexual Orientation” in January 2017 during OIG-NYPD’s investigation.<sup>39</sup> IAB does not investigate such complaints, but sends these allegations to CCRB for investigation, where they are investigated solely on the basis that they may constitute offensive language.<sup>40</sup>

As a result, NYPD does not track or categorize complaints alleging biased conduct that falls outside of “profiling.” Even the new “offensive language” classifications, as titled, do not fully capture potentially biased conduct. Other bias allegations, including many that relate to the revisions, therefore, do not appear to be tracked.

Given NYPD’s inability to readily identify and track complaints related to the Patrol Guide revisions, OIG-NYPD reviewed LGBTQ-related complaints made to IAB in calendar year

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*City of New York.* See Peter L. Zimroth, FOURTH REPORT TO THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK, November 18, 2016, at 36, available at [nypdmonitor.org/wp-content/uploads/2016/12/2016-11-18FourthReportoftheIndependentMonitor-1.pdf](http://nypdmonitor.org/wp-content/uploads/2016/12/2016-11-18FourthReportoftheIndependentMonitor-1.pdf) (last accessed October 17, 2017).

<sup>39</sup> Previously, if a complainant alleged that an officer used an offensive slur about gender identity, ICIS lacked the capability to categorize this allegation as relating to sexual orientation or gender identity. This type of allegation was peculiarly classified in ICIS as “Offensive Language: Ethnic Remarks.”

<sup>40</sup> CCRB will likewise forward profiling cases to IAB, but will not send LGBTQ-related offensive language complaints to IAB where there is no accompanying “action taken or not taken” that would render the complaint a “profiling” case. CCRB and IAB can investigate cases concurrently, e.g., where the complaint alleges both a police action constituting profiling and a use of a slur falling within CCRB’s “offensive language” mandate.

2015 through a keyword database search.<sup>41</sup> A total of 80 complaints were produced using these search terms. Of that universe, OIG-NYPD found 37 to be LGBTQ-related, a small case number given the population in the New York City metropolitan area and the size of NYPD.<sup>42</sup>

Of these 37 complaints, IAB determined most to be unfounded, unsubstantiated, or exonerated.<sup>43</sup> Only one complaint was substantiated, but the subject officers were not identified.<sup>44</sup> The 37 complaints broke down as follows:

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<sup>41</sup> To assist OIG-NYPD, IAB created a keyword search list of terms possibly related to complaints involving members of the LGBTQ community. This keyword list included terms like “gay,” “lesbian,” “LGBT,” “bisexual,” and “transgender,” but also includes terms that are slurs related to gender identity and sexual orientation so that complaints related to use of this language could be located. Due to the offensive nature of some keywords, the full list will not be printed in this Report. OIG-NYPD reviewed this term list and added several terms to provide a more expansive search list. Additional terms included “sexuality,” “homosexual,” “gender identity,” “gender pronoun,” “sexual orientation,” and “trann\*” (the asterisk in this search term allows for any variation of the ending of this term to be retrieved). This keyword search was performed in the presence of OIG-NYPD staff and resulted in 76 cases. OIG-NYPD then obtained and reviewed Internal Affairs Log Files for all of these cases. Internal Affairs Log Files are summaries of the allegations, outcomes, and facts of IAB cases.

<sup>42</sup> OIG-NYPD conducted a scope analysis to eliminate false positive results (cases that seemed related, due to search results and other indicators, but were not). The scope analysis was conducted by three OIG-NYPD staff members who determined relevance by unanimous conclusion that each case contained at least one of the following components: the complainant was perceived by the IAB investigator or subject officer to be LGBTQ, and/or the subject officer was accused of LGBTQ-related offensive language or courtesy.

<sup>43</sup> IAB investigation dispositions include the following: substantiated, unsubstantiated, exonerated, or unfounded. Substantiated allegations are those for which an investigation concluded that the accused acts took place. Unsubstantiated allegations are those where an investigation was unable to either prove or disprove the accused acts took place. Exonerated allegations are those for which the investigation determined that the subject officer’s behavior was proper. Unfounded allegations are those for which the investigation determined the misconduct did not take place or did not involve members of NYPD. Rather than limit the analysis to substantiated complaints, OIG-NYPD chose to look at all complaints regardless of disposition. Even when complaints are not substantiated, they may be used to identify possible patterns or trends to justify the need for additional training or changes in supervision, recruitment, or neighborhood policing practices. Some research has also noted that unsubstantiated complaints may be an indicator of possibly more serious misconduct later in an officer’s career. See e.g. Michael D. White and Robert J. Kane, *Pathways to Career-Ending Police Misconduct: An Examination of Patterns, Timing, and Organizational Responses to Officer Malfeasance in the NYPD*, 40 CRIMINAL JUSTICE AND BEHAVIOR (2013).

<sup>44</sup> The NYPD Communications Division reported an unauthorized radio transmission to IAB in which an unknown officer stated, “This is like the tenth gay guy I saw, and the roller skates do it.” The NYPD Electronics Section could not trace the statement to a specific radio or officer, but the complaint was ultimately substantiated as an “Unauthorized radio transmission.”

### **LGBTQ-related Complaints – 2015<sup>45</sup>**

- Using discourteous or disrespectful remarks regarding a person's sexual orientation or gender identity/expression: 18 of the complaints reviewed.
- Failure of officers to act or file a report of an alleged crime due to a person's sexual orientation or gender identity/expression: 10.
- Using slurs related to complainants' actual or perceived gender identity or sexual orientation: 8.
- Using names, honorifics, and pronouns that do not reflect the gender identity of TGNC people: 2.
- Conducting a search for determining a person's gender: 1.

According to interviews with NYPD senior officials, the Department classifies complaints due to a person's sexual orientation or gender identity as profiling. Only nine of the 37 reviewed LGBTQ-related complaints, however, were classified as profiling by NYPD. This means there are many complaints possibly implicating biased conduct towards the LGBTQ community that are not being captured as "profiling" or under the new "offensive language" classifications.

OIG-NYPD's keyword search method pointed out gaps in NYPD's ability to track LGBTQ-related complaints and those related to the revised Patrol Guide procedures. Specifically, NYPD is unable to identify and pinpoint patterns of allegations that may violate the Patrol Guide revisions and relate to gender identity or sexual orientation, including failures to use pronouns consistent with gender identity, courtesy, and strip searches to determine gender. This means that NYPD does not presently have the ability to determine patterns of related misconduct in particular commands or precincts, or multiple complaints involving the same

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<sup>45</sup> Total does not add up to 37 complaints; it exceeds that amount since multiple allegation types were noted across complaints.

officer. The lack of such information is significant. Without the ability to track such patterns, it is more difficult for NYPD to identify those officers or commands that are in need of additional training on interactions with LGBTQ persons, or other systemic adjustments. Further, NYPD's general category of profiling broadly captures complaints from both TGNC people and others without parsing out allegations specifically arising from the TGNC community. In sum, NYPD's handling of complaints in this way makes it difficult for NYPD to determine patterns or trends that, if addressed, could lead to greater police accountability and ensure compliance with the Patrol Guide revisions.

\* \* \* \* \*

As noted in this Report, NYPD has made progress in the implementation of the protocols for the 2012 Patrol Guide revisions. More can be done, however, to help meet the spirit of those revisions and to ensure that all officers understand why they were put in place. Beyond the specific recommendations noted in this Report, NYPD should continually assess whether it is in compliance with the letter and spirit of all aspects of the 2012 Patrol Guide revisions. We will monitor such progress going forward.

**IV. Recommendations**

Based on its findings, DOI's OIG-NYPD recommends the following:

**A. Training**

1. NYPD should provide mandatory in-service training and accompanying resource materials on the 2012 Patrol Guide revisions to all uniformed members through the NYPD-U webinar platform. Training attendance and completion should be tracked to ensure that all member of the police force have received this training. NYPD should conduct this training within the next six months.
2. NYPD should create a memo book insert for officers with a summary of the revised LGBTQ protocols. Officers can use this for reference as needed.
3. Community input should be carefully considered and incorporated as appropriate into the curriculum of officer training on LGBTQ issues.
4. All handouts and additional resource materials provided during LGBTQ trainings should be consistent, as appropriate, ensuring that officers receive the same information.

**B. Recording Name and Gender in Forms and Databases**

5. Within six months, NYPD should report to OIG-NYPD whether and how the Department will change remaining forms and databases to record an individual's preferred name in a separate field.
6. On a periodic basis, NYPD should make sure that police stations are using updated forms, particularly those documents that are intended to comply with the 2012 revisions.
7. NYPD should consult with its LGBT Advisory Committee and re-examine whether and how to record gender identity information of TGNC people on NYPD forms and databases. The collection of this information is a sensitive matter for some members of the LGBTQ community. Any changes in how such information is recorded must not interfere with NYPD's ability to describe and circulate descriptions of suspects and persons of interest for purposes of apprehension.

**C. Receiving and Investigating Complaints from the Public**

8. NYPD Internal Affairs Bureau's complaint system should be configured to categorize and track all LGBTQ-related allegations that implicate biased conduct, and not just "profiling." LGBTQ-related allegations involving bias would include violations of the 2012 Patrol Guide revisions and "offensive language."

9. IAB should report patterns and trends associated with LGBTQ-related complaints to NYPD's LGBT Liaison to the Police Commissioner as well as to DOI pursuant to NYPD's reporting obligations under Local Law 70.

## **Appendix A**

**October 2012 Training Memo regarding Patrol  
Guide revisions**



# New York City Police Academy Training Memo

#37-12

OCTOBER 2012

## DEPARTMENT POLICY REGARDING GENDER IDENTITY

In recent months, the NYPD has made changes to several Patrol Guide procedures which directly affect members of the lesbian, gay, bisexual, and transgender ("LGBT") community. To ensure the fair and equitable treatment of all persons, members of the service are reminded that they must treat all individuals in accordance with their preferred gender identity. This includes pronouns, titles of respect, and preferred names appropriate to gender identity, as well as the search and lodging of prisoners. Members are further reminded that all official documents, such as Complaint Reports and Online Booking System Arrest Worksheets, must contain the individual's legal name and gender, as well as the individual's preferred name. These forms are currently being revised to reflect these changes to pedigree information. The following Interim Orders have been issued to reflect changes to Patrol Guide Procedures regarding gender identity:

- Interim Order 25-2012: Revision to Patrol Guide Procedure 209-24, "Mandatory Driver's License Checks"
  - False Personation Penal Law 190.23 (False Personation- B Misdemeanor): The Patrol Guide has been amended to emphasize that knowingly misrepresenting pedigree information and the intent to prevent a police officer from ascertaining pedigree are necessary elements of the charge. Simply providing a preferred name may not constitute false personation.
- Interim Order 26-2012: Revision to Patrol Guide Procedure 203-10, "Public Contact-Prohibited Conduct"
  - Members of the service will not use discourteous or disrespectful remarks regarding another person's ethnicity, race, religion, gender, **gender identity/expression**, sexual orientation or disability.
  - Members shall address the public using pronouns, titles of respect and **preferred name appropriate to the individual's gender identity/expression as expressed by the individual**.

- Interim Order 27-2012: Revision to Patrol Guide Procedure 209-26, “Suspended or Revoked Vehicle Operator’s License”
  - False Personation Penal Law 190.23 (False Personation- B Misdemeanor): The Patrol Guide has been amended to emphasize that knowingly misrepresenting pedigree information and the intent to prevent a police officer from ascertaining pedigree are necessary elements of the charge. Simply providing a preferred name may not constitute false personation.
- Interim Order 28-2012: Revision to Patrol Guide Procedure 210-08, “Guidelines for Prisoner Holding Pens”
  - Generally, prisoners will be searched by a uniformed member/police attendant of the same gender. In situations where an arrestee’s gender is not immediately apparent or an arrestee objects to the gender of the member assigned to perform the search, **the supervisor will assign a uniformed member of the gender requested by the arrestee**, consistent with officer safety and resource availability.
  - Male and female prisoners will **not** be detained in the same cell. Unless there is a safety risk, prisoners will be lodged by their gender identity. Transgender prisoners will not automatically be considered ‘Special Category,’ and will be lodged apart from other prisoners only when there is an articulable safety risk posed to themselves or to other prisoners.
- Interim Order 29-2012: Revision to Patrol Guide Procedure 210-17, “Arrest Processing of Pre-Arraignment Prisoners Designated as Special Category”
  - Prisoners should be deemed ‘Special Category’ if there is reason to believe that placing them in the general population may pose a safety risk to themselves or to other prisoners (NOTE: there is NO automatic “at risk” notation just because an arrestee is transgender.)
- Interim Order 30-2012: Revision to Patrol Guide 215-18, “Search Protocols for School Safety Agents”
  - If a search of a student’s person is authorized by the principal/designee, it should be conducted by a school safety agent of the same gender. In situations where a student’s gender is not immediately apparent or the student objects to the gender of the agent assigned, **the supervisor will assign an agent of the gender requested by the student**, consistent with agent safety and resource availability.
  - **Under no circumstances** will a school safety agent conduct searches for the purpose of determining gender. School safety agents shall **not** ask questions regarding a student’s anatomy without a reasonable basis of doing so.
- Interim Order 31-2012: Revision to Patrol Guide Procedure 208-05, “Arrests- General Search Guidelines”
  - Upon arrival at a Department facility, prisoners will be searched by a uniformed member of the same gender. In situations where an arrestee’s gender is not immediately apparent or an arrestee objects to the gender of the member assigned to perform the search, **the supervisor will assign a uniformed member of the**

**gender requested by the arrestee**, consistent with officer safety and resource availability.

- Under no circumstances will a uniformed member conduct searches for the purpose of determining gender. Members shall not ask questions regarding an arrestee's anatomy without a reasonable basis of doing so.
- If the gender of the officer assigned to conduct the search differs from the gender requested by the arrestee, the desk officer shall make a detailed Command Log entry regarding the factors considered in assigning members to consider the search.
- In the event that a strip search is authorized by the desk officer, the same search guidelines will apply.
- Interim Order 32-2012: Revision to Patrol Guide Procedure 208-28, "Identification Standards for Desk Appearance Tickets"
  - False Personation Penal Law 190.23 (False Personation- B Misdemeanor): The Patrol Guide has been amended to emphasize that knowingly misrepresenting pedigree information and the intent to prevent a police officer from ascertaining pedigree are necessary elements of the charge. Simply providing a preferred name may not constitute false personation.
- Interim Order 33-2012: Revision to Patrol Guide Procedure 208-27, "Desk Appearance Ticket- General Procedure"
  - Issue a DAT to an eligible prisoner who is considered 'Special Category' per PG 210-17 (I.O. 29-2012) based on a medical condition/physical disability, safety risk, or health risk.
- Interim Order 34-2012: Revision to Patrol Guide Procedure 210-01, "Prisoners- General Procedures"
  - Notify Borough Court Section concerned if precinct detention cells are activated for prisoners designated as 'Special Category' or if prisoner must be removed to another facility in order to be lodged separately from the general population.
- Interim Order 35-2012: Revision of Patrol Guide Procedure 210-04, "Prisoners Requiring Medical/Psychiatric Treatment"
  - A hospitalized prisoner who is diagnosed by the medical staff with a psychiatric condition which requires admission will be transported by private ambulance contracted by the hospital:
    - Male prisoners: Bellevue Hospital
    - Female prisoners: Elmhurst General Hospital
  - Prisoners designated as 'Special Category': Ensure a notation is made in the 'Detention Alert' caption of the Prisoner Movement Slip describing reason for designation (e.g. 'Safety Risk').

- Interim Order 36-2012: Revision to Patrol Guide Procedure 210-02, “Hospitalized Prisoners”
  - Upon arrival at the hospital, prisoners will be searched by a uniformed member of the same gender. In situations where a prisoner’s gender is not immediately apparent or a prisoner objects to the gender of the member assigned to perform the search, **the supervisor will assign a uniformed member of the gender requested by the arrestee**. If a uniformed member of the appropriate gender is not available, have hospital personnel carefully search prisoner.
  - A member of the family may be allowed to visit the prisoner upon obtaining written permission from the desk officer. A family member may include a registered NYC domestic partner, a same sex partner or spouse, or a person involved in an ‘intimate relationship’ or a ‘family type relationship’ with the prisoner.
- Interim Order 37-2012: Revision to Patrol Guide Procedure 208-54, “Arrest Screening Guidelines for Cases Involving Forged or Altered Motor Vehicle Documents”
  - False Personation Penal Law 190.23 (False Personation- B Misd.): The Patrol Guide has been amended to emphasize that knowingly misrepresenting pedigree information and the intent to prevent a police officer from ascertaining pedigree are necessary elements of the charge. Simply providing a preferred name may not constitute false personation.
- Interim Order 43-2012: Revision to Patrol Guide Procedure 208-02, “Arrests- Removal to Department Facility for Processing”
  - Indicate prisoner’s preferred name in the appropriate caption of the revised **PRISONER PEDIGREE CARD (PD 244-092: Rev 20-12)**.
  - Pending future revisions to the **ON-LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)** and **THE PRISONER MOVEMENT SLIP**, arresting officers will write the prisoner’s preferred name in the following places:
    - **ON-LINE BOOKING SYSTEM ARREST WORKSHEETS:** In the existing ‘Nickname /Alias /Maiden Name’ caption prefaced by a ‘P-‘,
    - **THE PRISONER MOVEMENT SLIP:** Next to the defendant’s name, prefaced by “Preferred Name” (generated at the station house and court section facility).
- Interim Order 44-2012: Revision to Patrol Guide Procedure 208-03, “Arrests- General Processing”
  - **Preferred Name: The name an arrestee prefers to be called based on their gender identity. This name may be different from the one on identification documents in the arrestee’s possession.**
  - Arresting officers must indicate the prisoner’s preferred name in their Activity Log as well as on the Prisoner Movement Slip.

## **Appendix B**

**May 26, 2017 Administrative Bulletin Sent to  
All NYPD Personnel Regarding the Prohibition  
of the Search of Arrestees for the Sole Purpose  
of Determining Gender Identity**

**From:** Administrative Bulletins

**Sent:** Friday, May 26, 2017 1:57 PM

**Subject:** SEARCH OF ARRESTED PERSONS FOR THE PURPOSE OF DETERMINING A PERSON'S GENDER

THE DEPARTMENT REMINDS ALL MEMBERS OF THE SERVICE THAT UNDER NO CIRCUMSTANCES SHALL MEMBERS OF THE SERVICE CONDUCT SEARCHES FOR THE PURPOSE OF DETERMINING A PERSON'S GENDER, AS PER PATROL GUIDE PROCEDURE 208-05: A SEARCH OF ARRESTED PERSONS IS CONDUCTED TO MAXIMIZE SECURITY AND MINIMIZE POTENTIAL HAZARDS TO THE ARRESTING OFFICER, THE ARRESTED PERSON, AND OTHER DEPARTMENT PERSONNEL.

THE FOLLOWING GUIDELINES ARE PUBLISHED FOR THE INFORMATION OF ALL MEMBERS OF THE SERVICE:

**SEARCH AT POLICE FACILITY**

UPON ARRIVAL AT PRECINCT OF ARREST OR OTHER DEPARTMENT FACILITY, THE ARRESTING OFFICER (IF HE/SHE IS OF THE SAME GENDER AS PRISONER) OR ANOTHER DESIGNATED UNIFORMED MEMBER OF THE SAME GENDER AS THE PRISONER SHALL CONDUCT A THOROUGH SEARCH OF THE PRISONER'S PERSON AND CLOTHING TO ENSURE THE SAFETY OF ALL PERSONS WITHIN THE FACILITY AND TO REMOVE WEAPONS, CONTRABAND, AND EVIDENCE NOT DISCOVERED BY THE FRISK. OTHER ITEMS LAWFULLY CARRIED BUT THAT ARE DANGEROUS TO LIFE, MAY FACILITATE ESCAPE, OR MAY BE USED TO DAMAGE DEPARTMENT PROPERTY WILL ALSO BE REMOVED FROM THE SUBJECT.

IN ORDER TO ACHIEVE A BALANCE BETWEEN THE PRIVACY AND PERSONAL DIGNITY CONCERNS OF ARRESTEES, THE DESK OFFICER OR SUPERVISOR SUPERVISING A SEARCH AT A POLICE FACILITY SHALL ASSIGN A UNIFORMED MEMBER TO CONDUCT THE SEARCH AS FOLLOWS:

IN SITUATIONS WHERE AN ARRESTEE'S GENDER IS NOT IMMEDIATELY APPARENT OR AN ARRESTEE OBJECTS TO THE GENDER OF THE MEMBER ASSIGNED TO PERFORM THE SEARCH, THE DESK OFFICER OR SUPERVISOR

SUPERVISING THE SEARCH WILL ASSIGN A UNIFORMED MEMBER OF THE GENDER REQUESTED BY THE ARRESTEE, CONSISTENT WITH OFFICER SAFETY AND RESOURCE AVAILABILITY. CONSISTENT WITH THE PRIVACY CONCERNS OF THE ARRESTEE, ONLY THOSE OFFICERS REASONABLY NECESSARY TO CONDUCT THE SEARCH SHOULD BE PRESENT FOR THE SEARCH.

UNDER NO CIRCUMSTANCES SHALL MEMBERS OF THE SERVICE CONDUCT SEARCHES FOR THE PURPOSE OF DETERMINING GENDER. ADDITIONALLY, OFFICERS SHALL NOT ASK QUESTIONS ABOUT AN ARRESTEE'S ANATOMY WITHOUT A REASONABLE BASIS FOR DOING SO.

COMMANDING OFFICERS WILL ENSURE THAT THE CONTENTS OF THIS ORDER ARE BROUGHT TO THE ATTENTION OF MEMBERS OF THEIR COMMANDS.

## **Appendix C**

**Additional Forms Examined by OIG-NYPD**

- Stop, Question, and Frisk Report Worksheet
- AIDED Report Worksheet
- Complaint Report Worksheet (PD313-081)
- Arrest Report Supplement (PD244-157)
- Medical Treatment of Prisoner form (PD244-150)
- Unusual Occurrence Report (PD370-150)
- Missing-Unidentified Person Report (PD336-151)
- New York State Domestic Incident Report
- Prisoner Holding Pen Roster (PD244-1410)
- Seized Driver's License Receipt/Report (PD634-152)
- Property Clerk Invoice (PD521-141)
- Desk Appearance Ticket
- Desk Appearance Ticket Index (PD260-122)
- Desk Appearance Ticket Investigation (PD360-091)
- Desk Appearance Ticket Transmittal to Borough Court Section (PD260-122A)
- Investigation Card (PD373-163)
- Prisoner Roster (PD244-145)
- Prisoner Transport Dispatch (PD171-132)
- Property Index (PD542-103)
- Complaint Follow-Up (PD313-152A)
- Juvenile Arrest Investigation/Probation Intake Report Worksheet (PD277-151A)
- Miranda Warnings For Juvenile Interrogations (PD244-1413)
- Property Clerk Invoice Worksheet (PD521-141A)
- Property Clerk's Motor Vehicle/Boat Invoice Worksheet (PD571-147A)
- Request for Laboratory Examination - First Sheet (PD521-165)
- Request for Laboratory Examination - Second Sheet (PD521-165A)
- Request for Laboratory Examination - Third Sheet (PD521-165B)
- Supporting Deposition (PD244-060)

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# NYPD changes how it applies loitering law as it settles Legal Aid lawsuit over arrests of transgender people, women accused of prostitution

By GRAHAM RAYMAN

NEW YORK DAILY NEWS | JUN 05, 2019



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No Loitering sign (Joe Marino/New York Daily News)

The NYPD is changing the way it applies the loitering law after it was sued for illegally profiling and arresting women, transgender people and others on prostitution charges that were based largely on looks, the Daily News has learned.

The Legal Aid Society sued the department on behalf of people who asserted that police had arrested and detained them for loitering for prostitution based on personal appearance and then claimed they were working as prostitutes. One cop admitted in a deposition that he would look for “Adam’s apples” when considering whether to detain a suspected prostitute.

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“The NYPD for decades has profiled and arrested women of color – especially those who identify as transgender – simply for how they dressed, who they spoke to, and where they socialized,” said Tina Luongo, attorney-in-charge of the Criminal Defense Practice at The Legal Aid Society. “This settlement provides our plaintiffs and others some justice.”

Under the settlement, the NYPD is amending the Patrol Guide to prohibit officers from relying only on gender, gender identity, clothing and location to enforce the loitering law. The change also requires officers to provide more

**TOPICS** detailed, factual narratives for why they detained someone. And you can will also be trained to understand that if someone has an arrest record it is not in

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Loitering arrests will also be audited by the NYPD's Legal Bureau. Most Brooklyn arrests are in East New York and Bushwick, Legal Aid officials said. In Queens, loitering arrests seem to be clustered in Jackson Heights/Corona and Jamaica.

### [\[More New York\] Suspect surrenders in attempted rape of Brooklyn woman »](#)

“The changes reflected in this settlement are changes that have been well underway in the NYPD,” department spokeswoman Sgt. Jessica McRorie said.

“The NYPD is committed to providing clarity to our officers on loitering enforcement, and did so through a combination of amplifications to the patrol guide and enhanced training to ensure compliance.”

Luongo called on the state Legislature to repeal the loitering law. A related bill sponsored by Assemblywoman Amy Paulin and Sen. Brad Hoylman is pending in Albany. They have called the law “incredibly damaging to the lives of countless New Yorkers by cycling them in and out of the criminal justice system.”

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## Decrim NY: Stop Violence in the Sex Trades Act

Sponsored by Assemblymembers Richard Gottfried and Yuh-Line Niou,  
Senators Julia Salazar and Jessica Ramos  
Drafted in collaboration with Decrim NY

The Stop Violence in the Sex Trades Act amends statutes so that consenting adults who trade sex, collaborate with or support sex working peers, or patronize adult sex workers will not be criminalized. It also amends the law so that people can trade no-longer-criminalized sex in spaces where legal businesses are permitted, while upholding that maintaining exploitative workplaces where coercion and trafficking take place is a felony. New York state law has more than two dozen anti-prostitution penal codes, about half of which pertain only to sex work between consenting adults, while the other statutes focus on trafficking, exploitation of minors, and coercion in the sex trades. The bill upholds all of the felony anti-trafficking statutes that are designed to hold accountable traffickers and people who seek to buy sex from minors or otherwise sexually exploit minors.

The bill repeals and/or amends the following statutes:

1. The bill **repeals** sections of the penal code that prohibit prostitution and ends the criminalization of adults who sell or buy sex. Repeals include:
  - a. Section 230.00 - prostitution, affirmative defense, a class B misdemeanor.  
This repeal ensures that people will not be criminalized for selling sex.  
This section is replaced with a new definitions section.
  - b. Sections 230.20 - promoting prostitution in the fourth degree, a class A misdemeanor. This repeal ensures that sex workers will be able to work together and that friends and family who help keep people in the sex trades safe are not criminalized.
  - c. Section 230.25 - promoting prostitution in the third degree, a class D felony. The crime of promoting the prostitution of a person under 18 or a person who is being forced or intimidated into engaging in prostitution remains a class C felony in section 230.30
  - d. Section 240.37 - loitering for the purposes of prostitution, a class A misdemeanor. This repeal ends the discriminatory policing practice of arresting people based on their clothing, gender presentation, the neighborhood they are in, and their use of public space.



## Decrim NY: Stop Violence in the Sex Trades Act

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2. The bill **amends** the following sections of the penal code:
  - a. Section 230.00 - definition of “advancing prostitution” is amended so that young people between the ages of seventeen and twenty-one are not criminalized for working together under statute 230.32. This close-in-age exception mirrors the statutory rape law and protects LGBTQ youth, who often work together to stay safer.
  - b. Section 230.04 - patronizing a prostitute in the third degree is amended to repeal the crime of patronizing an adult, but upholds that patronizing a person who is between 15 and 18 is a class A misdemeanor. 230.05 maintains that patronizing someone 15 or younger is a class E felony.
  - c. Section 230.35 - promoting or compelling prostitution; accomplice is amended to delete the phrase “less than eighteen years old” so that no person can be charged as an accomplice, unless they are an accomplice to sex trafficking under 230.36.
  - d. The bill amends parts of the multiple dwelling law, public health law, real property actions and proceedings law, real property law, vehicle and traffic law, and the administrative code of the city of New York to make conforming changes and clarifications so that sex workers who are doing activities that are decriminalized are protected.
  - e. Throughout the prostitution and sex trafficking penal codes, the bill amends the gendered language of “he or she” to “a person,” “an actor,” or “an individual” to include the diverse gender identities of LGBTQ communities, who participate in the sex trades at high rates.
3. The bill **adds** the option for sex workers to apply for criminal record relief for crimes they were previously convicted of that are repealed under this bill and no longer a crime.

**Kira Lerner**

Jul 12, 2019

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# NEW REPORTS HIGHLIGHT BEHAVIOR OF PORT AUTHORITY POLICE IN ‘LEWD ACT’ ARRESTS

Expert reports in a 2017 federal lawsuit explore an alleged pattern of discrimination against men perceived to be gay.

Cornell Holden had just finished his overnight shift at Panera Bread in Queens and was headed into Manhattan to go to a supply store for his side gig as a cake decorator. But first, he needed to use the bathroom, and decided to find the men in the Port Authority Bus Terminal.

As Holden, then 28, exited the bathroom, he was suddenly approached by two plainclothes Port Authority police officers who handcuffed him and told him he was being arrested for lewd acts in the bathroom. According to Holden, he was just urinating.

Holden later learned that his arrest was part of a initiative launched by the Port Authority police, and the man in the urinal next to him, who had glanced over the divider, was an officer named Michael Opromalla. Holden later testified that while

in his holding cell, he heard other officers jokingly refer to Opronalla as the assumed to be gay for arrest.

**Kira Lerner**

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because of their appearance, the people who enforce laws, and they



Opronalla isn such arrests. In 2017, the Legal Aid Society and the law firm Winston & Strawn filed a federal lawsuit, alleging that the Port Authority police engage in a pattern and practice of targeting and wrongly arresting men nonconforming. Both of the named plaintiffs in Legal Aid had their charges dropped or were acquitted in court.†



**Holden later testified that while in his holding cell, he heard other officers jokingly refer to Opronalla as the "gay whisperer."**

The plaintiffs recently filed two expert reports. Shared with The Appeal, the reports shed new light on the plaintiffs They reveal, among other things, that Opronalla was one of a small number of officers responsible for the vast majority of public lewdness arrests at the time of Holden

John Pfaff, a law professor at Fordham University hired by the plaintiffs, found that just five officers out of more than 1,700 in the department, including Opronalla, were responsible for 70 percent of the public lewdness arrests in 2014, the year of Holden year were for public lewdness, according to the report.†

the officers were acting on their own rather than following a centralized policy, his report, although that, of course, raises questions about why the PAPD turned a blind eye to their behavior.

Police officers in New York City have been accused of unfairly policing the LGBTQ community for decades using surveillance and raids. And the Port Authority Police Department has been held accountable for this same behavior in the past. In 2005, the department was ordered to pay plaintiff Alejandro Martinez a substantial jury award in a lawsuit accusing officers of targeting men they perceive to be gay in a bathroom at the World Trade Center PATH train station.†

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## It's unreal to me that an organization can ignore such a large verdict so flippantly.

Cynthia Conti-Cook, Legal Aid Society

Despite that judgment, the 2017 suit alleges, the arrests continued and increased significantly a decade later, and the department made no effort to enact policies or reforms to prevent the wrongful arrests.†

Authority,  
Aid Society who is representing Holden in the current lawsuit.

verdict so flippantly.

Representatives for the Port Authority police and the officers union declined to address the allegations, noting a policy of not commenting on ongoing litigation. In responses to the complaint in court, attorneys for the officers denied the allegations that they conducted stings and targeted men they thought to be gay.†

Michael Coan, a former NYPD officer hired as an expert by the Port Authority of New York and New Jersey, also issued a [recent report](#). He said the Port Authority officers responded appropriately to acts of lewdness they said they observed. He also disputed Holden appearance.

The Port Authority Bus Terminal Times Square area and Theater district and the attire that Mr. Holden was wearing would not necessarily standout or draw attention and would not be indicative of his sexual preference, Coan wrote.†

But the new expert reports detail questionable patterns. Pfaff notes that the data provided by the Port Authority police was not detailed enough to allow him to draw firm conclusions about what drove the surge in arrests in 2014, but said it was likely not part of a broader increase in police enforcement activity. In fact, there were fewer other arrests that year. And they were unusual in other ways, he found. Many of the weekday rush hour, when police presence was higher rather than at night when one might expect more lewd activity to take place, Pfaff said.†

Another [expert report](#), provided for the plaintiffs by Jason Pierceson, a professor at the University of Illinois Springfield who researches politics, sexuality, and gender, found that the department

According to the report, the plaintiffs described Port Authority officers lingering at urinals, peering over privacy dividers, and making eye contact to encourage a response.

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Those tactics are similar to ones used in past raids in New York City, Pierceson noted, and similar ones across the country. In 2016, officers in San Jose and Long Beach, California, were separately rebuked in court for conducting discriminatory sting operations against men for alleged lewd activity in restrooms.†

discriminatory prosecution or selective enforcement, S. Franco, of Santa Clara County Superior Court, said in a 2016 order against the San Jose police.†

Legal Aid said it expects a decision on the class certification motion this summer and for the case to go to trial at some point after.†

and they



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## A NEW QUEER AGENDA

### What's Home Got to Do with It? Unsheltered Queer Youth

By Reed Christian and Anya Mukarji-Connolly

D was 17 years old when she was kicked out of her mother's house. D's mother didn't accept D's sexuality. While she was never able to state honestly that it was D's sexuality or gender expression that was an issue, she constantly tried to change who D was. She fought with D about who her friends were and would never let her bring friends home. She harassed D about how she dressed, told her to dress "more like a girl," and became physically violent during their arguments. It wasn't long before D was forced to leave her home with none of her belongings—no clothes, no ID. In the beginning she managed to bounce from couch to couch, staying with various friends. But due to the instability she wasn't able to continue with high school. When the couches ultimately dried up, D found her way to a youth homeless shelter. There she remained for the 30 days allocated for crisis shelter beds. When her 30 days were up, she made her way to a service agency where she met with advocates who tried to get her into foster care. But the system was unresponsive. When the city investigated why D, still a child, was homeless, they concluded that she came from a troubled family but one that could be repaired through counseling. Little effort was made to reunite this family and D's mother was not interested in addressing her underlying homophobia. The issue was masked as a behavior problem on D's part. In the end, D was expected to return home to her mother. D tried to return home but was soon forced out by her mother's abuse. By this time D was 18 years old: too old for foster care services. Without a high school diploma, identification, and a source of income, D's options were limited. Once D found her way back to a youth homeless shelter, she began the brutal journey through New York City's various systems.<sup>[1]</sup>

In New York City, estimates of homeless and street-involved youth range between 20,000 and 30,000. Nationwide studies indicate that 20 to 40 percent of youth living on the streets identify as lesbian, gay, bisexual, transgender, queer, or questioning (LGBTQQ), not including those whose behavior and identity don't fit any officially recognized category.<sup>[2]</sup> Marginalized and vulnerable, homeless LGBTQQ youth are overwhelmingly low-income youth of color who have been kicked out by parents, or have fled abusive homes because of their gender or sexual nonconformity.

In general terms, LGBTQQ young people become homeless as a result of the same social inequities that face all poor people, but especially poor people of color. They are affected by unemployment and underemployment, cuts in public benefits, and rising housing costs. They leave high school before graduating, and face regular police harassment. They are overrepresented in the foster care, juvenile justice, and shelter systems. They struggle with higher than average levels of substance abuse, mental health issues, and violence. They are more likely to turn to sex work to survive. And LGBTQQ youth are often more severely affected by such difficulties than most other young people. Home, school, the streets, and the social service system can all be dangerous places of bullying and fear, as well as everyday discrimination.<sup>[3]</sup>

What are LGBTQQ communities doing to help these young people? Progress over the past decades has encouraged more members of our communities to come out, often at younger and younger ages. This means that the LGBTQQ homeless population is becoming younger too, on average. Despite overall progress in LGBTQQ rights, these homeless youth often face anger, violence, and confusion at home—and discrimination, harassment, and more violence when they leave. The institutions designed to help homeless young people, the foster care and shelter systems, do not do a good job of ensuring the safety and support

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of LGBTQQ youth. Many choose to live on the streets rather than face the violence and harassment they confront in homeless shelters and foster care placements. On the streets, they can create their own networks of friends and families, and learn from each other how to navigate the various agencies and service programs that they need to survive.

The mainstream LGBTQQ movement organizations generally encourage young people to come out, usually with no real comprehension of the hostile forces they are likely to confront, and without strong material commitments to addressing their needs. The national LGBTQQ organizations working on youth issues emphasize issues such as education and sexual health, but largely neglect the violence and isolation that young people face in homeless shelters and foster care agencies, or the challenges they face when confronting the police and negotiating with johns on the street.<sup>[4]</sup>

### Issues Confronting LGBTQQ Youth

LGBTQQ young people experience hostility in their families and schools, in the social services and juvenile justice system, and on the streets. They are affected by homophobia and transphobia, and also by the structural inequalities of poverty, racism, and sexism. The weak social service system, the nonprofit world, and the LGBTQQ movement itself too often address these problems as *individual* difficulties rather than social problems. At worst, young people are criminalized or pathologized, and at best, they are usually offered short-term individual solutions for difficulties requiring collective action for social justice.

### Social Services and the Shelter System

LGBTQQ youth are sometimes kicked out of their homes by parents who will not accept them, and sometimes they run away to escape hostility or abuse. The first option for many is the foster care system. For older adolescents, however, accessing the foster care system can be a challenge. For these young people, the first step is often a crisis shelter. In New York City, teenagers who have been thrown out of their homes or who have run away from abusive families often face barriers to the child welfare system because they are viewed as troubled teenagers who are old enough to survive in the youth shelter system. Despite allegations of homophobic abuse or neglect, many of these young people are referred to a 30-day crisis shelter instead of long-term foster care services.

For the youth in foster care in New York City, there are two foster care programs offering services specifically for LGBTQQ youth. These programs offer a limited number of beds, however, and do not address the larger problems of institutional homophobia and transphobia in the wider system. Such limits clearly show that segregation cannot be a solution to the problems facing LGBTQQ young people, for whom all programs must become safe and welcoming.

Over the years, LGBTQQ foster youth and their advocates have worked to improve services for LGBTQQ youth in care. Today there are policies and training that have been implemented to protect LGBTQ foster youth. Despite these changes, however, there is little support available for people struggling with sexual and gender identity issues within their families.

Whether they end up in foster care or a youth shelter, a disproportionate number of our young people ultimately end up homeless, after families, foster care, and society have failed to meet their needs. There are only a handful of LGBTQQ youth-specific organizations to serve them. In a city of more than 30,000 out-of-home youth, under 500 crisis shelter beds are available.<sup>[5]</sup> And less than 1 percent of these crisis beds are in programs specifically serving LGBTQQ young people. Five to eight thousand young people use emergency housing services each year, and LGBTQQ populations are disproportionately overrepresented among them.<sup>[6]</sup> For these reasons, many LGBTQQ youth are faced with entering the mainstream adult shelter system, where their sexual or gender expression is likely to generate disapproval or violence.

### Juvenile Justice

The juvenile justice system is charged with the responsibility for rehabilitating young people who commit crimes. If a young person who commits a crime has a supportive family, she is less likely to face time in a detention center. For those without family support, the juvenile system operates much like the adult criminal justice system. LGBTQQ youth are more likely to receive stricter penalties for crimes, and are overrepresented in detention centers, where they are often isolated. As in many institutions, staff report not having the appropriate training to handle queer youth, who must too often fend for themselves.<sup>[7]</sup>

### Schools and Military Recruitment

Low-income and homeless LGBTQQ youth working to earn an education face an uphill battle. One study reported that up to 75 percent of older homeless adolescents drop out of high school.<sup>[8]</sup> Those that remain in school are likely to attend schools heavily policed by the city's police department. These young people, along with all low-income students, attend schools that feel more like detention facilities than educational institutions. Conflict in these heavily policed schools is often resolved through the juvenile and criminal justice systems. There have been efforts to make schools safer for LGBTQQ youth; however, some of these efforts use increased punitive measures to address conflict around sexual and gender identity issues.

For homeless queer youth, dropping out of school is often a result of an unstable family life, or violence and harassment at school. LGBTQQ youth in New York City public schools report being called derogatory names, being threatened with physical violence, and lacking protection by school staff. Despite this reality, national LGBTQQ organizations direct more money to colleges than to high schools and GED programs. They sponsor National Coming Out Day as a major event on college campuses, assuming that when young people come out they will be safer and more accepted. But coming out is not always a good option for young people with no financial or family support, and schools are not necessarily the central point of engagement for poor queer youth. With increasing national attention being drawn to the devastating effects of bullying, many of these national organizations are directing efforts to address the isolation and anti-gay bullying many LGBTQ youth are experiencing in schools across the country.

For queer youth not able to go to college, the military moves in. Low-income and poor youth of color are primary targets for military recruitment. Recruiters flock to high schools and set up camp in low-income communities of color, with the goal of filling their ranks with young people who have few other options. When mainstream LGBTQQ organizations fight for inclusion and equality in the military—but ignore the economic pressure placed on the least privileged young people to join up—they are abandoning the situation of queer young people whose military participation is not simply chosen.

When substantial resources are directed toward college campuses in support of “coming out” activities, or when emphasis is placed on inclusion in the military but not on the economic underpinnings of recruitment patterns, the plight of less-privileged young people is neglected. The mainstream movement often fails to analyze the intersections of class and race within the broader LGBTQQ community, and tends to ignore the experience of poor queer youth of color in particular.

#### **Public Access and Representation**

Since the 1969 Stonewall rebellion, the Christopher Street area in New York City has been identified with queer life. Over the past decades, the Christopher Street Pier as well as the street itself have become collective public gathering places for queer youth of color especially. But over those decades, the surrounding West Village has gentrified, and increasingly wealthy property owners often see the streets as their private space. Low-income queer youth of color have been increasingly marginalized as local property owners have pressured police and community boards to restrict uses of the pier as well as the streets. Such pressure has resulted in an increased policing of queer youth of color in the neighborhood and a shift in the services offered there. Intake centers for emergency shelters have been moved to outer boroughs, funding for mobile units parked in the neighborhood has been cut, and policing has been intensified.<sup>[9]</sup> Despite its history as a queer social movement center, the entire Christopher Street area has erased that democratic, public history as the forces of gentrification have created a whiter, wealthier neighborhood in which queer youth of color are less and less welcome.

#### **Conclusion**

The funding streams for government services and nonprofit organizations generally support and encourage programs that deliver services to individuals who need services as a result of individual problems or pathologies (drug use, trauma, depression). This politically conservative model of social service provision neglects or denies the systemic and structural causes of collective need for resources. Accountability to LGBTQQ youth is also missing from this traditional structure of social services. Services and advocacy priorities are often set by professionals working with homeless youth and do not come from the experiences of young people. In general, there is a disconnect between homeless youth and the organizations, foundations, and agencies providing services.

Mainstream LGBTQQ organizations do not recognize the major issues created for queer youth by this model of individualized service provision. Many organizations are silent on issues of class, race, and the intersections of oppression. A falsely unified gay identity is often portrayed, rendering multiple identities and forms of oppression as relatively invisible on the mainstream “gay agenda.”

Nevertheless, there is increasing change happening at the local level. Remarkably, the organizing work of local service providers has affected change in more immediate ways than the national organizations whose missions are supported by millions of our community’s dollars. Local grassroots organizations and progressive service providers targeting LGBTQQ low-income and homeless youth are addressing the needs of these young people in a unique way. There is increasing attention being put on the high prevalence of trauma experienced by homeless youth. There is ample evidence that homeless youth are exposed to and experience high rates of family and community violence. This understanding is now informing the ways in which services are being provided to this community. For many youth, these traumatic experiences shape their core identity and behaviors with adults. The consequences of trauma exposure interfere with a young person’s ability to engage in and benefit from services designed to promote stability and improve their quality of life. A trauma-informed approach attempts reduce barriers to engagement and enable young people to create realistic plans to increase their stability and achieve personal goals. Homeless young people responding to trauma frequently exhibit disruptive or challenging behaviors and often get restricted from the programs that are designed to serve them. Successful youth-serving agencies use an approach that promotes healthy attachment, self-regulation, and developmental skill competencies. Trauma-informed work

also creates a response to conflict or disruptive events that focuses on the needs of the people involved instead of the need to satisfy the abstract principles of law or the need of the agency to exact punishment. Young people are given an active role in a dispute and young people who exhibit difficult behavior are encouraged to take responsibility for their actions and are asked to work towards repairing the harm they have done.

Locally, there are also a number of LGBTQ organizations that have shifted the way in which social services to LGBTQ youth are provided. Traditionally, the voices of LGBTQ youth were not included in advocacy efforts. Adults and professionals working on behalf of young people set the policy and service priorities. In New York, organizations like FIERCE!, SRLP, and Streetwise and Safe (SAS), among others, have transformed the way youth participate in organizing and advocacy efforts. These organizations have created opportunities for lawyers and organizers to share information with youth and provided guidance and support for the youth to create tools to educate and share information with their peers. For example, SAS works with LGBTQ youth of color around policing issues in NYC. Lawyers and organizers engage a group of youth who have direct experience with the criminal justice system in a semester-long program. Together they exchange information about the legal system and police practices, and work to develop a "know your rights" curriculum that the youth can share with their peers. This youth development approach to social and legal services is an important component to any youth services program that seeks to empower young people to participate in the political process.

Together, such organizations are part of a larger social justice movement addressing systemic inequalities that include sexual and gender oppression.<sup>[10]</sup> There are grassroots efforts to not only improve the lives of low-income LGBTQQ individuals, but to create authentic leadership among the most vulnerable members of the community. Organizations are also looking inward. There are a number of local grassroots organizations that are rethinking the traditional nonprofit and social service models. They are creating models where transparency and accountability are valued. They are breaking down traditional hierarchical models and replacing them with transparent decision-making processes or collective models. They are committed to a world where all people have access to life's basic needs, where all are empowered to make change, and where everyone is able to live and love freely and safely. Together, we are working hard to change the landscape.

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#### Footnotes

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