

TRANSGENDER FORUM

ISSUES IMPACTING
TRANS AND GENDER
NON-CONFORMING
NEW YORKERS:

FACT SHEETS



SYLVIA RIVERA LAW PROJECT



THE CENTER
THE LEBRON GAY, BISEXUAL,
TRANSGENDER COMMUNITY CENTER

TRANSLATINA NETWORK
GAYS AND OUR NEIGHBORS

ISSUES IMPACTING TRANS AND GENDER NON-CONFORMING NEW YORKERS

HEALTHCARE

Disparities in Outcomes

The National Transgender Discrimination Survey, administered by the National LGBTQ Task Force and the National Center for Transgender Equality, found that among the 531 survey respondents in New York State:¹

- 17% were refused medical care due to their gender identity/expression
- 5.36% were HIV positive, compared to 0.6% of the general population
- 29%, almost one in three, postponed needed medical care, when they were sick or injured, due to discrimination
 - Among those who postponed care, many did so due to discrimination (28%) or inability to afford it (48%)
- 36% reported attempting suicide at some point in their life, 22 times the rate of the general population of 1.6%

Trans Youth and Healthcare Access

Healthcare autonomy remains an issue for young people seeking gender-confirming medical care.

- Young people under the age of 18 in New York State can access emergency care, reproductive care, STD testing and treatment, prenatal care, and in some cases substance abuse treatment without the consent of a parent or guardian.
- Any person who is eighteen years of age or older, or is the parent of a child or has married, may give effective consent for medical, dental, health and hospital services for himself or herself, and the consent of no other person shall be necessary.
- Medical, dental, health and hospital services may be rendered to persons of any age without the consent of a parent or legal guardian when, in the physician's judgment an emergency exists and the person is in immediate need of medical attention and an attempt to secure consent would result in delay of treatment which would increase the risk to the person's life or health.²
 - For trans youth, this means that individuals who are under the age of 18 and are married, emancipated or a parent can consent to taking hormones or getting other treatment without a parent, guardian, or foster care agency getting involved. Some legal service providers write letters on behalf of trans youth explaining that they are emancipated for the purposes of seeking gender-confirming healthcare.³

Recent Improvements in Insurance Coverage

¹ National Transgender Discrimination Survey – New York Results, National Center for Transgender Equality and the National Gay and Lesbian Task Force, 2011 http://www.endtransdiscrimination.org/PDFs/ntds_state_ny.pdf

² Public Health Law § 2504. Enabling certain persons to consent for certain medical, dental, health and hospital services.

³ Sylvia Rivera Law Project. Your Healthcare Rights: Youth. <http://archive.srlp.org/resources/pubs/healthcareyouth>

Since this survey was administered, relatively recent changes have been made in New York State, attempting to improve access to healthcare for trans people.

- In December 2014, the New York State Department of Financial Services issued a directive to health insurance companies requiring them to cover all medically necessary gender-affirming treatments for transgender patients.⁴
- In March 2015, New York State Medicaid regulations were changed to cover certain kinds of gender-affirming healthcare⁵. These changes followed a 12 year campaign by Sylvia Rivera Law Project and other transgender and queer groups, including the Audre Lorde Project and Queers for Economic Justice.⁶

GENDER-CONFIRMING DOCUMENTS

Birth Certificates

There have also been improvements to the birth certificate policies in New York City and New York State

- In June of 2014, New York State changed its policy so that only a letter from a medical professional is required for an individual born in the State to change their gender marker on their birth certificate.⁷
- In January of 2015, New York City followed the State and also changed its policy on revising the gender marker on City birth certificates to no longer require surgery, instead requiring documentation of the requested change from a medical professional. New York⁸

IMMIGRATION

There are an estimated 15,000 to 50,000 transgender, undocumented adults in the United States⁹. Due to their double marginalization of citizenship status and gender identity, undocumented trans people are particularly vulnerable.

In 2014, Ford Foundation examined the experiences of transgender undocumented individuals. They found that:

⁴“Insurers in New York Must Cover Gender Reassignment Surgery, Cuomo Says,” Anemona Hartocollis, New York Times, December 10, 2014, http://www.nytimes.com/2014/12/11/nyregion/in-new-york-insurance-must-cover-sex-changes-cuomo-says.html?_r=0

⁵ “Transgender Related Care and Services,” changes adopted to New York State Public Health Law 3/11/15, https://www.health.ny.gov/regulations/recently_adopted/docs/2015-03-11_transgender_related_care_and_services.pdf

⁶ “Medicaid programs will now cover transgender healthcare following SRLP’s twelve-year campaign,” Elana Redfield, Sylvia Rivera Law Project Website, December 17, 2014

⁷ “Birth Certificates,” Empire State Pride Agenda Foundation <http://www.prideagenda.org/advancing-justice/transgender-equality-justice/birth-certificates>

⁸ New York City Local Law 1 - 2015

⁹ “Our Moment for Reform: Immigration and http://transequality.org/sites/default/files/docs/resources/OurMoment_CIR_en.pdf

- Undocumented trans people in their sample reported the highest rates of physical assault and sexual assault in the workplace, 25% and 19% respectively, over three times the rate of the overall sample on both incidents
- Undocumented immigrants were twice as likely to have been evicted from their homes because of their gender identity (21%) as all transgender people.
- Undocumented trans people reported high levels of associational discrimination in employment for both spouses/partners (20%) and children (20%).

Trans immigrants in detention facilities face particularly dangerous conditions¹⁰.

- Trans detainees may be housed in unsafe facilities that do not match their gender, or be kept in solitary confinement.
- Though trans detainees comprise one in five hundred of overall detainees, they are one in five of confirmed cases of sexual abuse in detention facilities.
- Trans detainees have also reported being denied medical care, including HIV medication and hormone treatment, in detention facilities.

Though the United States Immigration and Customs Enforcement (ICE) announced policy changes in 2011 that would take detainees' gender identity into account for placement, there have been difficulties reported with their implementation, continuing the problems they were made to address.¹¹

In June 2015, ICE issued a memo detailing new instructions to update data systems, identification and processing and housing placement for transgender detainees. Under this new guidance, ICE officials are required to allow detainees to identify as transgender on data forms if they identify as such. For detainees who do identify as transgender, officials are instructed to consider detention that has medical personnel with experience in providing care, including hormone therapy, to transgender people. Placement into a segregated unit, which was previously a frequent practice, should only be used as a last resort when no other temporary housing exists.¹²

EDUCATION & YOUTH

NYS: Dignity for All Students Act

In 2010 the Dignity for All Students Act became law in New York State. DASA prohibits discrimination in schools on the basis of actual or perceived gender, gender identity and gender expression, and requires schools take steps to protect students, including staff training, forming inclusive curricula, and reporting incidents of harassment to the state¹³. There is no set state guidance on how to implement these policies,

¹⁰ "Why did the US lock up these Women with Men? A Fusion Investigation," Cristina Costantini, Jorge Rivas, Kristofer Rios, Fusion, November 17, 2014, <http://interactive.fusion.net/trans/>

¹¹ Ibid.

¹² Further Guidance Regarding the Care of Transgender Detainees. *U.S. Immigration and Customs Enforcement*. 19 June 2015. http://transequality.org/sites/default/files/docs/releases/ICEDetentionGuidance_June2015.pdf

¹³ "Dignity for All? : Discrimination against Transgender and Gender Non-Conforming Youth in New York State," New York Civil Liberties Union, June, 2015

however, and implementation has been uneven, resulting in trans and gender non-conforming students continuing to face discrimination and harassment in schools¹⁴.

A June 2015 NYCLU report *Dignity for All?* found major violations of transgender students' rights in New York State schools, with particular problems reported with students' use of bathrooms and locker rooms. The results of national surveys reflect these findings, reporting high levels of harassment and unsafe conditions.

- More than 73.6% of transgender students reported verbal harassment in school based on their gender expression.
- One in three transgender students reported physical harassment and 16.2% reported physical assault in school based on their gender expression.¹⁵
- 75% of transgender youth did not feel safe in their school.
- 63.4% of transgender youth felt unsafe in their school bathrooms and 52.1% felt unsafe in their school's locker rooms.

NYC: City Agencies

Administration for Children's Services

New York City's Administration for Children's Services (ACS) published "Safe & Respected: Policy, Best Practices, & Guidance for Serving Transgender & Gender Non-Conforming Youth Involved in the Child Welfare, Detention and Juvenile Justice Systems" in June, 2014. This report includes explanations of administration policies, such as:

- "It is Children's Services policy that all transgender and gender non-conforming youth shall be in homes and congregate facilities that are affirming of their gender identities."
- "Under no circumstances is any staff member of Children's Services or its provider agencies to attempt to convince a transgender or gender non-conforming youth to reject or modify their gender identity or gender expression."
- "Children's Services and provider agency staff must model appropriate and affirming behavior at all times. This means that bias, discrimination, bullying or harassment by staff or by youth towards youth and/or families is not tolerated, and immediate action to intervene in any such situation must be taken by staff."

The guide also serves as a resource on how ACS employees can implement these policies.

Department of Education

The New York City Department of Education (DOE) has issued comprehensive guidelines that schools can adopt to create positive learning environments for trans and gender-non-conforming students. This guidance, posted on the DOE website, covers definitions, official DOE policy when it comes to

¹⁴ Ibid.

¹⁵ "The 2013 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual and Transgender Youth in Our Nation's Schools," Gay, Lesbian & Straight Education Network, 2014

supporting trans and gender-non-conforming students, students' right to privacy, guidance on pronouns and names, gender segregation in school facilities and resources for students, parents and teachers.¹⁶

ACCESS TO EMPLOYMENT

Trans people often face difficulties related to employment. Surveys have found that trans people in the United States experience:

- Double the rate of unemployment of the general population, with rates for people of color up to four times the national unemployment rate.
- Ninety percent (90%) of those surveyed reported experiencing harassment, mistreatment or discrimination on the job or took actions like hiding who they are to avoid it.
- 26% of trans people reported losing a job due to their gender identity and/or presentation, with rates even higher for Black trans people (32%) and Latino (30%) respondents.

Rates of discrimination were also high specifically in New York State, indicating widespread discrimination based on gender identity/expression:

- 74% reported experiencing harassment or mistreatment on the job
- 20% had lost a job due to their gender identity/expression
- 20% were denied a promotion due to their gender identity/expression
- 37% were not hired due to their gender identity/expression

Trans people also reported much lower household incomes than the population as a whole, with many living in dire poverty. In New York State 19% of respondents had a household income of \$10,000 or less, compared to 4% of the general population, which is almost 5 times the rate of poverty.

A 2013 report by Make the Road New York, "Discrimination at the Workplace, from Application to Termination," on New York City found,

- "40% of transgender and gender non-conforming respondents had experienced discrimination in being considered for jobs or promotions based on their gender identity or sexual orientation."
- "32% of transgender and gender non-conforming respondents reported being fired from at least one job based on actual or perceived gender identity and expression."
- "44% reported that they faced such serious discrimination on the job because of their gender identity and expression that they were forced to quit."
- "41% of all transgender and gender non-conforming respondents reported experiencing some form of harassment on the job."¹⁷

However:

- New York prohibits discrimination based on gender identity and expression in State employment.

¹⁶ Transgender Student Guidelines. *New York City Department of Education*.

<http://schools.nyc.gov/RulesPolicies/TransgenderStudentGuidelines/default.htm>

¹⁷ "Discrimination at the Workplace, from Application to Termination," Make the Road New York, 2013

- According to the New York State Pride Agenda, “more than 150 private employers in New York - including Alcoa, American Express, Bausch & Lomb, Citigroup, Corning Inc., Deutsche Bank, Eastman Kodak, Goldman Sachs, IBM, J.P. Morgan Chase, Keyspan, MetLife, The New York Times, PepsiCo, Xerox and Pfizer - have adopted their own internal policies to protect employees from transgender discrimination.”¹⁸

HOUSING

Surveys have also found that transgender people experience housing discrimination and instability related to their gender identities/expressions

- 8% were evicted
- 19% were denied a home/apartment
- 18% had become homeless because of their gender identity/expression
- 24% had to find temporary space to stay/sleep
- 23% reported owning their home compared to 67% of the general U.S. population

The new Commissioner of the New York City Commission on Human Rights has begun work to promote the available protections against identity-based discrimination. Fair Housing NYC, their new website, has information on these protections, how to file a complaint, as well as general information on tenants’ rights, housing court, and more.¹⁹

VIOLENCE

Incidence of Violence

Transgender people are also disproportionately the victims of violence. The statistics for New York City from the 2014 report by the Anti-Violence Project found a total of 361 new LGBTQ and HIV-affected hate violence survivors for the year, and that “12% survivors of [anti-LGBT] hate violence identified ... as transgender or gender non-conforming (TGNC)²⁰.” In addition, AVP has documented 43 incidents of hate violence against TGNC people in 2014.

Among incidents of violence reported to anti-violence organizations serving the LGBTQ community across the country, transgender women and transgender people of color were particularly overrepresented as victims of violence and often faced the most brutal violence, with the murder rates for trans women of color being staggeringly high, with five trans women of color reported murdered in the first five weeks of 2015.²¹

¹⁸ New York State Pride Agenda. Gender Expression Non-Discrimination Act. <http://www.prideagenda.org/igniting-equality/current-legislation/gender-expression-non-discrimination-act>

¹⁹ City of New York. About Fair Housing NYC. <http://www.nyc.gov/html/fhnyc/html/about/about.shtml>

²⁰ “Lesbian, Gay, Bisexual, Transgender, Queer and HIV-Affected Hate Violence in 2014,” http://www.avp.org/storage/documents/Reports/2014_HV_Report-Final.pdf

²¹ Kellaway, Mitch. New Orleans Sees Fifth Trans Woman of Color Murdered in U.S. in 2015. *The Advocate*. 10 February 2015. <http://www.advocate.com/politics/transgender/2015/02/10/new-orleans-sees-fifth-trans-woman-color-murdered-us-2015>

As compared to cisgender survivors of violence, national data collected by the National Coalition of Anti-Violence Programs (NCAVP) from 2014 demonstrated that transgender women who were survivors of violence were:

- 1.6 times more likely to experience any physical violence
- 2.9 times more likely to experience discrimination
- 1.6 times more likely to experience sexual violence
- 1.9 times more likely to experience threats and intimidation
- 2.4 times more likely to experience harassment

As compared to cisgender survivors of violence, these data also demonstrated that transgender survivors of color were:

- 1.6 times more likely to experience any physical violence
- 1.7 times more likely to experience discrimination
- 1.8 times more likely to experience sexual violence
- 2.0 times more likely to experience threats and intimidation
- 1.5 times more likely to experience harassment
- 1.9 times more likely to require medical attention

Overall, as compared to cisgender survivors of violence transgender survivors were:

- 1.7 times more likely to experience discrimination
- 1.5 times more likely to experience threats and intimidation
- 1.5 times more likely to experience harassment

Response to Violence

In June 2012, the New York Police Department (NYPD) announced changes to its patrol guide, “[creating] a written policy for the NYPD to follow when addressing, processing, searching and housing gender non-conforming people.” The New York City Anti Violence Project noted that the new policy “mandates that New York City Police officers must respect TGNC (transgender and gender non-conforming) people’s gender identity and expression when addressing, processing, searching, and housing them, and explicitly prohibits NYPD officers from conducting any search for the purpose of determining a person’s gender, a widespread practice reported by transgender and gender non-conforming individuals across the City for many years. They also address the dangerous practice of cuffing TGNC people to benches and rails while in police custody.”²²

ACTIVE CAMPAIGNS

Condoms as Evidence

Banning the use of condoms as evidence of prostitution has been the focus of New York State campaigns aimed at promoting public health, protecting trafficking survivors and decriminalizing sex workers,

²² Bolger, Julie. Transgender Reforms Announced for NYPD Patrol Guide. *The Advocate*. 13 June 2012. <http://www.advocate.com/politics/transgender/2012/06/13/transgender-reforms-announced-nypd-patrol-guide>

transgender women of color in particular. S.1018A/A.4463B would amend state law by prohibiting using possession of a condom as evidence in prostitution and prostitution related trials, hearings or proceedings. The City Council has supported previous versions of these State bills.

Per revisions to the NYPD Patrol Guide in May of 2014, the introduction of condoms as evidence for crimes such as prostitution are no longer permitted, but condoms may continue to be introduced in cases “if police interpret... [the actions of survivors or victims who are trafficked]...as promoting prostitution or sex trafficking.”²³

Communities United For Police Reform (CPR)

Communities United for Police Reform (CPR) is an unprecedented campaign to end discriminatory policing practices in New York, bringing together a movement of community members, lawyers, researchers and activists to work for change. The [partners in this campaign](#) come from all 5 boroughs, from all walks of life and represent many of those most unfairly targeted by the NYPD. This groundbreaking campaign is fighting for reforms that will promote community safety while ensuring that the NYPD protects and serves all New Yorkers. We are a movement that is here to stay – a campaign that will be a visible, lasting presence on the streets of neighborhoods citywide. We will be in communities and on the streets, educating people about their rights; and in the courts and on the steps of City Hall and the state capitol, demanding change to the NYPD -- until these policies end.

CSA: Communities United for Police Reform is a proud supporter of the Community Safety Act (CSA)²⁴, a landmark legislative package aimed at ending discriminatory policing and bringing real accountability to the NYPD.

Signed into law in January 2014, the Community Safety Act has brought groundbreaking reform to the NYPD and has paved the way for future reforms efforts to bring about substantive change to policing in NYC. The passage of the CSA was a historic victory in the movement for police accountability and would not have been possible without the leadership of community groups and advocates, elected officials, and the thousands of individuals who signed petitions, mobilized to rallies, talked to their neighbors, and called their local City Council Members.

The CSA was an important advancement toward making New York City a safer place where the police treat everyone with dignity and respect. Communities United for Police Reform is continuing our important work to ensure that the new laws are implemented. We will also continue our efforts to increase transparency and accountability of the NYPD.

²³ “NYC to stop using condoms as evidence – in some cases,” Wilson Dizard, AlJazeera America, May 12, 2014
<http://america.aljazeera.com/articles/2014/5/12/sex-condoms-nyc.html>

²⁴ Communities United for Police Reform, Community Safety Act
<http://changethenypd.org/community-safety-act>

RTKA: the **Right To Know Act**²⁵ is a legislative package that aims to protect the civil and human rights of New Yorkers while promoting communication, transparency and accountability in everyday interactions between the NYPD and the public. New Yorkers want to live in a safe city where the police treat all residents with dignity and respect, and where police are not considered to be above the law. The **Right To Know Act** includes the following legislation:

Requiring NYPD officers to identify themselves (Intro 182) New Yorkers should have the right to know the identity of police officers that interact with them, and the reason for law enforcement activity that prompts those interactions.

Protecting New Yorkers against unconstitutional searches (Intro 541) New Yorkers should have the right to know that under the US constitution, searches without any legal basis (such as probable cause or a warrant) do not have to be agreed to, and they should have the assurance that this right will be respected and upheld by police.

Medicaid Campaign (SRLP, ALP, Make the Road New York)

On December 17th, 2014 after a 12 year campaign fighting to ensure that NYS Medicaid covered transgender and gender non-conforming health care as part of Medicaid SRLP, ALP and Make the Road New York were able to pass on a state level through the governors office Medicaid that was trans inclusive.

Reporting Violence Helps End Violence (AVP)

In spring 2012 AVP launched the “Reporting Violence Helps End Violence” campaign to encourage survivors to report violence to AVP to ensure they access to services if they have experienced or witnessed violence.

Born to Be (AVP)

In fall 2014 AVP launched the Born to Be Campaign which was citywide is bus shelters and phone kiosk’s in lower income neighborhoods with high incidents of anti-LGBTQ violence. The ad featured TGNC people of color and helped increase the visibility of violence impacting TGNC POC.

Gender Expression Non-Discrimination Act (GENDA)

The Gender Expression Non-Discrimination Act (A.4558/Gottfried, S.61/Squadron) (GENDA) would prohibit discrimination against transgender persons in New York State in employment, housing, public accommodations, education and credit by adding gender identity and expression as protected classes under the existing state’s human rights law.²⁶ GENDA has had resounding support in the New York State Assembly and has passed several times; it remains stalled in the New York State Senate.

²⁵ Communities United for Police Reform, Right to Know Act
<http://changethenypd.org/right-know-act>

²⁶ Cheney, Brendan. Explaining GENDA. *Capital New York*. 20 April 2015.
<http://www.capitalnewyork.com/article/albany/2015/04/8566013/explaining-genda>