



# A VISION FOR BLACK LIVES: POLICY DEMANDS FOR BLACK POWER, FREEDOM, & JUSTICE

## **An End to the War on Black Trans, Queer and Gender Nonconforming People Including their Addition to Anti-Discrimination Civil Rights Protections to Ensure Full Access to Employment, Health, Housing and Education**

### **What is the problem?**

- Trans, queer, and gender nonconforming people face harassment and discrimination in all facets of their lives, and the combination of anti-trans bias with racism leads to trans people of color experiencing particularly harmful levels of discrimination. Such discrimination and harassment exists in schools, workplaces, systems of policing, prisons, parole and probation, health care and more.
- Police and Prisons: Black transgender people experience both pervasive profiling by police — particularly through “public order” offenses like bathroom gender policing and prostitution-related offenses — and consistent lack of protection by police. Endemic transphobic harassment, verbal, physical and sexual abuse, and unsafe, dehumanizing and degrading treatment in police custody, in prisons and by probation and parole officers, is also widespread.
  - Among Black trans people, nearly half have been incarcerated at some point[A1].
  - According to the 2011 National Transgender Discrimination Survey:
    - 38 percent of Black transgender and gender nonconforming people who interacted with the police reported harassment; 14 percent reported physical assault, and six percent reported sexual assault.
    - 35 percent of Black respondents had been arrested or held in a cell due to bias at some point in their lives. Half (51 percent) reported discomfort with seeking police assistance.
  - Physical and sexual assault in jail and prison is a serious problem. Twenty-nine percent of Black respondents who had been to jail or prison reported being physically assaulted and 32 percent reported being sexually assaulted while in custody.
  - A survey of transgender people in Washington, D.C. found that a quarter of Black trans people reported assault by a police officer, more than any other group.[i]
- Employment: According to the 2011, National Transgender Discrimination Survey (NTDS), trans people in the U.S. are nearly four times as likely to be living in extreme poverty. Additionally, Black trans people are more than eight times as likely as the general U.S. population, and more than four times as likely as the general Black population to live in extreme poverty. Black trans people also face unemployment rates



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two times the overall rate for trans people, and up to four times higher than the general population. Many Black trans people have lost their jobs or have not been hired due to bias; and even when they get the job, Black trans people face harassment and in some instances, physical assault. As a result, half of Black trans people reported that they had [A2] to sell drugs or engage in sex work for income at some point in their lives.

- Health: The NTDS found that 21 percent of Black trans respondents had been refused medical care because of bias. Additionally, a Lambda Legal study found that 70 percent of trans and gender nonconforming respondents had experienced discrimination by medical providers. This lack of access is particularly devastating given the great need for health services. One report indicates that more than 20 percent of Black trans people are HIV positive and an additional 10 percent do not know their status. There is also a great need for mental health services, as nearly half of all Black trans people have attempted suicide.
- Housing: 41 percent of Black trans respondents said they experienced homelessness, but many shelters and drop-in centers discriminate against trans people and deny them access.
- Education: 50 percent of Black trans respondents reported experiencing harassment at school if they expressed a trans or gender nonconforming identity. Additionally, 27 percent reported physical assault and 15 percent reported sexual assault.
- Many of these issues are further exacerbated by lack of accurate identity documents among trans people. Many states require evidence of medical transition, court orders, and processing fees in order to change identity documents, which is often a prohibitively expensive process.
- Trans people often face violence by both private individuals and the state. At least 13 trans people have been murdered since the beginning of 2016, and the vast majority of the victims — more than 90 percent — are people of color and over three quarters are women. Last year was the deadliest year on record for Black trans and gender nonconforming women, with a total of 21 to 25 murder victims. As noted above, Black trans people report high rates of police harassment and physical and sexual assault in jails and prisons.

## What does this solution do?

- Reduces profiling, criminalization, police and prison violence against Black trans and gender nonconforming people.
- Improves access to safe and equitable housing, employment, healthcare, social services, and education for trans, queer, and gender nonconforming people. This includes reducing unemployment and workplace discrimination; providing real,

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meaningful, and equitable universal health care; and full and equitable access to services, including counseling, community centers, and shelters.[A3]

## Federal Action:

- Target: The Department of Housing and Urban Development (HUD), Department of Justice (DOJ)
- Process: Enforce rules that prohibit discrimination against trans people for funded housing properties, federally funded housing loans, direct service providers, drop-in centers, and shelters. Provide broad training on trans cultural competency for direct service providers, drop-in centers, and shelters.
- Target: Department of Justice (DOJ)
- Processes: Develop and disseminate model policies:
  - Banning profiling based on sexual orientation and gender identity alongside race, ethnicity, national origin, age, immigration status, disability and housing status;
  - Ensuring rights and dignity of LGBTQ GNC people in police custody;
  - Preventing, detecting and ensuring accountability for police sexual harassment and violence; and
  - Decreasing funding to departments that don't effectively implement or enforce these policies.
- Make adoption and effective enforcement of non-discrimination provisions based on sexual orientation and gender identity a condition of receiving federal funding through the Office of Justice Programs.[A4]
- Ensure programs and services that receive Violence Against Women Act (VAWA) grants are equally available to individuals regardless of gender identity.
- For more, see the following briefs:
  - Direct [democratic community control of local, state, and federal law enforcement agencies](#), ensuring that communities most harmed by destructive policing have the power to hire and fire officers, determine disciplinary action, control budgets and policies, and subpoena relevant agency information.
  - An [end to public jails, detention centers, youth facilities and prisons](#) as we know them. This includes the end of solitary confinement, the end of shackling of pregnant people, access to quality healthcare, and effective measures to address the needs of our youth, queer, gender nonconforming and trans families.
  - A [reallocation of funds at the federal, state and local level](#) from policing and incarceration (JAG, COPS, VOCA) to long-term safety strategies such as education, local restorative justice services, and employment programs.
- Target: U.S. Congress



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- Process: Pass a non-discrimination law that includes both sexual orientation and gender identity in employment, housing, public spaces and services, federally funded programs, credit, education, and jury service. The legislation should also prohibit discrimination and bullying in schools based on sexual orientation and gender identity.
- Process: Pass the End Racial Profiling Act of 2015 which prohibits racial profiling based on race, national origin, ethnicity, gender, gender identity and sexual orientation.
- Target: U.S. Congress
- Process: Pass legislation appropriating funds to expand housing options for trans homeless individuals, especially youth of color.
- Target: U.S. Congress
- Process: Pass a bill to expand public health care to all U.S. residents and prohibit line-item exclusions of procedures trans people need. All of trans people's medical needs should be included in health coverage. For more see the [universal health care one-pager](#).
- Target: Federal government and agencies
- Process: Clarify that existing executive orders that protect workers based on sex also include protections for trans employees.

## State Action:

- Target: State Legislature
- Process: Pass a bill to appropriate funding and support to local LGBTQ community centers, drop-in centers, and shelters that are already providing direct service to the trans community. The bill should also appropriate funds to expand housing options for trans homeless individuals, especially trans youth of color.
- Target: State Legislature
- Process: Pass non-discrimination bill for employment, housing, credit, and education laws that include both sexual orientation and gender identity. The bill should include safe schools laws that explicitly prohibit bullying and harassment based on sexual orientation and gender identity and advance transformative justice rather than criminal legal responses to school-based violence and bullying.[A6]
- Pass state anti-profiling legislation that includes bans on profiling based on sexual orientation, gender, gender identity and expression alongside race, religion, age, disability, housing and immigration status.



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- Pass legislation decriminalizing minor offenses disproportionately enforced against trans and gender nonconforming people including “broken windows” offenses, drug offenses, loitering for the purposes of prostitution and prostitution, and public order offenses.
- Target: State Legislature
- Process: Pass a bill to expand public health care to all residents and prohibit trans-related exclusions in insurance and Medicaid. The bill should contain explicit non-discrimination protection, including sexual orientation and gender identity, for Medicaid programs. For more see the [universal health care one-pager](#).
- Target: State Legislature
- Process: Simplify and streamline the process to change identity documents for trans people.

## Local Action:

- Target: City or municipal government
- Process: Municipalities should develop public-private partnerships to increase employment opportunities for trans people, such as [San Francisco’s Trans Employment Program](#).
- Target: City or municipal government
- Process: Pass local legislation banning profiling based on sexual orientation, gender, and gender identity alongside race, religion, age, disability, housing and immigration status.
- Pass legislation decriminalizing minor offenses disproportionately enforced against transgender and gender nonconforming people including “broken windows” offenses, loitering for the purposes of prostitution, and public order offenses.
- Divert savings into programs designed to provide housing, healthcare, employment and other needs identified by trans and gender nonconforming people.
- Target: School Board
- Process: School districts should develop comprehensive, tailored anti-bullying programs at all levels that advance transformative justice rather than criminal legal responses to school based violence and bullying.

**How does this solution address the specific needs of some of the most marginalized Black people?**



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- Black trans people face devastating levels of discrimination in many areas of their lives, and particularly at the hands of police and the prison industrial complex. This solution seeks to stop those discriminatory practices and protect trans people's civil rights, including access to education, healthcare, housing and employment.

## Model Legislation:

- [H.R.3185 - Equality Act](#) establishes explicit, permanent protections against discrimination based on an individual's sexual orientation or gender identity in employment, housing, public spaces and services, federally funded programs, credit, education and jury service.
- [Student Non-Discrimination Act](#) prohibits discrimination in public schools against individuals based on gender identity or sexual orientation.
- [Safe Schools Improvement Act](#) requires all public schools to enact an anti-bullying policy that includes specific protections for bullying based on sexual orientation and gender identity.
- [Argentina passed a law](#) that allows people to change their gender on official documents without judge or doctor approval.[A7]

## Resources:

- [Addressing Anti-Transgender Violence](#)
- [Black Trans Lives Matter, Too](#)
- [National Transgender Discrimination Survey \(2011\)](#)
- [NBJC Report: Injustice at Every Turn](#)
- [It's War In Here: Transgender and Intersex People In New York's State Prisons](#)
- [Federal Policy Recommendations for Addressing Criminalization of LGBT People and People Living with HIV](#)
- [Identity Crisis: Changing Legal Documents is No Easy Task for Trans Individuals](#)
- [Concrete Closets](#)
- [Protected and Served](#)
- [We Deserve Better](#)
- [Say Her Name](#)
- National Black Justice Coalition: [Injustice At Every Turn](#)

## Organizations Currently Working on Policy:

- Black and Pink
- National Black Justice Coalition
- Brown Boi Project



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- TransJustice of the Audre Lorde Project
- Trans Women of Color Collective
- Trans People of Color Coalition
- Black Trans Advocacy
- Transgender Law Center
- National Center for Transgender Equality
- Transgender Legal Defense and Education Fund
- ACLU LGBT Project
- Trans Advocacy Network
- Federal LGBT Criminal Justice Working Group

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[i] Elijah Adiv Edelman, Ruby Corado, Elena C. Lumby, et, al., “Access Denied: Washington, DC Trans Needs Assessment Report” (Washington: DC Trans Coalition, 2015), available at <https://dctranscoalition.files.wordpress.com/2015/11/dctc-access-denied-final.pdf>.

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