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Carlotta Mohamed

Cuny Graduate School of Journalism

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Police Misconduct Towards the Transgender Community

Kristen Lovell, a black transgender woman and activist, takes precautions everyday as she rides the subway from the Bronx to Manhattan for work.

“I know there are people who are intolerant of trans people or have some chip on their shoulder because I exist, and I’m a firm believer in self-defense,” said Lovell, 35, program coordinator at the Metropolitan Community Church of New York. “It could be because I’m black, it could be because I’m trans...they just feel like slicing my face today. I don’t know.”

With violence rising against black transgender women, activists say the New York City Police Department is mishandling transgender individuals and using the wrong names and gender pronouns in police reports and investigations. Nationally, one-fifth of transgender Americans report being harassed by the police on a regular basis and 6 percent report they have been victims of physical violence, according to the Human Rights Campaign. With tensions high between law enforcement and the transgender community, many transgender people say they feel uncomfortable seeking police assistance.

The NYPD responded to complaints by revising its Patrol Guide in 2012 to ensure that police officers treat transgender and gender non-conforming people with dignity and respect.

But critics say the department still has work to do. “It’s one thing to make a reform on paper, but it takes a greater commitment of resources to make the necessary cultural changes,” said City Councilman Ritchie Torres, a Bronx Democrat.

Torres said the NYPD is “a deeply intransigent, conservative institution, and it will take extensive retraining for police officers to fully live up to the spirit and letter of the 2012 changes.”

There have been no murders of trans women in New York for the last two years. But nationally, in the first seven weeks of 2016, seven trans women were killed; in 2015, 22 trans women were murdered, most of them women of color, according to the Gay and Lesbian Alliance Against Defamation (GLAAD).

The last violent death of a transgender woman in New York, in 2013, sparked protests about the NYPD’s response to the crime.

A group of transgender women were attacked by a group of men along Eighth Avenue, between West 147th and West 148th streets, near a police precinct in Harlem.

One of the women, 21-year-old Islan Nettles, died from her injuries. Advocacy groups later protested the NYPD’s handling of the case, saying the department was too slow to bring charges against suspects.

The victim's mother, Delores Nettles, said her daughter died across the street from a police housing station bureau. At the time, she believed that the NYPD did not investigate the death well enough, and that the district attorney's office was not doing a good job of prosecuting the case.

"No one came to the hospital to ask questions about what happened to Islan," said Nettles. "I had to call the DA's office. I wanted to know what happened, because I didn't know what was going on."

She said that delays in upgrading the initial misdemeanor charges against the first suspect, Paris Wilson, and in collecting evidence and witnesses had led to no one being charged or in custody for Islan's death for many months.

But a year later, Nettles' attacker, James Dixon, 25, was indicted and he was later sentenced to 12 years in prison after pleading guilty to first-degree manslaughter. Dixon had accepted a plea deal in the case, avoiding a full trial that could've resulted in a 20-year prison sentence.

Nettles said the man who killed her daughter should've received 17 years or more behind bars.

In a press release, Manhattan District Attorney Cyrus Vance said the deal was justice served.

"With this conviction, James Dixon has finally been brought to justice for this brutal and lethal assault, said Vance. "I hope that this conviction provides some comfort to Ms. Nettles' family and friends, and affirms my offices commitment to protecting members of the LGBTQ community."

Kristen Lovell, who was with Nettles' mother in court and attended the protests, said that although Dixon will be behind bars, he should have served a longer prison sentence.

"Islan is gone because of him," said Lovell. She had hopes and dreams just like any other person...why does someone have to die because of who they are? He took her life."

Lovell has personal experience of rough treatment by police.

When she began her transition, she decided to move out from her parents' home in Yonkers, Westchester County. While working late nights as a sex worker in the meatpacking district in Manhattan, she became hooked on cocaine to stay awake and focused, she said. She often slept in public bathrooms and movie theaters to save money to rent an apartment with a roommate.

"The nights were grueling and overbearing because I was outside working long hours trying to get by," said Lovell. "I didn't have any other source of income at the time."

Lovell's sex work came to an end after an encounter with police the night she was arrested for prostitution and sent to jail; it wasn't her first time being arrested.

"I was searched roughly and inappropriately," said Lovell. "It was disrespectful and humiliating. No one should be treated like that."

Often, transgender women are afraid to report violence to the police, Lovell said.

A survey done in 2011 by researchers and advocates of transgender equality, called the National Transgender Discrimination Survey, found 29 percent of the 6,450 survey participants reported having experienced harassment or disrespect when interacting with police.

Lourdes Hunter, the national director of the Trans Women of Color Collective, said that mistreatment of trans women at the hands of the police and the media is incredibly common. "The criminal justice system has no regard, respect or concern for our humanity," she said. "Folks must unlearn the bias and discrimination practices rooted in structural oppression and do their jobs without prejudice," Hunter said.

A CALL FOR CHANGE IN POLICE REFORM

Cities such as New York, Philadelphia and Washington, D.C., have developed policies to acknowledge the problems that LGBTQ activists have been pointing out for years: police officers who profile trans women for prostitution, use incorrect gender pronouns and misunderstand intimate partner violence, among other issues.

The NYPD's revision of its Patrol Guide came when a transgender woman, Temmie Breslauer, filed a lawsuit at the United States District Court Southern District of New York in 2012, alleging that she was called a "he-she" after her arrest in the subway. Breslauer was taken to the stationhouse, where she was chained to a fence with her arm in an uncomfortable position, Advocate.com reported.

The lawsuit alleges:

"Police officers in the precinct acted with puerility and disgrace, making insulting remarks such as 'He-She,' 'What're you supposed to be?' and 'Transvestite...'"

"The officers refused to refer to her by her preferred gender. She was continually referred to as 'he,' 'sir' and more often, 'buddy,' a semi-derisive name like 'lady' that the police typically use with men" the lawsuit states.

According to the NYPD's revised Patrol Guide:

"Prohibiting the use of discourteous or disrespectful remarks regarding a person's sexual orientation or gender identity/expression; instructing police officers to refer to

transgender New Yorkers by names, honorifics and pronouns that reflect their gender identity (even if it does not match the information on their ID documents); and amending forms so that people's 'preferred name' can be recorded and used while they are in police custody."

But Chernobiko, co-founder of the Black Trans Lives Matter Movement, said police officers aren't following the new guidelines.

"Sometimes they will say a man was found in women's clothes or use the wrong name," said Biko. "And you'll find out from the community that it was a transgender woman."

"When investigators refer to a transgender woman victim as a man, it can confuse witnesses, who, in turn, may offer fewer tips for the investigation," says Chai Jindasurat, a program coordinator for the Anti-Violence Project, a New York based advocacy group that has tracked homicides of transgender women for decades.

If community members see a report that doesn't reflect the person they knew, in terms of gender and name, they may not associate the report with the actual person they knew, Jindasurat said.

Some activists and elected officials are calling on the Police Department's inspector general to audit the department's adherence to the reforms. At a meeting in July 2015 with NYPD's Commissioner William Bratton, members of the commissioner's LGBTQ Advisory Panel, made up of leaders in the lesbian, gay, bisexual and transgender community, pressed for an audit. Torres also requested an audit after hearing complaints of mistreatment of transgender people by police officers.

Sgt. Michelle Martindale, the NYPD's liaison to the Lesbian, Gay, Bisexual and Transgender Community Outreach Bureau, said the department had begun a variety of programs to address the concerns.

"Newly promoted sergeants, lieutenants and captains undergo two hours of training meant to guard against profiling and other forms of mistreatment," said Martindale.

The training is meant to familiarize officers with police reforms that now have space for a preferred name and preferred gender pronouns.

Although Martindale said the department has had "no reports of any issues with officers not following the guidelines," she acknowledged some resistance.

"Everybody may not agree with the policy," she said, "but we have to do our jobs."

Mina Malik, the executive director of the city's Civilian Complaint Review Board (CCRB), which investigates complaints against the police, said the organization had collected complaints from transgender people since the police reforms were instituted in 2012.

She could not provide numbers.

But activists said the trans community doesn't trust the review board.

"The CCRB is only as effective as its reputation in the community allows it to be," said Andrea Ritchie, a lawyer with the non-profit group Streetwise and Safe. "The people always feel like they're being unheard by the CCRB."

Malik said the review board doesn't have the best reputation among transgender individuals. "We're working to improve relations with the transgender community," Malik added.

Ritchie said transgender clients have phoned her from jail in anguish after being placed in cells for a different gender. Ritchie has then had to explain the new regulations to the officers in charge, often referring them to the exact page in their guides, she said.

Martindale said it would take some time for police to learn the new rules just like the general public is learning about the trans community and learning about trans people coming out, so are we as well," she said.

CREATING ACCOUNTABILITY

New York State is moving to protect the transgender community. Last year, Gov. Andrew Cuomo introduced regulations through the New York State Human Rights Law, banning harassment and discrimination against transgender people.

"New York has always been a beacon for the country on LGBT rights. We started the movement at Stonewall, we led the way with marriage equality, and now we are continuing to show the nation the path forward," said Cuomo at the Empire State Pride Agenda's fall dinner.

It is the first time any governor has issued statewide regulations to prohibit harassment and discrimination on the basis of gender identity, transgender status or gender dysphoria.

The new regulations are a start, but activists say we still have a long way to go. "It's a shame that we still cannot accept people for who they are in our society today," said Lovell. "We're all Americans and deserve to be treated with equality and respect."