

COLORLINES

As We #SayHerName, 7 Policy Paths to Stop Police Violence Against Black Girls and Women

In honor of the National Day of Action to End State Violence Against Black Women, Girls and Femmes, lawyer, researcher and activist **Andrea J. Ritchie** presents some policy ideas to eliminate police sexual violence, gendered racial profiling and other ways officers target Black girls, women and gender nonconforming people.

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Activists from Durham to D.C. to Detroit are gearing up for the second National Day of Action to End State Violence Against Black Women, Girls and Femmes, which will take place tomorrow, (May 19).

Sponsoring groups BYP100, Black Lives Matter Network, Project South and Ferguson Action chose this date to coincide with a hearing about firing Dante Servin, the Chicago police officer who killed Rekia Boyd in March 2012. (Servin resigned on Tuesday. Now activists are calling for his pension to be revoked.)

Along with the collective call to #SayHerName, we also need policies that prevent and remedy the specific forms of police violence, racial profiling and criminalization that impact Black girls and women—cis and trans—and gender nonconforming people. In other words, we need to answer the call of Sandra Bland's mother, Geneva Reed-Veal, who last month told the Congressional Black Caucus on Women and Girls:

I don't come to sit and be a part of a caucus where we talk and do nothing. ...Movements move. Activists activate. We have got to stop talking and move. ...[I]t is time to wake up, get up, step up or shut up.

I have been studying how we can answer the call for an action agenda around Black women and policing over the past two years, as a Soros Justice Fellow. What follows is a list of seven starting points based on what I've found in a range of sources including my survey of 35 police departments, President Obama's Task Force on 21st Century Policing, reports like "A Roadmap for Change: Federal Policy Recommendations for Addressing Criminalization of LGBT People and People Living With HIV," and The New York Young Women's Initiative's criminal justice recommendations released this week. I've also drawn from changes police departments have made due to public pressure and litigation.

This list is by no means definitive. Rather, it's a starting point for an agenda that focuses

on the particular ways that Black girls, women and gender-nonconforming people experience police violence. Each point represents an area where legislators and policymakers should take action, and where advocates can put pressure on them to act.

1. Problem #1: Black girls, women and gender nonconforming people experience gendered racial profiling.

Racial profiling takes on gender-specific forms including the policing of prostitution, pregnancy and motherhood. Officers particularly profile Black women as being engaged in prostitution based on the age-old jezebel stereotype. They perceive them as bad mothers based on stereotypes similarly rooted in slavery and the more recent “welfare queen” trope.

Statutes such as “loitering for purposes of prostitution” also aid gender-based racial profiling. In many cases, police cite condoms they've found in women's purses or pockets as evidence of prostitution. The combination of vague laws, dangerous police policies and entrenched stereotypes can make Black women who are simply walking down the street late at night carrying condoms grounds for arrest. These patterns of policing demand gender-specific and -inclusive responses.

New York City has led the way in adopting broad protections against multiple forms of racial profiling. Its End Discriminatory Profiling Act of 2013 is the most comprehensive, enforceable ban in the United States. The President’s Task Force on 21st Century Policing and the NAACP recommend similar measures for departments nationwide.

Recommendations:

- State and local lawmakers should adopt and enforce policies as comprehensive as New York City’s. On the federal level, Congress should pass the End Racial Profiling Act of 2015, which would prohibit profiling based on gender, gender identity and sexual orientation alongside race, religion and ethnicity.
- State lawmakers should repeal of vague “loitering for the purposes of prostitution” laws, and ban the use of condoms as evidence of prostitution-related offenses. Local police departments should independently prohibit their officers from criminalizing condoms as well.

Problem #2: Police are doing strip- and body cavity-searches of Black women in public.

In August 2015 at a Harris County, Texas, gas station, one male and two female police deputies overpowered and held down Charnesia Corley, a Black 21-year-old they suspected of marijuana possession. One female deputy pulled down her pants. Another sat on her back and cavity-searched her in full view of passersby. The horrific treatment of a Black woman is not unique. Public strip- and body-cavity searches are experienced as sexual assaults, and should be addressed as such.

Recommendation:

- Shortly after Corley was strip- and cavity-searched, Texas legislators passed a law specifically banning body cavity searches during traffic stops unless the officer obtains a warrant. All of the other states should follow suit to bring search practices in compliance with the requirements of the U.S. Constitution.

Problem #3: Police sexual violence goes unreported, ignored and unpunished.

Although there is currently no official data collection on the issue, study after study by law enforcement leaders, former police officials, academics and community groups demonstrate that police sexual misconduct is a systemic problem. In 2010, the Cato Institute found that sexual violence was the second most frequently reported form of police misconduct, after excessive force. Other research shows that officers disproportionately target women who are young, of color, trans and gender-nonconforming. Police also single out women who are criminalized through the war on drugs and prostitution enforcement. In surveys of 35 police departments across the country, I found that 52 percent don't have any policy that specifically addresses police sexual violence against women. An investigation by Al-Jazeera America found similar results.

Additionally, the investigation and prosecution of police sexual misconduct is largely left to the police themselves, along with local prosecutors. Survivors are already reluctant to report sexual assault to authorities, but they are particularly hesitant to tell the police departments that employ their assailants. This is especially true for women who are—or are profiled as—involved with drugs or prostitution. Daniel Holtzclaw's serial rape and sexual assault of scores of Black women made this plain.

Recommendations:

- The U.S. Department of Justice (DOJ) should collect national data about police sexual violence against civilians through the Police-Public Contact Survey and other national surveys.
- The DOJ should develop and disseminate a model policy as recommended by the President's Task Force and deny federal funding to police departments that refuse to ban all forms of police sexual misconduct, create prevention strategies and ensure accountability for officers who sexually abuse civilians.
- The DOJ should mandate, expand and audit police departments' compliance with the 2003 Prison Elimination Act. This legislation and accompanying regulations set standards for the prevention and detection of sexual misconduct in all places of detention, including holding cells.

- Civilian oversight bodies and special prosecutors appointed to address police misconduct should be equipped and required to receive complaints of sexual violence. They should be able to support survivors, investigate police, and impose discipline up to and including firing guilty officers.

Problem #4: Police officers conduct illegal “gender searches” on trans people of color.

Transgender and gender nonconforming people are all too often subject to officers searching their bodies because they are curious, want to assign them a gender based on anatomy, or degrade them. These searches plainly run afoul of the Constitution. With the passage of HB2 in North Carolina, police could very well begin conducting such searches outside public bathrooms. Because they come into frequent contact with police due to racial profiling and discriminatory enforcement, gender searches disproportionately impact trans and gender nonconforming people of color.

Recommendation:

- The President’s Task Force on 21st Century Policing unequivocally calls for explicit bans on gender searches.
- In partnership with advocacy organizations, the DOJ should develop, disseminate and monitor how model policies are implemented to ensure that authorities respect the rights and dignity of LGBTQ people

5. Police are beating and using TASERS on pregnant Black people.

While the idea of a police officer punching a pregnant woman or shocking her with 50,000 volts of electricity is shocking but not uncommon. The cases of Raven Dozier, Nicola Robinson, Tiffany Rent, Lucinda White, Malaika Brooks illustrate the need for clear and strong policies banning the use of TASERS, chokeholds, pepper spray, forcible takedowns and other forms of excessive force against pregnant people. Yet, fewer than half of the 35 police departments I surveyed around the country over the past year had a policy limiting this kind of force.

Recommendation:

- Police departments should impose and enforce strict bans on use of force against pregnant people.

Problem #6: Black women are dying in police custody due to neglect, refusal of medical care and use of force.

All too often, Black women and women of color are perceived as deceptive, undeserving of medical care and incapable of feeling pain or illness. In July 2015, at least five Black women—Sandra Bland, Kindra Chapman, Joyce Curnell, Ralkina Jones and Raynette

Turner—died in police custody. This January, 16 year-old Gynnya McMillen died in an Elizabethtown, Kentucky, juvenile facility after staffers took her down using a so-called aikido restraint. Staff members failed to check on McMillen overnight, a policy violation. When they found her unresponsive in her cell the next morning, they waited for more than 10 minutes to act.

Recommendations:

- Keep girls and women out of police custody by minimizing enforcement and detention for traffic and low-level offenses.
- Use independent monitoring to ensure that staff are following detention policies.
- Demand accountability from law enforcement personnel who fail to provide medical treatment to individuals in police custody.

Problem #7: Police are searching people without identifying themselves or the reason for the encounter.

Regulation of consent searches is particularly important to Black women because they are so often sites of sexual harassment, abuse, unlawful gender searches and drug patdowns. It is hard enough to hold an officer accountable for profiling and violence. It's even harder when you don't know the officer's name and you aren't empowered to exercise your rights during an encounter.

Recommendations:

- Police departments should adopt the President's Task Force recommendation that officers be required to identify themselves and explain why they've stopped, detained and arrested a civilian.
- Officers should be required to advise people of their right to refuse a search without legal basis. They should also be required to show proof of voluntary, informed consent to searches. These common-sense policies that are already in place in cities, from Cincinnati to Pittsburgh to Denver.

Of course, changing police policies is not a panacea to police violence against Black girls, women and gender nonconforming people. In order to strike at the root of the issue, we need to transform our responses to poverty, violence and mental health crises in ways that center the safety and humanity of Black women and our communities. Still, taking action in these seven areas would go a long way to reducing harm while we work toward deeper systemic change.