



## **Under Siege: Violence Against Gender Non-Conforming People Dedicated to Sakia Gunn\***

***Hate crime: a crime motivated by racial, sexual, or other prejudice, typically one involving violence.***

*When your mother delivered you, you both stopped breathing.*

*You were the youngest of four, born with heart problems. You played basketball anyway; you were taught never to run away from anything.*

*You dressed like a little girl when you were young, until you got your own money and started doing your own shopping. When your mother first saw you in masculine clothing, she was surprised. The change is sudden, for her; she never thought her youngest daughter was gay. She worries for you, even now. Especially now.*

*You grew up: you went to community college, got a job, and signed a lease on an apartment. You met a girl and started dating; you celebrated your sixth anniversary with her.*

*On her birthday—July 7<sup>th</sup>—you go out to dinner at a friend’s house, across the street from your apartment. As the three of you cross the street back home, you notice some men standing in front of your building. One of them says, “You must be the boy out of the group, huh.”*

*You have heard these comments before, mostly from men: “You’re trying to be a boy”. It doesn’t bother you much. You have never been seriously harassed. Your girlfriend, who knows this man, asks him not to say anything as you enter the building.*

*Within the hour, he and his friends will have you and your girlfriend pinned against a car.*

Violence against LGBTQ people, especially gender nonconforming people, is one of the most urgent problems facing LGBTQ communities. In 2012, the FBI reported that 1,376 people were targeted due to their sexual orientation<sup>1</sup>. Sexual prejudice is the third most frequent motivator of hate crimes at the national level, and is most likely to result in a violent crime. A full 71% of sexual orientation-based hate crimes involved a direct attack on the victim’s person (as opposed to their property)<sup>2</sup>. This is a higher percentage than any other type of hate crime.

On a national level, transgender people and people of color are more likely to be the victim of hate crimes, especially homicides. In a three year span, 83 LGBTQ people were killed by a hate crime: 30 in 2011, 25 in 2012 and 18 in 2013<sup>3,4</sup>. This number is devastating on its own, but has a disproportionate negative effect on transgender people and people of color. In 2011 and 2012, people of color accounted for 87% and 73% of homicide victims, respectively<sup>3,5</sup>. In 2013, this trend became even more apparent: 89% of all homicide victims were people of color, and a full 78% were Black or African American<sup>4</sup>. Seventy-two percent were transgender women. In 2013, transgender women were 6

times more likely to experience physical violence compared to overall survivors, and LGBTQ people of color were 1.5 times more likely to experience physical violence compared to white LGBTQ people<sup>4</sup>. Transgender people of color, therefore, are by far the community that is most at risk of hate-related homicide and violence.

In 2011, 18 crimes were reported as hate crimes based on sexual orientation, out of a total 51 reported incidents in Chicago<sup>6</sup>. Fifteen were classified as “Anti-Gay”, two were classified as “Anti-Gay & Lesbian”, and one was classified as “Anti-Bisexual.” According to the 2011 hate crime report, there were no reported incidents of “Gender”-based hate crimes, and there is no category for transgender or gender nonconforming victims. Additionally, there were fourteen total “non-criminal instances motivated by hate”, which is an act such as an insult, jeer, sign or literature in which another person’s identity is under attack. The report does not indicate how many of these fourteen incidents involved bias against LGBTQ people or communities.

It is difficult to state precisely how gender presentation—rather than transgender identity—may motivate violent crimes. This is true on both a national and city-wide level. There is little national data on *gender*-motivated hate crimes, let alone *perceived gender* or *gender presentation*. The FBI’s website lists five separate categories of “Sexual orientation bias”: anti-male and anti-female homosexual bias, anti-homosexual bias, anti-bisexual bias and anti-heterosexual bias. There is no category listed on the report for any gender identity, transgender or otherwise<sup>1</sup>. Similarly, The Chicago Police Department’s Hate Crime Annual Report lists “Sexual Orientation” (classified as “Gay,” “Gay & Lesbian” and “Bisexual”) and “Gender” as separate categories, and does not account for trans\* identities anywhere in their 2011 report. It attributes 0 hate crimes to the “Gender” category<sup>6</sup>. These numbers indicate that violence against gender nonconforming people may be underreported to the police, or may be lost in the FBI and CPD’s statistical analyses. Whatever the reason, it is difficult to locate gender nonconforming people in city-wide reports, and even more difficult to speculate how the perceived gender of individuals may affect their risk of violence. We must therefore turn to the individual experiences of victims to show us how masculine-presenting women and feminine-presenting men may be victimized due to their nonconforming gender presentation.

*“What’s up?” he says.*

*The man stands in front of your apartment, again. His friends look on silently as he approaches you and your girlfriend. It is her birthday. You left your apartment to run to the store, but you hadn’t realized that he and his friends were still outside.*

*“This is my block,” he says. “I decide who gets to walk on this block.”*

*“You see us every day,” says your girlfriend. “Why do you want to mess with us today?”*

*“Dyke,” he says. “Bitch,” he says. He continues to walk forward, and you tighten your hand around the bottle you are holding. When he takes a swing at you, you are ready to fight back.*

*You are sorely outnumbered: there are maybe ten men (you never count). They pin you against a car and beat you, and your girlfriend next to you. Somehow they take your phone, shirt and shoes.*

*You go to a neighbor's apartment to call your aunt for help. Your girlfriend, a medical assistant, checks your wounds. You black out.*

It is not unusual for an LGBTQ victim of a hate crime—especially a transgender and/or female victim—to avoid reporting the crime to the police. In this case, the victim did eventually report the incident to the police, which led to the arrest of the offender. However, in 2013, only 45% of LGBTQ survivors and victims filed a police report—a decrease from 56% in 2012<sup>3,4</sup>. Gay men were 1.4 times more likely than other groups to report an incident to the police; however, transgender survivors were seven times more likely to experience police violence compared to cisgender survivors. Overall, 32.2% of LGBTQ people who did report to the police said that the police officer's attitude was "hostile"<sup>4</sup>.

According to the National Coalition of Anti-Violence Programs (NCAVP) 2013 report, police misconduct occurred at alarmingly high numbers when LGBTQ survivors and victims reported a hate crime. In 2012, almost half—48% of those who interacted with the police were treated with misconduct such as unjustified arrest, excessive force and entrapment<sup>3</sup>. Of those who interacted with the police, 29.3% experienced verbal abuse, 21.4% experienced physical violence, and 4.3% experienced sexual violence from the police.<sup>3</sup> In 2013, 55% of those who experienced misconduct were unjustly arrested, and 28.3% had excessive force used against them<sup>4</sup>.

Given these numbers, it is unsurprising that many hate crimes go unreported. The very real threat of misconduct and even violence from the police deters LGBTQ people—especially transgender people and people of color—from reporting incidents of hate. It is also relevant to note that sex workers account for a large percent of hate crime victims, especially homicides: 22% of anti-LGBTQ homicides in 2011 and 23% in 2012 were connected to sex work<sup>3</sup>. The criminalization of sex workers, and high risk of police violence, mean that sex workers may very well put themselves in further danger by going to the police for help. Many hate crimes against sex workers may go unreported for this reason.

Homelessness in LGBTQ communities, especially among youth and transgender people of color, is also a factor in both the risk of hate crimes and the risk of police misconduct or indifference. The NCAVP speculates that homeless people, since they are outside and on the street more often than people with stable housing, are at a higher risk for being attacked due to their gender identity or sexual orientation. Additionally, the risk of police misconduct is increased due to criminalization of and bias against homeless people. These issues become all the more significant due to the fact that one in five transgender people (19%) experience homelessness at some point during their lives<sup>7</sup>. Transgender people who seek help at homeless shelters are turned away and harassed at an alarming rate. According to a study from the National Center for Transgender Equality and National Gay and Lesbian Task Force, 55% of transgender individuals who tried to access homeless shelters were harassed by shelter staff or residents. Twenty-two percent were sexually assaulted by staff or residents. Twenty-nine percent were not admitted at all, but were turned away at the door. Therefore (if we consider assault to be harassment), 84% of transgender homeless individuals who seek help at homeless shelters are either turned away, harassed or assaulted. There is no safe place to turn for homeless transgender people seeking shelter from violence.

*Your mother reaches the hospital before you do. You wake up with several broken ribs, and extensive bruising and swelling. The police question you, and you give them the name and description of the man who started the fight. You don't know the names of the other men.*

*You ache. You cannot stay overnight at the hospital because you do not have health insurance. You go home with your mother.*

*The man who started the fight is arrested the next day. You go to the bond hearing, where a large group of people show up in support of the man who assaulted you. He is in jail.*

*You take off work for three weeks, since your job requires heavy lifting that you are incapable of doing. You buy a new phone: \$200. You renew your current lease, despite feeling unsafe in your neighborhood. Your sisters won't visit your apartment. Your mother tells you to move: "I wasn't worried before because you knew everyone," she tells you.*

*Your girlfriend knew the assaulter; his family knows her. The detective has to walk them out of the first court date. You all fear retaliation.*

*You and your girlfriend break up. Six years.*

*You don't want to move out of your neighborhood. You were taught not to run away from anything. You don't want to give him the satisfaction of driving you out.*

*"I know God," says your mother. "No weapon formed against me will prosper."*

*Of the ten men who attacked you, nine are still at large.*

The true story of this Chicagoan, who was harassed and assaulted with her girlfriend on July 7, 2013, is evidence of the harm caused by hate crimes targeting LGBTQ people of color. Hate crimes hurt victims and destroy relationships, at great economic and psychological cost. Even when the court proceedings are completed, the survivor must deal with the uncertainty and fear of being attacked, often in their own home, school or neighborhood. Even one hate crime based on gender identity or sexual orientation is tragic; thousands indicates a deep, systemic and pressing problem.

To address the issue of violence against LGBTQ communities, especially against trans\* and gender nonconforming people, we recommend the following to policymakers:

**1. Encourage passage of the Employment Nondiscrimination Act (ENDA).** According to the Human Rights Campaign, "ENDA would provide basic protections against workplace discrimination on the basis of sexual orientation or gender identity." This important piece of legislation has been lingering in Congress for 20 years! Last year the US Senate passed the bill with bipartisan support. Now the pressure must be put on the House of Representatives to do the same. To send a message to Congress to pass the bill, go to <http://tinyurl.com/q5d5dg4>.

**2. Push for the state government to enact anti-discrimination laws with specific language to include gender identity and expression.** Currently, gender identity and expression are only protected in eleven states: California, Colorado, Connecticut, Hawaii, Maryland, Minnesota, Missouri, New Mexico, Oregon, Pennsylvania, Vermont. This language will allow for better understanding and analysis of hate

crimes against gender non-conforming people, and is critical to ensuring that transgender and gender nonconforming people are protected under the law.

**3. Take a stand against police misconduct, violence and profiling.** Police officers should be held accountable for all instances of misconduct, and police violence should not be tolerated, especially against those seeking police assistance as a result of a hate crime. Racial profiling, and profiling based on perceived gender or sexual orientation, should not be tolerated.

Policies such as the End Racial Profiling Act (ERPA) take one step toward eradicating racial profiling on a federal level. Legislation should also be adopted that protects sexual orientation and gender identity from police profiling.

**4. End the criminalization of sex workers and homeless people.** Those who are homeless or who participate in sex work are some of the most at-risk populations for hate crimes, as well as being economically and socially disadvantaged. One's housing status or involvement in sex work should not affect one's right to protection from hate crimes.

**5. Address the underlying causes of violence, such as discrimination and bias.** LGBTQ people, especially gender nonconforming people and people of color, face cultural and institutional discrimination. Federal policies such as the Employment Non-Discrimination Act and the Fair Housing Act, as well as local efforts such as the Chicago House TransLife Center, should receive our full dedication and support.

We recognize that all forms of discrimination contribute to violence against LGBTQ communities, and therefore all stress the urgency of enacting legislation that disallows bullying and harassment in schools. At the federal level, the Student Non-Discrimination Act would protect students from being excluded or discriminated against based on their gender identity or sexual orientation, and the Safe Schools Improvement Act would prevent the bullying and harassment of LGBTQ students by other students. The Chicago Public Schools Anti-Bullying Policy prohibits bullying based on actual or perceived gender identity and sexual orientation, but we must work to ensure that that policy is enforced by teachers and respected by students<sup>8</sup>.

**6. Attend the upcoming Hate Crimes Summit in Chicago.** This fall, policy makers, law enforcement, academics, parents, activists, and others will convene in Chicago to discuss the problems of hate crimes in the City of Chicago and Cook County. The Hate Crimes Summit seeks to raise the issue of hate crimes, explore the causes for under-reporting, examine solutions and models of intervention and prevention, and provide opportunities for networking and collaboration. The summit is an opportunity to dig deeper on the issue of violence against gender nonconforming people and other marginalized groups to create a safer environment for reporting these crimes.

\*Sakia Gunn was a 15 year old Black lesbian who was murdered in a hate crime in New Jersey in 2003. She would have been 27 on May 26, 2014. A synopsis of her life and death can be found at <http://www.boxturtlebulletin.com/2014/05/26/64822>, but we encourage you to dig deeper.

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Special thank you to the victim of the July 7, 2013 hate crime in the Austin neighborhood of Chicago and her family for allowing Affinity to share their story. The one alleged perpetrator of the crime is still behind bars awaiting trial. As of this writing, a new trial date has been set for June 10, 2014. More details about this incident can be found at [http://articles.chicagotribune.com/2013-07-11/news/chi-hate-crime-woman-girlfriend-attacked-in-south-austin-20130711\\_1\\_hate-crime-south-austin-second-man](http://articles.chicagotribune.com/2013-07-11/news/chi-hate-crime-woman-girlfriend-attacked-in-south-austin-20130711_1_hate-crime-south-austin-second-man)

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