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January 9, 2015

President's Task Force on Policing in the 21st Century
Office of Community Oriented Policing Services
U.S. Department of Justice
145 N Street, N.E. 11th Floor
Washington, DC 20530
Comment@taskforceonpolicing.us

Dear President's Task Force on Policing in the 21st Century,

The New York City Gay and Lesbian Anti-Violence Project (AVP), on behalf of our clients and constituents, and as a voting member of New York City based coalition Communities United for Police Reform (CPR) want to thank you for this opportunity to submit written comments to the President's Task Force on Policing in the 21st Century.

Below you will find:

1. Background information on our organization;
2. A brief overview of police violence as it impacts the lesbian, gay, bisexual, transgender and queer (LGBTQ) communities;
3. Recommendations.

Thank you for the opportunity to share the expertise and knowledge that we hold about the needs of the LGBTQ communities and LGBTQ survivors of police violence. We are grateful for this Task Force and the safety it will ensure for LGBTQ communities nationally.

[ABOUT THE NEW YORK CITY GAY AND LESBIAN ANTI-VIOLENCE PROJECT](#)

AVP's mission is to empower LGBTQ, and HIV-affected communities and allies to end all forms of violence through organizing and education, and support survivors through counseling and advocacy. AVP is the largest LGBTQ-specific anti-violence project in the country and leads local, state and national policy initiatives. AVP is New York City's only culturally specific LGBTQ anti-violence organization. AVP does not charge for our services and is often the first and last resort for survivors of violence who have no other options or cannot afford private treatment to address the trauma they experience.

We sit on the NYPD Police Commissioner's LGBT Advisory Committee, where we helped to create the first transgender and gender non-conforming patrol guidelines, and works closely with local policy makers on issues such as the use of condoms as "evidence" and the impact of "stop and frisk" on LGBTQ people.

Since 2012 AVP has been a voting member of the CPR coalition working to end discriminatory policing in NYC with legislation and advocacy. In 2013 the coalition one a historic piece of legislation with a veto proof majority by the New York City Council known as the Community Safety Act (CSA) which combats discriminatory policing and holds the NYPD accountable. The CSA included the End discriminatory profiling (Intro.1081) bill and the NYPD Oversight Act- Establishing independent oversight of the NYPD (Intro. 1079) bill. In 2014 the coalition introduced and is working towards passing the Right to Know Act which included the Protecting New Yorkers Against Unlawful Searches (Intro. 799) and Require Officers to Identify and Explain themselves to the Public (Intro. 801). All of the above legislation is key to ensure greater safety for New Yorkers and ensure an end to the historic "broken windows" and "quality of life" policing the NYPD is known to use to uphold discriminatory policing which targets communities of color, low income and homeless communities and especially LGBTQ folks who often times exist at the intersection of many marginalized identities.

Nationally, AVP issues the only annual national report on LGBTQ hate violence, which includes the only data of its kind on LGBTQ police violence (found here:

http://avp.org/storage/documents/2013_ncavp_hvreport_final.pdf). AVP works closely with the Williams

Institute, the National Gay and Lesbian Task Force, the National Center for Transgender Equality, the Center for American Progress and the Human Rights Committee on national violence policy. In 2011, AVP was named a White House Champion of Change for our work on intimate partner violence within LGBTQ communities, in 2012 AVP received the National Crime Victims' Service Award and in 2013 President Obama recognized AVP and its executive director for our work in the passage of an LGBTQ-inclusive Violence Against Women Act which includes the nation's first LGBTQ specific non-discrimination protections

POLICE VIOLENCE AGAINST LGBTQ COMMUNITIES

The 2013 National Report on Hate Violence Against LGBTQ and HIV-affected people NCAVP documents a number of troubling findings related to the interaction of LGBTQ survivors of violence with police.

- Transgender people of color were 2.7 times more likely to experience police violence, and 6 times more likely to experience physical violence from the police compared to white cisgender survivors.
- Transgender women were 4 times more likely to experience police violence compared to overall survivors, and 6 times as likely to experience physical violence when interacting with the police compared to overall survivors.
- Transgender men were 1.6 times more likely to experience violence from the police, and 5.2 times more likely to experience physical violence perpetrated by the police.

These numbers also point to the fact that the very people who should be protecting LGBTQ survivors are often times the very people responsible for further increasing survivors experiences of violence.

Locally in New York City while data is limited as we are one of the only agency who formally collects LGBTQ specific police violence data what we routinely hear from the LGBTQ community is that people are profiled regularly on the basis of the actual or perceived gender identity and sexual orientation and subject to harassment and violence. Routinely we here of stories where transgender women of color are subject to

this very profiling and charged with things like prostitution related offenses and often times condoms are used as evidence against them.

GENERAL RECOMMENDATIONS

Ensure LGBTQ communities are included in local, state and national policy and misconduct remediation efforts

As noted above LGBTQ communities are deeply impacted by discriminatory policing on a city, state and national level. To ensure LGBTQ communities needs are included they should be part of policy initiatives and advocacy on the city, state, and national level as a major contributor. Additionally all policy and advocacy as it relates to identity should be inclusive of gender identity and sexual orientation. Additionally LGBTQ communities and other groups impacted by police misconduct (I.E. people of color, immigrants, homeless populations and youth) should be included in all city, state and national police misconduct remediation efforts. Ensuring LGBTQ communities and other impacted communities participation in policy advocacy and misconduct remediation efforts will address the Task Force's interest of fostering Community Engagement and Dialogue and well as racial reconciliation.

Training and Education Initiatives

Police Departments on a city, state, and national level should have regular cultural competency trainings on how to engage with most impacted communities, especially LGBTQ communities. This training and education should be created in consultation with community based organizations. Training and education initiatives will address the Task Force's interest of police leadership development and create greater safety for citizens who engage with the police.

POLICY SPECIFIC RECOMMENDATIONS

Pass and implement an LGBT inclusive anti-profiling measures

Within communities of color impacted by racial profiling and harassment are LGBTQ communities of color. In recent decades, largely due to advocacy efforts to advance the human and civil rights of LGBTQ

communities, there has been increased awareness about how racial profiling impacts this group, and the unique experiences of LGBTQ people of color are increasingly integrated into wider discussions of racial profiling and discriminatory policing.ⁱ

We also urge the Administration to work with Congress toward the passage of an End Racial Profiling Act including protections for LGBTQ communities on the basis of sexual orientation, and gender identity.

End the use of condoms as evidence of all prostitution-related crimes

One of the avenues through which LGBTQ communities experience profiling and misconduct is police departments' use of condoms as evidence of prostitution-related crimes. In a number of places across the country, police and prosecutors regularly engage in the practice of using or confiscating condoms on persons, their businesses, or as evidence of prostitution-related crimes.ⁱⁱ Confiscating or listing condoms as evidence of intent to engage in prostitution-related offenses is often a common police tactic resulting in police profiling and misconduct towards LGBTQ communities who are disproportionately profiled for sex work.

Continued use of the mere possession or presence of condoms as evidence acts as a powerful incentive for LGBTQ communities not to carry condoms, as well as for exploiters to deny access to condoms to those they are exploiting, placing trafficking victims at even greater risk. The threat of arrest for possession or presence of condoms also creates a disincentive to sharing and distributing condoms among and to LGBTQ communities in the sex trades, putting their health and lives at risk.

We urge the Administration to work with the Department of Justice issue and publicize guidance condemning the reliance on mere possession or presence of condoms as evidence of intent to engage in criminal activity, and encouraging local law enforcement agencies to adopt policies prohibiting this practice.

Consistent with the resolution of the Presidential Advisory Commission on HIV/AIDS, we urge the administration to work with the Department of Justice and the Centers for Disease Control to develop, disseminate, publicize, and promote guidance to state lawmakers and prosecutors to adopt legislation and policies that would eliminate the practice of using possession or presence of condoms as the basis of criminal prosecutions or sentence enhancements.

ⁱ National Association for the Advancement of Colored People, “Born Suspect: Stop-and-Frisk Abuses & the Continued Fight to End Racial Profiling in America,” (2014), available at http://action.naacp.org/page/-/Criminal%20Justice/Born_Suspect_Report_final_web.pdf

ⁱⁱ Acacia Shields, “Criminalizing Condoms: How Policing Practices Put Sex Workers at IV Services at Risk in Kenya, Namibia, Russia, South Africa, the United States, and Zimbabwe” (New York: Open Society Foundations, 2012), available at <http://www.opensocietyfoundations.org/reports/criminalizing-condoms>; PROS Network and Leigh Tomppert, “Public Health Crisis: The Impact of Using Condoms as Evidence of Prostitution in New York City” (New York: PROS Network and Sex Workers Project, 2012), available at <http://sexworkersproject.org/downloads/2012/20120417-public-health-crisis.pdf>; Human Rights Watch, “Sex Workers at Risk: Condoms as Evidence of Prostitution in Four U.S. Cities” available at http://www.hrw.org/sites/default/files/reports/us0712ForUpload_1.pdf