



Thousands march in the Trans Resistance Vigil and March from Franklin Park Playstead to Nubian Square in Boston's Roxbury on June 13, 2020. | Barry Chin/Boston Globe/Getty Images

Why police often single out trans people for violence

The deaths of Layleen Polanco and Tony McDade highlight how Black trans Americans are treated and criminalized.

By Katelyn Burns | Jun 23, 2020, 7:30am EDT

When 27-year-old trans woman Layleen Xtravaganza Cubilette-Polanco lay lifeless in her cell last June, correctional officers at New York City's Rikers Island stood outside her cell laughing, according to recently released **security footage**. She had just had an epileptic seizure, but prison staff had failed to conduct the 15-minute-interval health check-ins that are required for prisoners held in solitary confinement. Staff told investigators that they thought she was sleeping.

It was her third seizure in custody.

Earlier this month, an investigation by the Bronx District Attorney's office cleared prison staff of any wrongdoing in Polanco's death, even though the **DA report** also indicated that correctional officers had left her alone for up to 47 minutes, contravening jail regulations.

"The video is the last piece of the puzzle," David Shanies, an attorney for Polanco's family in a **wrongful death lawsuit** against the city of New York and several Rikers staff members, **told NBC News**. "It's the last bit of indifference to her life that we saw and recklessness to a person who obviously needed help."

But Polanco's death is not just a story about the prison system's neglect of trans people, especially trans women of color. Hers is a story of how the criminal justice system ensnares trans people and ultimately enacts violence against them.

To understand why this happens, though, you have to know how she ended up in solitary at Rikers in the first place.

According to the NBC News report, Polanco was placed in punitive confinement for assaulting an officer, but solitary is also frequently used as a way to protect trans women from the threat of male prisoners. This threat exists because trans women are often housed in men's jails. She was in jail because she wasn't able to make her \$500 bail. She was arrested because she missed court dates as part of an alternative-to-incarceration program after a previous arrest for sex work. Sex work can be a vital mode of economic survival for trans women.

"It really was like a culmination of a million different factors," Mateo de la Torre, director of policy and advocacy at Black and Pink, which offers aid and support to LGBTQ prisoners of color, told Vox. "That's why this system doesn't work and it is not meant to produce safety."

A lack of employment and housing protections throughout most of the country contributes to financial insecurity for BIPOC trans women. According to a 2017 survey by New York City's Anti-Violence Project, transgender New Yorkers were more likely to have a college degree than the general population, but just **45 percent of them** have full-time jobs. Overall, transgender workers are **more likely** to be unemployed compared to their cisgender counterparts, and 34 percent of Black trans women face **housing insecurity** compared to just 9 percent of non-Black trans people.

With astronomically high costs for transition-related surgeries added to an economic system stacked against them, many trans women end up turning to sex work in order to survive. Sex workers, particularly trans sex workers of color, face a disproportionately high risk of violence, including murder. And much of that violence ends up happening at the hands of police.

According to a **2013 report by the Anti-Violence Project**, trans people are 3.7 times more likely to experience police violence and 7 times more likely to experience physical violence when interacting with police than cisgender victims and survivors.

"There's notions that we're not supposed to exist," Bamby Salcedo, founder of the Trans Latina Coalition, told Vox. "The police have also internalized all of that and perpetrate that [violence]. So because we have to survive in some type of way, because we're not supposed to exist in this world, we're criminalized simply because of who we are."

The trans man's death at the hands of police that sparked mass awareness

Tony McDade was a 38-year-old trans man from Tallahassee, Florida, with a history of mental illness. In and out of the justice system for years, McDade wrote to Judge Mark Walker in October 2009 begging for mental health treatment instead of another incarceration after a robbery charge. “I have an anger problem and always fought behind my anger,” McDade wrote, pleading to be sent to Florida State Hospital in Chattahoochee for treatment. “I NEED HELP PLEASE SIR. I have a mental problem.”

But around that time, he was indicted and subsequently convicted on federal gun charges and sent to prison in New York.



A protester holds a sign commemorating the lives of Tony McDade and Nina Pop, both black trans people recently killed, at a march across the Brooklyn Bridge in New York, on June 9, 2020. | Erik McGregor/LightRocket/Getty Images

On Tuesday, May 26, McDade was beaten by a group of men near his home in Tallahassee while onlookers cheered, an attack that was caught on cellphone video. The following morning, McDade was shot to death by a police officer after allegedly stabbing 21-year-old Malik Jackson, who reportedly took part in the earlier beating, in the parking lot of the Holton Street and Leon Arms apartment buildings.

While a police department representative said McDade was shot after threatening an officer with a gun, that account has been disputed by residents of the apartments who witnessed the incident, according to a **Tallahassee Democrat newspaper report** (which deadnamed and misgendered McDade).

Clifford Butler, a resident of the Leon Arms apartments, **told local news** that a white police officer, whose identity has not been disclosed because Florida law dictates that officers involved in a shooting incident are classified as victims and are due anonymity, did not warn McDade before opening fire.

Another resident recounted on Facebook Live, as **reported by Rolling Stone**, that the officer said, “Stop moving,” called McDade a racial slur, and then shot McDade after he stopped moving.

“What people need to understand is that when you’re talking about Black and brown communities, immigrant communities, communities experiencing poverty, and then you layer that with folks who are LGBTQ, specifically trans and gender nonconforming, [systemic policing] issues aren’t necessarily very different, they’re just amplified,” said de la Torre.

According to de la Torre, that amplification means an increased number of contacts with police and an increased risk of being profiled by police for being Black and visibly gender-nonconforming.

“When you exist as a person who is poor and maybe an immigrant and trans, then your chances of engaging with law enforcement skyrocket, and most if not all of those interactions end up being negative or resulting in some form of violence or harassment,” he said.

Last year, an NYPD officer **testified at a deposition** that he would drive down the street looking for women with Adam’s apples to stop on suspicion of solicitation. Under the law in New York and many other states, discovery of a condom in a purse is sufficient evidence to arrest a trans woman on prostitution charges. A Black trans activist in Arizona was **infamously arrested** in this fashion in 2014, while another Black trans woman traveling through Iowa **was arrested** after hotel staff called the police suspecting that she was a sex worker.

It’s not surprising, then, that 21 percent of Black trans women will **face incarceration** at least once in their lifetimes, a rate significantly higher than the **general population**. Additionally, there have been **reports of police sexually assaulting trans women** going back decades.

“If we’re walking down the street, trying to get milk, for instance, but we live in a neighborhood that is high risk, then we get harassed and we get arrested, oftentimes because we are not supposed to be in those neighborhoods,” said Salcedo.

While the death of McDade may have been the incident that finally brought mass attention to the police violence faced by trans people, it’s by no means an isolated incident. In February 2016, trans man Kayden Clarke **was shot and killed by police** in Mesa, Arizona, during a wellness check. Clarke had Asperger syndrome.

In a video dated a month earlier, Clarke **complained** that doctors had refused to prescribe him testosterone until his Asperger's could be cured. Except there is no cure for Asperger's, leaving Clarke stuck. "You can't cure neurological disorders!" he said on the video.

It is because of reasons like poverty, homelessness, illness, and mental health issues that many activists are asking to defund police budgets and reallocate resources to social workers for check-ins on mental health and homelessness. Marginalized people have the most interactions with police, meaning there are more chances for these interactions to turn deadly.

As with McDade, initial police and media reports about Clarke **deadnamed and misgendered** him in what is a common experience for trans victims of violence.

It can even be dangerous for trans women to protest against police violence

Protesting against unjust police violence is practically baked into the LGBTQ rights movement. Stonewall, after all, was a revolt against repeated raids by police, who targeted the inn to arrest queer and trans people for violating laws against cross-dressing and homosexual behavior. And three years before Stonewall, Black and brown drag queens and sex workers in San Francisco **revolted against police violence** in the Compton cafeteria riot.

The main thing that's seemingly changed between then and now is that cisgender, heterosexual people have begun to take notice and protest it themselves.

With the nation turning out for mass protests against police violence after George Floyd's death at the hands of police, McDade's name has also become a rallying cry against police injustice. His death, along with the killings of **two Black trans women** in the past two weeks, Riah Milton in Ohio and Dominique "Rem'mie" Fells in Pennsylvania, has really put a focus on the unique violence faced by Black trans people as the nation grapples with racist and violent institutions.

In Brooklyn on June 14, approximately 15,000 people showed up for a **Black Trans Lives Matter rally** that featured speeches from activists such as writer and editor Raquel Willis and Polanco's sister, Melania Brown.



A protester at the Brooklyn Liberation march for Black trans lives in Brooklyn, New York, on June 14, 2020. | Michael Noble Jr./Getty Images

“Communities are waking up to the reality that police departments in their communities aren’t keeping everyone in their community safe and they’re serving a very specific purpose of breaking communities, and to some degree that’s intentional,” said de la Torre.

But even with massive protests against police violence directed at trans people, it can be unsafe for trans people to protest for their own basic civil rights and protections.

Joan Fochs, a 23-year-old white trans woman, attended a Seattle protest against police violence toward Black people like McDade and Floyd. But after getting arrested while protesting, Fochs was sent to a men’s jail by the King County Correctional Facility staff after disclosing that she’s transgender. While there, Fochs’s cell was positioned opposite a man who kept exposing his genitals to her; she also suffered verbal sexual harassment from other prisoners. Despite repeated protests, she said, guards mostly ignored her while she sobbed in the corner of her cell.

She told Vox that at some point, staff let the man out of his cell, at which point he pounded on her door for 15 or 20 minutes, making sexually explicit comments. Eventually, after repeated requests, prison staff removed the man from the cell opposite Fochs.

“It felt like everything was going wrong and I had no recourse and had no idea what was even really happening,” said Fochs, who also emphasized that her two-day incarceration was a light experience compared to other trans people who are locked up for years at a time.

According to Salcedo, much of the violence experienced by trans people in the prison system has to do with the way cisgender prison officials organize detention spaces. “We live in a binary system and everything is obviously depending on what you have between your legs, but that also is part of the issue. That definitely contributes to the violence that we experienced,” she said.

Since Fochs’s release, she said she’s heard from countless trans women, especially trans women of color, who have told her that her experience is exactly why they’re afraid to protest. The risk of a humiliating or terrifying stay in a men’s jail is enough to dissuade some from protesting for their basic protection from police violence.

However, after having her story told by a **local Patch reporter**, Fochs’s experience has also caught the eye of city and state officials who are investigating the incident and pledging to make changes to the way King County evaluates who gets assigned to which gendered prison facility.

Fochs attributes the rush to fix the system to her being a white, cis-passing trans woman. “One of the reasons my story has had such response is because I look like somebody who wouldn’t instigate anything and nothing should happen to,” said Fochs. “I look like a privileged individual, and it’s that privilege that makes people pay attention.”

In 2018, a 52-year-old trans woman in Massachusetts named Angelina Resto **sued the state prison system** after she was housed in a men’s prison facility after being convicted of a nonviolent crime. Resto had transitioned more than four decades before her conviction, and yet the prison system housed her with men; she claimed she was repeatedly sexually harassed and assaulted by other prisoners as well as prison staff.

In September 2018, Resto won her suit and became the first trans woman in the country to be transferred from a men’s prison to a women’s facility, according to **attorneys at GLBTQ Legal Advocates and Defenders**. Several similar lawsuits have been brought since.

But some reforms seem to be finally making headway as the country rises up against police violence. Trans and sex worker rights advocates have been working for years to change the laws that leave Black trans people vulnerable to abuse. While decriminalization of sex work would lower the number of contacts between police and trans people, there are other reforms that have made significant progress as well.

Last week, legislators in the New York State Assembly **announced** that they had enough support to pursue repealing the “walking while trans” law, which gives police leeway to target trans women of color, and would be undertaking the repeal shortly. In California, Salcedo pointed to **Senate Bill 132**, which would allow trans people to choose the prison facility they would feel safest in, to avoid situations like Fochs’s.

“Even though trans people are going to continue to be criminalized for who we are, when that happens we’re going to have a little bit of agency for us to choose where we are going to feel the most safe,” said Salcedo.

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