# YOU CAN'T RUN FROM THE POLICE!: DEVELOPING A FEMINIST CRIMINOLOGY THAT INCORPORATES BLACK TRANSGENDER WOMEN

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INTRODUCTION

BreakOUT! is a community-based organization in New Orleans that fights the criminalization of queer and transgender youth of color.[1]  Here is an excerpt from their report, "We Deserve Better:"[2]

> Lee-Lee is a young Black transgender woman who moved here for college and is a Sophomore at a local university.  She is also a BreakOUT! member. In March 2014, Lee-Lee was leaving a BreakOUT! meeting at around 9:00 at night.  Lee-Lee lives in a dormitory on her school campus and was walking back to her home.  "As I was walking down the street, I noticed a white car inching toward me.  I moved toward the side of the road to let the car go by but the driver rolled his window down.  I immediately noticed he was a police officer by his uniform and NOPD emblem on his shirt.  He had on his uniform but was riding in an unmarked vehicle at the time.  He looked at me and said something I didn't understand so I asked him to repeat himself.  He said, "What's your sexy ass doing out? Where are you going?" I told him that I was heading to school and started walking again and he yelled, "You're fine as F%$!"
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> I started walking a little more briskly.  Usually, I ignore men that approach me like that but how do you interact with a man with authority?

   1.  *See* WE DESERVE BETTER: A REPORT ON POLICING IN NEW ORLEANS BY AND FOR QUEER AND TRANS YOUTH OF COLOR, BREAKOUT! 2 (2014), http://www.youthbreakout.org/sites/g/files/g189161/f/201410/WE%20DESERVE%20BETTER%20REPORT.pdf.
   2.  *Id.* at 14-15.

It's not unusual for men to stop, cat call, and degrade transgender women on the street but I'd never had an encounter like that with a police officer. Would he be angry if I rejected him? He could easily have forced me to have sex with him and who would have believed me if I told anyone a transgender woman of color in New Orleans?

As I was walking, I heard the cracking of rocks behind me letting me know that the car was moving. I let out a sigh of relief and continued on my way but to my right, the same car pulled up beside me again. The officer was following me. The officer continued to yell sexually explicit things to me so I started to jog a little bit. He yelled "Where are you going?! HEY!" and I realized I was doing the wrong thing. You can't run from the police! I pulled out my phone and turned toward the main road and called someone from the meeting who jumped in his car and rode to find me. I ran to an abandoned mechanic yard and the officer pulled off just as my friend drove up. Prior to this, my only run-in with the police was when I was robbed a year ago. When I called the NOPD for help, the officers saw that I was transgender and refused to investigate the crime, accusing me of being a sex worker. I continue to feel less and less protected by the police but now, not only do I feel unprotected, I feel threatened. I can walk in an area with cops on every corner and rather than feeling safe, I am in fear of losing my life, my dignity, or my freedom.

Police brutality, particularly against communities of color, has been well documented. Historically, law enforcement lynched African Americans and Mexican Americans in many states across the country.[3] Police brutality also continues contemporarily. There are pernicious practices such as the use of stop and frisk policies.[4] The New York Civil Liberties Union found that, between 2002 and 2011, the New York Police stopped more than 3.8 million people.[5] The police stopped a disproportionate number of African American and Latino community members—90% of all stops.[6] Yet 88% of the people stopped were entirely innocent and unfairly harassed.[7] There are also deadly shootings such as those of Trayvon Martin in Oakland, CA and Michael Brown in Ferguson, MS.

Lesbian, gay, bisexual, transgender, and gender nonconforming people of color are also unfairly harassed by police. This is particularly true of

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3. *See* ISABEL WILKERSON, THE WARMTH OF OTHER SUNS (Random House, 2010); HOWARD ZINN, A PEOPLE'S HISTORY OF THE UNITED STATES (HarperCollins Publishers, 2003).

4. *See Stop and Frisk Facts*, NYCLU, http://www.nyclu.org/node/1598 (last visited Feb. 01, 2015).

5. *Id.*

6. *Id.*

7. *Id.*

transgender women of color.[8]   New survey data on how the New Orleans police treat LGBT people shows that there are dramatic differences in the types and frequency of harassment experienced across gender identity, gender expression, and race.[9]

TRANSGENDER WOMEN OF COLOR ARE UP TO FOUR TIMES MORE
LIKELY TO BE HARASSED BY POLICE[10]

Researchers, in partnership with BreakOUT! members, found that within the LGBT community of New Orleans, Black, Latino, and Native American transgender people are four times more likely to be harassed by police when compared with white, cisgender people.[11]

The authors analyzed data from four different groups within the lesbian, gay, and bisexual community: white, cisgender respondents; white, transgender respondents; Black, Latino, and Native American cisgender respondents, and Black, Latino, and Native American transgender respondents.[12]   For each survey question, the authors ran an analysis of variance (ANOVA) tests to determine if there were statistically significant differences across the four groups.[13]

By creating a variable that combines all forms of verbal, physical, and sexual harassment, the results clearly show that Black, Latino, and Native American transgender respondents are most likely to experience harassment.[14]   With both cisgender and transgender white people experiencing lower levels of harassment, the data also shows that both race and gender identity and expression drive harassment.[15]

Chart 1 shows that 22% of white, cisgender respondents have been harassed, 33% of white transgender respondents have been harassed, 75% of Black, Latino, and Native American, cisgender respondents have been harassed, and 87% of Black, Latino, and Native American, transgender respondents have been harassed.[16]

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8.   *See* WE DESERVE BETTER, *supra* note 1, at 1.

9.   *See id.* at 9.

10.   Author's unpublished data analysis (on file with author) [hereinafter Author's Data].
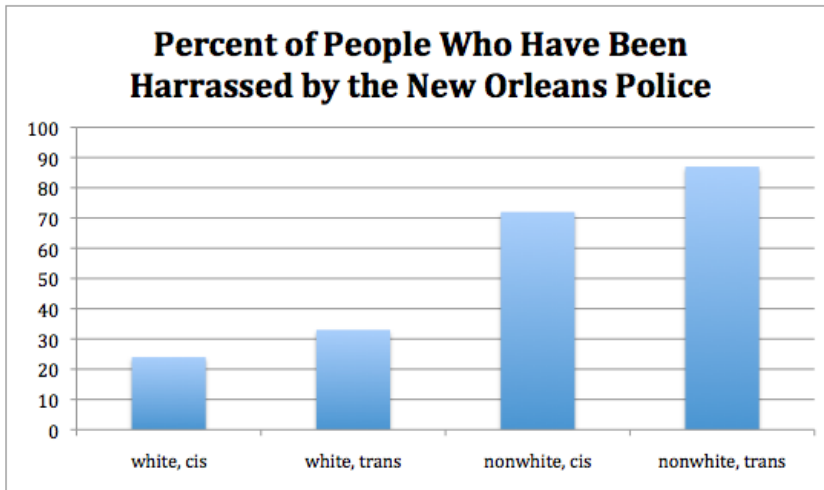
11.   *Id.*

12.   *Id.*

13.   *See* WE DESERVE BETTER, *supra* note 1, at 10.  All results reported had a p value less than .05.  *Id.* at 10.

14.   *See id.*

15.   *See id.*

16.   *Id.* at 11.

**Percent of People Who Have Been Harrassed by the New Orleans Police**

| | white, cis | white, trans | nonwhite, cis | nonwhite, trans |
|---|---|---|---|---|

Specific questions from the survey allow us to paint a more detailed picture of harassment as well as other behaviors by police that are linked to harassment.

### Transgender Women of Color are up to Five Times More Likely to be Approached by a Police Officer[17]

BreakOUT! staff asked respondents if they'd ever been unexpectedly approached by a police officer.[18]  While being approached is not in itself a form of harassment, particularly when police don't explain why they are making the stop, being approached unexpectedly by police is a precursor to being harassed.  As with harassment in general, Black, Latino, and Native American transgender people in New Orleans are more likely to have a history of being approached by police.[19]

Seventeen percent of white cisgender people have been approached by the NOPD compared with 67 % of white transgender people, 86% of Black, Latino, and Native American cisgender people and 90% of Black, Latino, and Native American transgender people.[20]

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17.   Author's Data, *supra* note 10.
18.   *See* WE DESERVE BETTER, *supra* note 1, at 9-10.
19.   *See id.* at 10.
20.   Author's Data, *supra* note 10.

TRANSGENDER WOMEN OF COLOR ARE UP TO FIFTY TIMES MORE
LIKELY TO BE TREATED DISRESPECTFULLY OR DISMISSED BY POLICE[21]

BreakOUT! staff also asked respondents about two experiences that are forms of disrespect or dismissal, though not necessarily harassment.[22] Specifically, respondents were asked 1) if they ever called the police and then had the officers not take them seriously and 2) if officers ever assumed that they were in the sex trade.[23] Black, Latino, and Native American transgender people are more likely to have these two experiences.[24]

There were no white respondents (0%), whether cisgender or transgender, that had ever called the police and then not been taken seriously.[25]    This is compared with 37% of Black, Latino, and Native American cisgender people and 50% of Black, Latino, and Native American transgender people.[26]

Only 8% of white cisgender people have ever had police assume that they are in the sex trade, compared with 33% of white transgender people, 34% of Black, Latino, and Native American cisgender people, and 72% of Black, Latino, and Native American transgender people.[27]

HOW TRANSGENDER WOMEN OF COLOR ARE HARASSED

Finally, BreakOUT! asked respondents about three specific forms of harassment: 1) Has a police officer ever called you a faggot, dyke, etc., 2) has a police officer ever asked you for a sexual favor, and 3) have you ever called the police for help and then been arrested yourself.[28] As with all of the other survey questions, Black, Latino, and Native American transgender people are more likely to experience specific types of harassment.[29]

When asked if they have ever been called a homophobic expletive, 8% of white, cisgender respondents said yes, 17% of white, transgender respondents said yes, 29% of Black, Latino, and Native American cisgender respondents said yes, and 55% of Black, Latino, and Native American transgender respondents said yes.[30]

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21.   *Id.*
22.   *See* WE DESERVE BETTER, *supra* note 1, at 9-10.
23.   *See* WE DESERVE BETTER, *supra* note 1, at 9-10.
24.   *See* WE DESERVE BETTER, *supra* note 1, at 16.
25.   *See* WE DESERVE BETTER, *supra* note 1, at 9.
26.   Author's Data, *supra* note 10.
27.   Author's Data, *supra* note 10.
28.   *See* WE DESERVE BETTER, *supra* note 1, at 9-10.
29.   *See* WE DESERVE BETTER, *supra* note 1, at 10.
30.   Author's Data, *supra* note 10.

When asked if a police officer ever asked for a sexual favor, 0% of white cisgender respondents said yes, 33% of white transgender respondents said yes, 17% of Black, Latino, and Native American cisgender respondents said yes, and 63% of Black, Latino, and Native American transgender respondents said yes.[31]  This is the only variable where white transgender respondents were more likely to be harassed than Black, Latino, and Native American cisgender respondents.[32]

When asked if they had ever called the police for help and then been arrested themselves, none of the white respondents (0%),[33] whether cisgender or transgender, said yes, compared with 37% of Black, Latino, and Native American cisgender respondents and 50% of Black, Latino, and Native American transgender respondents.[34]

ADDITIONAL STATISTICAL ANALYSES

In order to conduct more rigorous statistical analysis, the authors completed binary logistic regression analyses to determine what variables drive police harassment in New Orleans.[35]  These tests allowed the authors to create a statistical model that predicts harassment. We hypothesized that age, race, birth sex, and whether someone is cisgender or transgender would shape whether they are harassed in New Orleans. These analyses are reported in Appendix A.  They show only race and whether someone is transgender shape harassment. Analysis found that Black, Latino, and Native American respondents were ten times more likely to be harassed and transgender respondents were seven times more likely to be harassed.

METHODS

"BreakOUT! developed a short, easy-to-read survey that was distributed and collected by peer researchers from within the LGBT community in New Orleans.  The survey contained demographic questions as well as categorical questions about how respondents were treated by police."[36]  That is, respondents were asked "Have the New Orleans Police ever. . ." and respondents answered "yes" or "no."[37]

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31.  *Id.*

32.  *Id.*

33.  *See* WE DESERVE BETTER, *supra* note 1, at 9.

34.  Author's Data, *supra* note 10.

35.  *See* WE DESERVE BETTER, *supra* note 1, at 8.

36.  *See* WE DESERVE BETTER, *supra* note 1, at 7.

37.  *See* WE DESERVE BETTER, *supra* note 1, at 26-27.

BreakOUT! members focused primarily on collecting surveys from Black transgender women, though surveys were collected from other members of the LGBT community in order to have comparison groups. Surveys were collected at clubs and bars frequented by LGBTQ young people, on the streets, with partner organizations and agencies, and in other social circles of peers.

Analysis of the 86 collected surveys shows that:

-Respondents varied in age from 15 to 66.

-26 (29.9%) respondents were male, 15 (17.2%) were female, 40 (46.0%) were transgender women, 3 (3.4%) were transgender men, one (1.1%) respondent identified as "third gender" and one (1.1%) respondent identified as "gender nonconforming male."

-20 (23%) straight respondents (16 of these respondents also identify as transgender, third gender, or gender nonconforming); 21 (24.1%) respondents are gay; 5 (5.7%) respondents are lesbian; 6 (6.9%) respondents are bisexual; 4 (4.6%) respondents are queer; 1 (1.1%) respondent identifies as gay/queer; and 4 (4.6%) respondents identify as lesbian/queer.

-59 (67.8%) respondents are Black or African American; 18 (20.7%) respondents are white; 2 (2.3%) respondents are Native American; 7 (8%) respondents are mixed race, and one (1.1%) respondent is Latino.[38]

After collecting surveys, BreakOUT! members and staff partnered with outside researchers to analyze the data. BreakOUT! and the researchers completed descriptive, analyses of variance, and binary logistic regression statistics tests to understand how the police in New Orleans differentially treat people across gender expression, gender identity, sexual orientation, and race. This partnership, as with other pieces of the research process, was designed to build BreakOUT! members' research skills through the experience of meticulously collecting and analyzing data.[39]

In addition, BreakOUT! members collected ten semi-structured interviews with LGBTQ individuals. These interviews allowed BreakOUT! members to ask questions supplementing the survey research while also allowing respondents to shape and inform the direction of the information being collected. Respondents were able to discuss issues BreakOUT! members had not previously identified, emphasize points BreakOUT! had not given as much attention to and challenge assumptions of the research. This allowed the research process to be dynamic and responsive to

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38. *See* WE DESERVE BETTER, *supra* note 1, at 7.
39. *See* WE DESERVE BETTER, *supra* note 1, at 8.

participants. The interviews also personalized the survey data by illuminating the real impacts the NOPD practices are having on people's ability to live full and dignified lives.[40]

CONCLUSION

In studying who is approached, dismissed, treated disrespectfully, and harassed by the New Orleans police, we found that race and gender identity and expression were factors that drove negative experiences.[41] Across the board, Black, Latino, and Native American transgender respondents—most of whom were women—reported the highest levels of maltreatment while white cisgender respondents reported the lowest levels of maltreatment.[42] In fact, statistical analysis shows that Black, Latino, and Native American people are ten times more likely to be harassed than white people and transgender people are seven times more likely to be harassed than cisgender people.

These findings show that the interaction of race and gender identity and expression shape police misconduct. As such, in order to understand the full range of abuses by police, feminist criminologists must continue to expand their definition and operationalization of gender to include transgender identity and expression, while also committing themselves to an intersectional lens that takes race into account.

APPENDIX A: RESULTS FOR THE BINARY LOGISTIC REGRESSION TESTS

Binary logistic regression analysis suggests "that nonwhite, transgender women (compared with white, cisgender men and women) are far more likely to be approached, harassed, called homophobic expletives, pressured to perform sexual favors, or stopped and been treated like a sex worker by a police officer."[43]

The authors completed binary logistic regression tests to determine whether age, birth sex, race, or being transgender increased the chances of being harassed by the New Orleans Police. We chose this test because we were predicting a binary, categorical variable (whether someone has been harassed) using other binary categorical variables (whether someone is under the age of 24, whether someone was assigned to the female sex at birth,

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40.   *See* WE DESERVE BETTER, *supra* note 1, at 8.

41.   *See* WE DESERVE BETTER, *supra* note 1, at 9.

42.   Author's Data, *supra* note 10.

43.   WE DESERVE BETTER, *supra* note 1, at 2.

whether someone is Black, Latino, or Native American, or whether someone is transgender).

The output from a binary logistic regression provides information on the significance level of the predictive variables (see Table 1). The survey had 83 respondents. With this relatively low number of surveys, we are considering any variable at p<.10 to be significant. The output showed that being Black, Latino, or Native American is a highly significant variable (p<.001). The output shows that being transgender is also significant (p<.10).

The Exp(B) value shows that Black, Latino, and Native American community members are ten times more likely to be harassed than white community members. Transgender community members are seven times more likely to be harassed than cisgender community members.

Given the significance and predictive strength of all three of these variables, the model that we ran predicted 78.3% of the variation in who was harassed by the New Orleans police.

### Table 1: Binary Regression Analysis Findings

| Variable | Sig. | Exp(B) |
|---|---|---|
| Under 24 | 0.294 | 1.041 |
| Birth sex | 0.259 | 0.539 |
| Black or Latino | 0.001 | 10.433 |
| Transgender | 0.095 | 7.168 |