

POLICE SEXUAL VIOLENCE

“What is the first image that comes to mind when I say police brutality?” It’s a question I started asking in 2004 when I began facilitating workshops on the policing of women and LGBTQ people of color, which I developed with Sheba Remy Kharbanda, a South Asian artist, activist, and former colleague at Amnesty International. Years later, I still ask that question and, years later, the answer continues to be something along the lines of a white cop beating a Black man (almost always imagined as heterosexual and cisgender) with a baton. Rarely has sexual violence been the first response. If it does come up, the image of the person targeted is Abner Louima, a Haitian man who was sodomized by NYPD officers in 1997. It is not the daily sexual harassment, assault, and violation experienced at the hands of police by women of color across the United States. Yet once it is named as a form of police brutality, invariably, at least one person at my workshops shares a story of sexual violence by a police officer, often one that they have never told a soul about.

At the 2004 National Coalition on Police Accountability conference, a man who identified himself as a former member of the Black Panther Party approached me at the end of the workshop. He said that his sister had been raped by a police officer “back in the day,” but he had never understood what happened to her as police brutality until he had heard it framed that way in the workshop. I asked him how he and his sister had described her experience. He answered, somewhat bewildered, that it was “just something bad that happened.” He then thanked me for opening his eyes as to how his sister’s experience fit into the work he had been doing all his life to challenge state violence against Black people.

At my next workshop, a daylong gathering in post-Katrina New Orleans, when the issue of police sexual violence was raised, a middle-aged

Black woman stood up and told the group that she had been raped by a cop when she was fourteen years old but before that very moment had never spoken to anyone about it. Everyone sat stunned, unsure how to respond. There were no resources to point her to, no campaign she could join, and, frankly, none of us even knew how to comfort her in that moment of remembering her raw pain, violation, and betrayal by an armed agent of the state, and of breaking a silence held too long. When I asked her afterward why she had chosen that moment to disclose her assault, she simply said it was the first opportunity that had presented itself. She had never before been in any space where the story “fit” into the conversation; she had never heard anyone talk about sexual violence as part of the fabric of police violence, or about police as perpetrators of sexual violence.

Similarly, as we were conducting research for the 2005 Amnesty International report *Stonewalled: Police Abuse and Misconduct Against LGBT People in the United States*, many of the trans, lesbian, and queer survivors who courageously came forward to share stories of sexual violence at the hands of police had never reported their violations to the authorities out of shame or fear that they would not be believed, fear of exposure of their sexual orientation or gender identity, of retaliation, of deportation, or of being charged with a crime because they were engaged in sex work or the use of controlled substances.

Almost a decade later, Oklahoma City police officer Daniel Holtzclaw’s rape and sexual assault of at least thirteen Black women and girls came to light. I first learned of the case from two grassroots organizations, Black Women’s Blueprint (BWBP) and Women’s All Points Bulletin (WAPB), which, in September 2014, a month after Holtzclaw was indicted, drafted a shadow report to the United Nations Committee on the Elimination of Racial Discrimination that highlighted the case as a compelling example of ongoing state-sponsored sexual violence against Black women in the United States.¹ The submission argued, as did submissions I and others made to the UN in 2006 and 2008, that sexual violence by state actors such as Holtzclaw amounts to torture.² Early on, bloggers such as Kirsten West Savali placed the Holtzclaw case in the larger context of mounting protest over police killings of Mike Brown

and Eric Garner.³ As word of Holtzclaw's assaults spread, outrage grew among local activists, Twitter users, and bloggers, first at the news that Holtzclaw had been released on bond and that a Facebook page in support of him had been set up, and later at mainstream media, local and national anti-police brutality groups and antiviolence organizations for not paying more attention to the case.⁴ Holtzclaw's trial and conviction eventually garnered national coverage when an all-white jury was selected to hear his case. Many asked whether Holtzclaw wouldn't more quickly have become a household name had he assaulted thirteen white women.

Holtzclaw's pattern of sexual violence came to light when Jannie Ligons, a fifty-seven-year-old Black grandmother who runs a day-care center in Oklahoma City, was driving home from a late-night domino game at a friend's house through the Eastside, a low-income Black neighborhood. Holtzclaw pulled her over and ordered her to step out of her car, put her hands on the hood of his car while he patted her "all over," and then sit in the backseat of his patrol car. Eventually, he forced to lift her shirt and expose her breasts, and later her genitals, then perform oral sex on him. Jannie described the scene: "I was out there alone and helpless, didn't know what to do."⁵ She later said, "I was looking at that gun in his holster and I'm saying to myself . . . he's going to shoot me in the head. I was really afraid."⁶ But, as Jannie told *Democracy Now* listeners, "He just picked the wrong lady to stop that night."⁷ After Holtzclaw left her at her daughter's house, she immediately went to a police station to report what had happened to her. This kicked off an investigation in which Detective Kim Davis of the sexual assault squad tracked down women Holtzclaw had been in contact with, and used the GPS tracking device on his car to corroborate their stories of sexual violence. Thirteen Black women eventually came forward to participate in his prosecution.⁸

Most women Holtzclaw targeted said he stopped them as they were walking down the street and questioned them about what they were doing and where they were going. He often forced them to expose their bodies to show that they weren't hiding drugs in their bras or pants, much as Audrey Smith was ordered to on a Toronto street corner. Often

Holtzclaw would go further, opening his fly and demanding oral sex, sometimes taking the women home or to deserted areas to rape them—in his patrol car, on their front porch, or in their bed. In some cases, like that of his first victim, Sharday Hill, whom he first assaulted while she was handcuffed to a hospital bed, he would show up at their houses again and again. Sometimes he targeted "working girls"—people he believed to be engaged in the sex trades. He often used the fact that women had outstanding tickets or warrants to pressure them. Even if they didn't have any, the threat that he could charge them was enough. One victim, T.M., testified, "I felt like even though I didn't have no warrants that he might make up something on me and send me into jail anyway." He clearly targeted women he thought would never come forward and accuse him. T.M. said later, "I didn't think nobody was going to believe me anyway. . . . I'm a drug addict." Another victim, C.J., asked "Who are they going to believe? It's my word against his because I'm a woman and, you know, like I said, he's a police officer."

Holtzclaw was tried and convicted in December 2015. His defense consisted of denying the abuse and claiming that his accusers were lying, untrustworthy, inconsistent, high, and women with "an agenda" based on past criminal histories.⁹ Ultimately, the jury found Holtzclaw guilty of eighteen of thirty-six charges involving eight of the thirteen women who came forward, and he was sentenced to 263 years in prison.¹⁰

The case prompted the Associated Press to conduct a yearlong investigation, which revealed that one thousand officers nationwide lost their licenses between 2009 and 2014 as a result of their sexual violence.¹¹ Two earlier studies of revocations of law enforcement licenses in Missouri and Florida found that sexual misconduct was the basis for revocations in almost 25 percent of cases.¹² And those are only the officers who were caught and held accountable—law enforcement officials and advocates alike will tell you these numbers are just the tip of the iceberg. Holtzclaw's case and his targets were unusual only in that he was caught, convicted, and sentenced to 263 years. Sadly, the experiences of the Black women who had the courage to come forward to testify against Holtzclaw are all too similar to those I have heard over the past two decades in countless workshops, "know your rights" trainings, and

public forums—stories that rarely see the light of day, let alone command national headlines or animate our organizing.

Daniel Holtzclaw is far from the first police officer to have used the power of the badge to violate those he is sworn to serve and protect. And unfortunately, he won't be the last. In fact, Holtzclaw's predatory ways are eerily reminiscent of those of Eugene, Oregon, police officer Roger Magaña, convicted in 2004 of sexual assault and rape of a dozen women over an eight-year period. Like Holtzclaw, he preyed on women criminalized through the "war on drugs," broken windows policing, and the policing of prostitution, as well as survivors of violence and women labeled as mentally ill. Magaña would threaten arrest and then trade leniency for sexual acts. In some cases, Magaña used the pretext of conducting "welfare checks," unscheduled visits where officers gain entry into private homes by simply stating that they believe a person's well-being is at risk. In other instances, he conducted invasive and abusive searches of women on the side of the road. Magaña also threatened to retaliate against women if they reported him: one woman described Magaña putting his service weapon against her genitals and saying he would "blow her insides out" if she told anyone. This intimidation, along with indifference to the problem in the police department, allowed Magaña to engage in this conduct with impunity for almost a decade before his assaults came to light. Like the Holtzclaw survivors, many of the women who eventually came forward said they initially did not report the assaults because they feared they would not be believed. And their fears proved to be founded: police files indicate that at least half a dozen officers and supervisors heard complaints about Magaña's sexual violence over the years but dismissed them as the "grumblings of junkies and prostitutes."¹³

Echoes of the Magaña case resonated again in 2016 when the DOJ investigation of the Baltimore Police Department revealed a number of instances in which officers had extorted sex from women in the sex trades in exchange for leniency, and that the department had conducted shoddy and incomplete investigations that had led to no consequences for the officers involved.¹⁴ In the intervening decade, researchers have consistently documented patterns of inadequate investigations of police sexual violence.¹⁵

The widespread, systemic, and almost routine nature of police sexual violence remains largely invisible to the public eye, though it chronically festers on the streets and in alleys, squad cars, and police lockups. A 2015 investigative report by the *Buffalo News* cataloguing more than seven hundred cases concluded, "In the past decade, a law enforcement official was caught in a case of sexual abuse or misconduct at least every five days."¹⁶ A national study of officer arrests for sexual misconduct between 2005 and 2011 found that one-half of the cases involved on-duty sexual offenses, one-fifth forcible rape, and almost one-quarter forcible fondling, and that almost one-half targeted minors.¹⁷ The study further notes that "distinctions between on- and off-duty police crime are often difficult to make" and that off-duty sexual offenses are often facilitated by the power of the badge or the presence of an official service weapon.¹⁸ According to the Cato Institute, sexual misconduct is the second most frequently reported form of police misconduct, after use of excessive force. Yet it is clearly not the second most frequently talked about.¹⁹

The reasons for the seemingly impenetrable veil shrouding sexual abuse by officers are many and complex. One is a lack of data. As of 2016, there are no official statistics regarding the number of rapes and sexual assaults committed by police officers in the United States. To the extent that sexual assault by state actors has been documented at all, it has been in detention facilities such as jails and prisons.²⁰ The limited data gathered by federal and state governments on the use of excessive force by law enforcement officers do not include information on the number of allegations, complaints, or incidents of rape, sexual assault, or coerced sexual acts. Similarly, data gathered by the federal government on overall prevalence of rape and sexual assault do not include information concerning the number of perpetrators who are police officers and other law enforcement agents. In the absence of official data, law enforcement authorities can continue to sweep the issue under the rug—and, when it does come to light, claim that it is dealt with swiftly and decisively through discipline and criminal prosecution.²¹ Likewise, government can continue to act as though the issue doesn't exist: when I testified before the Prison Rape Elimination Commission, one of the commissioners told me it was hard to take action against police sexual violence

without concrete data. Thus, sexual violence by police remains what former Seattle Police Chief Norm Stamper dubs a “nasty little secret.”²²

Invisibility is also perpetuated in part because, in the absence of official data, our understanding of police violence is shaped by research studies based on complaints and media reports. It is estimated that only one-third of rapes and sexual assaults are ever reported.²³ This rate is no doubt far lower among women who are raped by the very law enforcement agents they would have to report to.²⁴ As Penny Harrington, former Portland chief of police, points out, “The women are terrified. Who are they going to call? It’s the police who are abusing them.”²⁵ Many survivors—like the woman I met in New Orleans, like the Holtzclaw survivors, like me and many others who have told me their stories over the years—don’t report incidents out of shame or fear that they will not be believed. Some survivors fear exposure of their sexual orientation or gender identity, retaliation by police officers, or criminal charges or deportation because they are undocumented, are involved in sex work, or are using controlled substances. Some may fear coming forward in isolation, in the absence of support from anti-police brutality or anti-violence advocates. Or, as Joo-Hyun Kang, director of Communities United for Police Reform, once suggested to me, maybe sexual violence by the police just becomes part of a seamless web of sexual harassment, assault, and violence that begins for women of color in the morning when they take the garbage out and are whistled at by their neighbor, continues with endemic sexual harassment at work or school, and ends when they are propositioned or groped during a stop by a cop on the way home. Simultaneously ordinary and out of the ordinary.

Even when a woman takes the risk to lodge a complaint, there is the question of whether it will be recorded, taken seriously, and covered by the media, particularly given that officers are known to target individuals whose credibility will be challenged. By its very nature, sexual violence is hidden away from public view, witnesses, and cop-watching cameras, making it more likely that complaints will be deemed unsubstantiated. Because officers can often rely on threats of force or arrest, there are often no injuries requiring immediate medical attention and therefore no “evidence” beyond a woman’s word.²⁶

As a result, researchers almost universally caution that because of these limitations, documented cases “may represent only the tip of the iceberg.”²⁷ Yet, even in the absence of official data and the limitations of other sources, sexual violence by law enforcement is one of the areas in which the greatest amount of social science research on women’s experiences of policing exists.

A STRUCTURAL PROBLEM

Following a rash of reports in 2009 and 2010 of cases of sexual assault by police, in 2011 the International Association of Chiefs of Police (IACP) issued guidance defining the problem of “police sexual misconduct” for local law enforcement agencies.²⁸ According to the IACP, the term is intended to encompass a broad spectrum of activity:

- Sexual behavior while on duty, including “voyeuristic actions”²⁹
- Unnecessary contacts or actions taken by officers for personal or sexually motivated reasons such as unwarranted callbacks to crime victims or making a traffic stop to get a closer look at the driver for nonprofessional reasons
- Inappropriate touching during stops, searches, and detention
- Sexual “shakedowns”—extortion of sexual favors in exchange for not ticketing or arresting someone
- Forcible or coercive sexual conduct, including rape³⁰

Others have included within the definition of police sexual misconduct the following:

- Pressuring individuals to provide their phone number or other contact information in order to contact them for non-law enforcement purposes
- Inappropriate or sexual comments made to passersby, during traffic or street stops, in the context of searches, including strip searches, or while an individual is in police custody
- Inappropriate questions or conversation about individuals’ sexual orientation

Researchers emphasize the importance of viewing police sexual violence as a continuum in order to counter “the tendency to view the more extreme forms of sexual violence as aberrations, which severs them from their common structural and cultural bases.”³¹ It is important to include sexual harassment on this continuum, because police officers have “the state-sanctioned power to detain, arrest and use physical force . . . [and] can invoke operational necessity, sometimes with institutional support, to engage in a range of potentially abusive behaviors, most significantly the legitimate use of violence.”³² And police sexual harassment can be a precursor to more serious forms of violence.

Researchers also emphasize that police sexual violence is a structural issue, facilitated by the nature of police work. Much like other professions in which sexual misconduct is particularly prevalent, officers work alone or in pairs, often late at night or in private locations, “often in situations with little or no direct accountability,” with considerable access to women and young people.³³ A review of the Eugene, Oregon, police department conducted in the wake of the Magaña case concluded that lack of direct supervision was a “major problem.”³⁴ According to Penny Harrington, “There is this culture in law enforcement . . . you don’t tell on your buddies. . . . You get so bought into this police culture . . . you don’t see anything wrong with it. It’s like as a badge of honor, how many women in the community you can have sex with, and the younger the better.”³⁵

Using media reports, arrest records, and civil and criminal court opinions, researchers have pulled together a more detailed picture of how police sexual violence happens, and to whom. The targets of reported police sexual violence are overwhelmingly women, and typically women of color who are or are perceived to be involved in the drug or sex trades, or using drugs or alcohol, as well as people with prior arrest records, immigrants, people with limited English proficiency, people with disabilities, and people who have previously been targeted for police sexual violence.³⁶ Some researchers theorize that women who are targeted for police sexual violence are considered “police property” and therefore fair game for sexual extortion or assault.³⁷ Additionally, young women are particularly at risk: in a 2003 study of young women

in New York City, almost two in five young women described sexual harassment by police officers. Thirty-eight percent were Black, 39 percent Latinx, and 13 percent Asian or Pacific Islander. As one young Black woman put it, “They say they are protecting us, but they only make us feel more at risk.”³⁸

SITES OF POLICE SEXUAL VIOLENCE

Police sexual violence takes place in locations ranging from police cars to private homes, from the streets to police detention facilities, and in contexts including immigration enforcement, “Explorer” programs designed to engage youth from the community, responses to calls for assistance, and the policing of prostitution and so-called lewd conduct.³⁹ Traffic stops, the war on drugs, stop-and-frisk practices, broken windows policing, and regulation of people on probation and parole, who live at the mercy of officers who can violate them on any or no pretext at any time—all serve as facilitators of police sexual violence.⁴⁰ According to the *Buffalo News* investigation, “In more than 70 percent of the cases, officers wielded their authority over motorists, crime victims, informants, students and young people in job-shadowing programs.”⁴¹ Two studies conducted by Samuel Walker and Dawn Irlbeck found that 40 percent of cases of police sexual misconduct reported in the media involved teenagers, and 34 percent took place in the context of a traffic stop.⁴²

The pattern of officers targeting women during traffic stops is so prevalent that Walker and Irlbeck coined the term “driving while female” to describe the pattern, though they problematically represented it as “parallel” to, rather than a central feature of, racial profiling.⁴³ Their 2002 report documented over four hundred cases of sexual harassment and abuse by law enforcement officers in the context of traffic stops across the United States, yet only a quarter resulted in any kind of sanction of the perpetrators.⁴⁴

A 2003 update to *Driving While Female* takes readers beyond the context of traffic stops, featuring page after page of incidents of police sexual violence that quickly overwhelm the reader, with stories from all over the country of officers raping, assaulting, and extorting sex from

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women and girls under a variety of circumstances.⁴⁵ From these cases, the authors identify a second pattern of police sexual violence, targeting young women in Explorer programs. In one case, Diana Guerrero of Las Cruces, New Mexico, was a high school police intern when she was sexually assaulted during a ride-along with an officer. She sued the city for violation of her constitutional rights, and in March 2016, by then twenty-one, was awarded a \$3 million settlement by the city. Diana reflected on her experience: "It had never occurred to me that a person who had earned a badge would do this to me or anybody else. . . . I lost my faith in everything, everyone, even in myself." She went on to say, "I am most happy and satisfied that this lawsuit brought to light a cesspool of sexual violence and harassment that exists in police departments across this country. I'm living proof that you can speak out against sexual violence and win justice."⁴⁶

Another frequent site of sexual violence by law enforcement is the border between Mexico and the United States, where Latinx immigrants, both documented and undocumented, report routine rape by both local law enforcement and Border Patrol agents, sometimes working together.⁴⁷ In September 2010 the *Los Angeles Times* reported, "In the last 18 months, five Border Patrol agents have been accused or convicted of sex crimes, including one agent who pleaded guilty in January to raping a woman while off duty, and another who is accused of sexually assaulting a migrant while her young children were nearby in a car."⁴⁸ More recently, in March 2014, Border Patrol agent Esteban Manzanares picked up a Honduran woman and her two girls near the Rio Grande, raped the woman and slashed her wrists, and sexually assaulted her fourteen-year-old daughter and then tried to break her neck until she lost consciousness. The mother and one daughter escaped; Manzanares took the other daughter back to his house, where he raped her. He killed himself when police summoned by her mother closed in; the woman and both daughters survived the incident. Juanita Valdez Cox of La Union del Pueblo Entero later said, "While some may say it is an isolated case, there are too many of these isolated cases of abuse by Border Patrol agents, and Border Patrol has done too little to address the problem."⁴⁹ Accountability is rare, due to the isolated locations in

which abuse by Border Patrol agents takes place, the immediate detention and deportation of survivors, and women's undocumented status, which deters them from coming forward.

The issue of sexual violence in the context of immigration enforcement is not limited to the Border Patrol. Immigration agents have also extorted sex from women seeking legal status. According to a 2008 *New York Times* investigation, a New York agent demanded oral sex from a Colombian woman in exchange for overlooking an arrest that could have resulted in denial of her green card application. Across the country, in California, an immigration adjudicator was charged with extorting sexual favors from a Vietnamese woman in exchange for approving her citizenship application. One immigration official testified before Congress in 2006 that such corruption is "rampant."⁵⁰

Additionally, local law enforcement officers target women they believe or know to be undocumented. For instance, in 2011 a Georgia deputy was found guilty of kidnapping, raping, and falsely imprisoning an undocumented Salvadoran woman, threatening to deport her, and "using the power of his badge to force her to his nearby apartment," where he raped her at gunpoint. As officers often did during the Jim Crow era, he defended himself by claiming that the woman was a "prostitute."⁵¹ Similarly, an Anaheim, California, officer was charged with stopping an undocumented woman, asking if she had papers, and forcing her to perform oral sex.⁵² A quarter of Latinx immigrant trans women surveyed by the Los Angeles organization Bienestar, the majority of whom were undocumented, reported sexual assault by law enforcement agents, primarily police officers and undercover.⁵³

Eithne Luibhéid argues that because their presence in the United States is framed as an illegal act, immigrant women are "constructed as inherently criminal, imbued with negative qualities, and positioned outside the conventional boundaries of society . . . [and] rapable."⁵⁴ She elaborates, "Initially in my research, I assumed that rape functioned as a form of crude, violent, border defense strategy. Like barbed wire and canine units, it kept women out."⁵⁵ While this remains true, she also notes that many women are not deported by the officers who assault them but rather released within the United States. As noted above, sometimes

officers even solicit sex in exchange for assisting with immigration issues. The borders produced by such acts are thus

not reducible to the nation's territorial borders. . . . Instead they involve social, economic, political, psychological and symbolic borders within the United States that connect to sexuality, gender, race, and class inequalities. Yet, at the same time, the reproduction of these internal borders articulates with practices for controlling the territorial border. . . . Rape inscribes undocumented women within US-based hierarchies of gender, sexuality, race and class.⁵⁶

Often when I speak about police sexual violence, people are most disturbed by its prevalence in the context of police *responses* to violence (discussed in detail in chapter 9). Yet sexual assault in this context is simply another manifestation of power and opportunity. One North Carolina sheriff's domestic violence investigator bragged that "finding dates working with victims of domestic violence is like shooting fish in a barrel."⁵⁷

Beyond targeting survivors of domestic violence, officers like Holtzclaw, Magaña, and countless others target women seeking other forms of assistance or use their power of "protection" to gain access to women. A Syracuse, New York, police officer, Chester Thompson, was eventually charged with sexually assaulting Black, Latina, and Middle Eastern women he was supposed to help, or "protect," over a ten-year period. Maleatra Montañez called 911 for help in February 2015 to report her daughters missing. She later testified that as soon as Thompson responded to the call, he immediately "told her she was 'pretty,' her butt was big, and that her 'lips looked like it can hold . . . a penis."⁵⁸ The next thing she knew, Thompson forced her to perform oral sex on him, and then turned her around to face her newborn son as he raped her.⁵⁹ When she heard about Montañez's case, Kim Fletcher, a thirty-five-year-old mother of five, came forward to report that when she called police for assistance with her daughter in June 2013, Thompson, who responded to the call, assaulted her, and then continued to call her and show up at her house. She later described feeling powerless: "He's a

cop. . . . They're not going to believe me so I'll just deal with it until he decides to go away."⁶⁰

Shakina Thompson read about the case and remembered that she had called 911 during a dispute with her girlfriend ten years earlier, only to have Chester Thompson tell her that he would file aggravated assault charges against her girlfriend if Shakina had sex with him. Shakina later told reporters, "I didn't know what to do. . . . I felt violated." He came back on at least two more occasions and assaulted her again each time. She, too, had not come forward because she didn't think she would be believed.⁶¹ Six years before Thompson assaulted Shakina, he approached eighteen-year-old Liz ElBayadi at an outdoor concert where she had been drinking. She later said, "I remember him making a comment about him being an officer and me being drunk and underage, then he forcibly bent me over the port-a-potty and raped me." Liz came forward when others did, she said, because "I want to stitch my story next to theirs because very little has changed in this patriarchal society."⁶² Thompson was fired and pled guilty to "official misconduct," a misdemeanor, and was given probation, prompting protests outside the courthouse at his sentencing.⁶³

Police holding facilities are also prevalent sites of sexual violence by police. In 2006 I testified before the Prison Rape Elimination Commission about sexual violence in police "lockups," sharing the story of Denise Almodovar, Sarah Adams, Candace Ramirez, Becki Taylor, and Lindsey Valsamaki. In November 2002, the group was picked up, allegedly for public intoxication, by Officers Dwaun Guidry and Rolando Trevino of the Balcones Heights, Texas, police department, taken to the police station, booked, and placed in a holding cell. The officers then removed the five women from the cell and brought them into the patrol workroom—where there is no video surveillance—and ordered them to dance to music. They then sexually assaulted the five women, forcibly kissing them, forcing their hands down the women's pants, and exposing their penises and masturbating in front of the women. One of the women later testified that she felt unable to resist or run away because "he had his gun and I was singled out. I was by myself. I didn't know what door led out. I couldn't go anywhere."⁶⁴

SEXUAL VIOLENCE AS A TOOL OF ENFORCING GENDER NORMS

Within and beyond these specific sites of police sexual violence, researchers note that officers often target women who are perceived to be deviating from “norms of feminine sexuality” and “their proper place” by being out late at night (as opposed to “home with their boy-friends”) or who may have been drinking.⁶⁵ For example, in March 2013, Kim Nguyen, a twenty-seven-year-old graduate student, had been out drinking with friends in Los Angeles’s Koreatown, and was standing in a parking lot waiting for a ride home when Officers David Shin and Jin Oh pulled up and began questioning them. Eventually they arrested Kim—but neither of her companions—for public intoxication, handcuffed her, and put her in the patrol car. One officer stayed in the backseat with her and began forcefully groping her, pulling up her skirt, forcing her legs apart, and grabbing her chest. Then, suddenly, the door behind her opened as the officers sped through a green light. Nguyen was thrown to the pavement, and can be seen on video captured by a nearby surveillance camera lying on the street with the top of her dress pulled down, her skirt hiked up, and severe injuries to her head. She filed a lawsuit that settled on the eve of trial.⁶⁶

Consistent with the notion that police use sexual violence to enforce gender norms, as further explored in chapter 7, women working in the sex trades report rampant sexual abuse by law enforcement officers.⁶⁷ Both studies by Walker and Irlbeck reported a number of instances in which police extorted sex from people in the sex trades by threatening arrest.⁶⁸ Also consistent with use of sexual violence as a weapon of gender policing, as discussed in greater detail in the next chapter, trans and queer people report high levels of sexual violence at the hands of police. For instance, according to a 2014 study by New Orleans’ BreakOUT!, a grassroots organization working to end criminalization of LGBTQ youth, 59 percent of transgender respondents were asked for a sexual favor by police, compared with 12 percent of cisgender respondents, and 43 percent of respondents of color had been asked for a sexual favor by police, compared with 11 percent of white respondents.⁶⁹ One respondent described feelings of powerlessness in the face of such demands:

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? . . . 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.⁷⁰

In October 2012 in El Monte, California, just outside of Los Angeles, “Jane Roe,” a Mexican trans woman, was crossing the street on the way home from a friend’s house when an officer pulled up in a patrol car and asked what she was doing. The officer then groped her breasts and “asked [her] if she was ‘a nasty she-male.’ [She] responded that she was transsexual.” He then ordered her through an alley into a deserted parking lot where he forced her to perform oral sex and raped her over the trunk of his car. He threw away the condom he used and told her to leave. Jane later went back to get it and turned it over to police as evidence, prompting an investigation which led to the officer being placed on unpaid administrative leave.⁷¹ Jane’s case is strikingly similar to the case of a Navajo trans woman that I documented in Los Angeles more than a decade earlier and which is described in greater detail in chapter 8. Both are part of a continuing epidemic of police sexual violence against trans women.

Police also enforce gender norms by using sexual violence against lesbians, who report “being forced to describe or engage in sexual acts with other women while in police custody, and threatened with rape by other detainees or law enforcement officers to ‘cure’ or punish their sexual orientation.”⁷² For instance, in *Stonewalled* we documented the case of a Black lesbian raped by a Georgia officer who said the world needed “one less dyke.”⁷³ In some cases, the sexual violence is more subtle, but still traumatic. In a 2017 study, Tiffany, a young Black woman in her twenties, describes an arrest in her New York City public-housing project in which a group of officers, guns drawn, screamed at her and a friend to put their hands up as they walked down a staircase from the roof. When Tiffany told them she did not consent to a search, one

officer responded by saying, “Oh, so you think you’re smart, girl?” and proceeded to grope her breasts for an extended period of time as Tiffany told him to stop and eventually began screaming and crying, while other officers looked on but did nothing. When Tiffany later tried to report the officer’s assault at the precinct, the officer mocked her and told her he knew where she lived, placing her in fear of further sexual assault in police custody and beyond. Tiffany describes being targeted by police often based on gender nonconformity and presumptions about her sexual orientation, saying, “Y’all think that like I wanna be a man . . . like those stereotypes are, like those things that people say about gay women who dress tomboyish.” Sadly, she is not alone.⁷⁴

LACK OF ACCOUNTABILITY

Much of the information about police sexual violence is based on cases in which criminal charges were brought, creating the false impression that police sexual violence is effectively handled by the criminal legal system. Yet in most cases, even officers who are eventually indicted operate with impunity for years. Ernest Marsalis was ultimately terminated from the Chicago Police Department for kidnapping and raping a nineteen-year-old Black woman he arrested. Before the case came to light, he had been accused of violent or threatening behavior, in most cases against women, in more than twenty cases, without any consequence.⁷⁵ A decade-long study of newspaper reports of police sexual violence in the Midwest confirms he is not an anomaly: 41.5 percent of cases involved a repeat offender, who had targeted four people on average, and had between two and twenty-one prior allegations of police sexual violence.⁷⁶ In an investigation of civilian complaints against the Chicago police department, Adeshina Emmanuel, an Ida B. Wells Fellow at the Nation’s Investigative Fund, found a number of poorly investigated and incorrectly catalogued cases of police sexual violence. In several cases, police union contracts and state law precluded a full investigation.

Unlike incidents of excessive force, where there may be witnesses and, if the survivor is lucky, video footage, often, because of the private nature of sexual violence, it’s entirely a woman’s word against an officer’s. Accountability is rare, and officers are frequently able to resign

without consequence, and move on to another jurisdiction in what researchers call the “police officer shuffle,” enabling them to continue patterns of abuse.⁷⁷

SEARCHES AS SEXUAL ASSAULT

Beyond rape and sexual assaults as conventionally understood, “police can engage legally in many behaviors that would be considered criminal if performed in a different context.”⁷⁸ Strip and cavity searches are normalized policing practices, permitted by law under certain circumstances, such as when there is “reasonable suspicion” to believe that a person is concealing a weapon, or “probable cause” to believe they are concealing evidence or contraband. Yet even a federal appeals court has described them as “demeaning, dehumanizing, undignified, humiliating, terrifying, unpleasant, embarrassing, repulsive, signifying degradation and submission.”⁷⁹ Women often experience such searches as rape and sexual assault, regardless of legal justification. In other words, they constitute “state-sanctioned sexual assault,”⁸⁰ rendering sexual violence an inherent part of policing.⁸¹ Searches conducted to assign gender on the basis of anatomy, although not permitted by law, are also experienced as sexual assaults and are often accompanied by racialized sexual commentary, homophobia, and transphobia. Of course, race, gender, and other factors shape how these legal standards are applied—and violated.

In the context of the war on drugs, cavity searches are often justified on the basis of a deeply racialized, “sexist, culturally based belief . . . that women are capable of carrying drugs and weapons inside their body cavities, and do so regularly.”⁸² Such notions harken back to the theories of scientific racism positing that Black women’s deviant sexual organs made us more prone to criminal or deviant acts. In 2015, a series of roadside body-cavity searches conducted by officers who claimed to believe that women were concealing marijuana came to light in Texas: Charnesia Corley, a twenty-one-year-old Black woman, was subjected to a strip search and visual cavity search at a gas station in full view of passersby. Two other Black women, Brandi Hamilton and Alexandria Randle, were subjected to a roadside cavity search by officers during a traffic stop as they drove home from the beach.⁸³

Similar perceptions of Indigenous and Latinx women's bodies produce similar results. In 2006, the American Friends Service Committee and members of the Passamoquoddy tribe in Maine reported that Native women were routinely subjected to visual body cavity searches by local sheriffs as a matter of policy, whereas similarly situated white women were not, and that women were required to remove one article of clothing at a time in a way that simulated a striptease. If searching officers were not satisfied, they would order the woman to start over.⁸⁴ Researchers describe a case in which officers showed up at Shirley Rodriguez's home late at night, forced the door open, and, finding her sleeping in bed with her husband, told her that they had a warrant to search her vagina for drugs and insisted that she reach in and "take out the stuff." When she refused, police took her to a local hospital and forced the physician on duty to forcefully conduct an invasive search of Shirley's vagina, during which no drugs were found.⁸⁵ Her civil case was dismissed on the grounds the officers were acting pursuant to a lawful warrant, but the basis for issuing a warrant to search a woman's vagina was never questioned.

At other times, strip and cavity searches are simply deployed as another tool of police violence. In a case described in detail in Beth Richie's *Arrested Justice: Black Women, Violence, and America's Prison Nation*, Diane Bond, a fifty-year-old Black woman, was forced into her apartment at gunpoint by Chicago police officers who then ordered her to undress, bend over, expose her genitalia to the male officers, and reach inside her own vagina under threat of having her teeth removed with needle-nose pliers unless she complied. Although she successfully sued them, none of the officers have been disciplined or prosecuted for their torture and terrorization of Diane.⁸⁶

RESISTANCE

What can and should we be doing to prevent police sexual violence? At a minimum, we need to collectively commit to challenging its continuing and seemingly intractable invisibility, even in moments of heightened awareness and discussion of police violence. As Ahmad Greene-Hayes, who works with Black Lives Matter NYC and Black Women's Blueprint,

put it in an article by Darnell Moore critiquing the movement's unilateral focus on police shootings to the exclusion of sexual violence, "Safety, in light of police brutality, means organizing against racial-sexual violence. . . . Police officers can be killers, but they can also be rapists."⁸⁷ Experience and research demonstrate that naming the issue increases the likelihood that survivors feel safe(r) in coming out of the shadows.⁸⁸

As an initial step, we need to create space for survivors to come forward that do not require them to turn to the very institution that perpetrated sexual violence against them. In the vast majority of jurisdictions, survivors of police sexual violence are pointed in a single direction for redress: the police. Even where civilian oversight mechanisms exist, the vast majority are neither equipped nor empowered to receive complaints of police sexual violence; instead, they refer cases to local prosecutors, who in turn refer them to the police. In October 2016, while finishing this manuscript, I testified before the New York City Civilian Complaint Review Board, urging the entity—one of the first and largest civilian oversight bodies in the country—to set an example and play a leadership role by launching a public awareness campaign and creating an infrastructure, complete with supports for survivors, that would enable them to collect, analyze, and publish data about complaints of police sexual violence. Doing so could inform prevention efforts, as well as promote accountability without requiring women to go to the police.⁸⁹

In light of the many obstacles survivors face to come forward, particularly high for populations targeted for police sexual violence, we also need to move away from strategies reliant on receiving and adjudicating individual complaints, whether in criminal, civil, or administrative venues, and move toward proactive and systemic approaches.⁹⁰ The most effective measure is to reduce opportunities for law enforcement officers to engage and hold power over women of color. This would mean, for instance, ending the war on drugs and broken windows policing, decriminalizing prostitution and poverty-related offenses, developing alternate responses to domestic violence and mental health crises, and creating community supports and safety mechanisms. Law enforcement officers particularly leverage their power to

demand sexual acts in exchange for avoiding charges carrying long sentences and multiple collateral consequences, including the possibility of losing housing or custody of children if convicted of a drug- or prostitution-related offense.⁹¹

Until we are able to take police out of the equation altogether, we need harm reduction strategies. Researchers emphasize that comprehensive written policies setting forth clear accountability processes are essential to preventing and addressing police sexual violence.⁹² Of course, policies alone are never enough—prevention, implementation, independent oversight, and accountability are essential. Once caught, officers shouldn't be able to simply move from one jurisdiction to the next.⁹³ Yet, as a Soros Justice Fellow, I found that more than half of thirty-six police departments among the top fifty in the US *had no policy whatsoever* explicitly prohibiting police sexual violence against members of the public.⁹⁴ A 2016 *Al-Jazeera* investigation found that only three in twenty police departments had any policy explicitly prohibiting police sexual misconduct.⁹⁵ The International Association of Chiefs of Police has no information on how many departments have followed its 2011 Guidance.⁹⁶ Departments clearly aren't taking action on their own. But, the IACP notes, "we don't see a groundswell from people who are protesting their police departments for this kind of activity."⁹⁷ It's clearly time that they did.

We need to fully integrate the issue of police sexual violence into our policy advocacy agendas. In 2014, bolstered by more than seventy-five antiviolence, racial justice, and police accountability organizations and advocates who signed on to my submission on police violence against women to the President's Task Force on 21st-Century Policing, convened by President Obama in 2014 in the wake of outrage and resistance in the streets of Ferguson and across the country, I called for national action on police sexual violence. In response, the task force recommended that the DOJ develop and disseminate a model policy for law enforcement agencies, and that the federal government collect data on the issue.⁹⁸ It's now up to us to reduce the harms of policing by integrating demands relating to police sexual violence into police reform agendas.

Antiviolence advocates must also take up the charge. As far as I know, I was also the only person to speak on the issue of police sexual violence at the United State of Women, a day-long White House summit covering a broad range of violence and structural issues affecting women, held in June 2016. While waiting in line to enter, I was asked what I would be speaking about; when I answered, I was met with blank stares from mainstream antiviolence advocates. After a three-year process, the DOJ issued a *Guidance on Gender Bias in Policing* in 2016 that makes reference to police sexual violence, giving antiviolence advocates ammunition to call on local police departments to take action on the issue. As I said when concluding my remarks at the Summit, no survivor of rape or sexual assault should be left out in the cold, out of the conversation, or out of the solution just because her rapist or perpetrator was a police officer.

Beyond policy advocacy, what does it look like to stand with survivors of police sexual violence? Oklahoma City Artists for Justice was founded by Grace Franklin and Candace Liger in response to the arrest of Daniel Holtzclaw.⁹⁹ Franklin described the reasons for the group's founding: "We are Black women. It could have been us. . . . We had to speak up."¹⁰⁰ The two founders frequently tell the story of how they reached out to the local YWCA for support when the case first broke, only to be told that the nonprofit's relationship with law enforcement precluded it from taking a stand. OKC Artists for Justice forged ahead without them, becoming a regular presence outside the courthouse at each hearing and in discussions across the country, challenging Holtzclaw's sexual violence, his efforts to discredit the women he targeted, and the institutions that lined up to support him (see insert for protest photo). As the case gained national attention, OKC Artists for Justice were joined by BWBP, which organized a caravan to travel to Oklahoma City to stand with the survivors during trial and sentencing, and by Barbara Arnwine of the Transformative Justice Coalition and Kimberlé Crenshaw of the African American Policy Forum in an effort to bring national media attention to the case.

Although local and national women's groups called for Holtzclaw to be held without bond and subjected to the heaviest possible sentence

upon conviction—263 years—BWBP highlighted the limitations of criminal legal responses to police sexual violence after Holtzclaw’s conviction and sentence, issuing a call

for sustainable justice strategies and a call to envision justice for ourselves, survivors, and future generations; a visioning of justice beyond what the prison system and criminal justice system offers. One conviction does not end rape. . . . Historically the criminal justice system has seldom represented a safe space or answer for Black women. . . . Beyond reactionary prison system responses that fail to prevent rape from happening in the first place and don’t stop it from happening again, we ask your response to this question: What would justice really look like to Black women survivors of sexual assault?¹⁰¹

That is the question we are called to answer.

POLICING GENDER LINES*

Although the role of law enforcement in policing lines of race and class is generally recognized, until more recently their role in constructing and enforcing racialized borders of gender has been less visible. When gender has been addressed in the context of policing, discussion has largely focused on the targeting of men of color *by* law enforcement and the role of women *in* law enforcement.¹ Yet, throughout US history, police have consistently targeted women and gender-nonconforming people and used harassment, physical and sexual violence, arrest, lethal force, and denial of protection to produce, maintain, and reify racially constructed gender norms, even as the legal landscape of gender has shifted over time. Gender represents a central axis around which policing takes place, and gender policing is embedded in, operates in conjunction with, and furthers policing of race, class, and nation.

The lines of gender are drawn most literally between a false gender binary that tolerates no deviation in appearance, behavior, or expression from characteristics associated with the gender assigned at birth, leading to suspicion and presumptions of instability, criminality, fraud, and violence in police interactions with transgender and gender-nonconforming people, particularly of color.² Additionally, as feminists of color have taught us, the lines of gender are also drawn around idealized notions of white womanhood developed in service of white supremacy, which implicitly exclude and punish nonwhite women. This is often accomplished through deployment of controlling narratives constructing women of color in opposition to characteristics imputed to pure and innocent white women: chastity, motherhood, domesticity, piety,

* This chapter is based in part on a draft coauthored with Z. Gabriel Arkles in 2010.

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CHAPTER 5: Police Sexual Violence

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CHAPTER 6: Policing Gender Lines

1. See, for example, Louise Westmarland, *Gender and Policing: Sex, Power and Police Culture* (Portland, OR: Willan Publishing, 2001); National Center for Women and Policing, <http://www.womenandpolicing.org>.
2. The term "gender binary" refers to the complex interplay of cultural and institutional ideas and practices that divide people into two rigidly defined genders, male and female. As Gabriel Arkles notes, there is a general assumption that all people are one of only two genders—male or female—and that these gender categories are natural, stable, distinct, and meaningful. This assumption leads to many more. For example, if an infant's genitals are interpreted as female, a range of expectations and interpretations follow about other physical characteristics as well as identity, behaviors, strengths, mannerisms, personality traits, choice of clothing, appearance, and sexual and romantic attractions. Gender divisions, identities, expressions, and roles, as well as gender-based hierarchies in distribution of power, violence, and wealth, are seen as the natural and politically neutral product of biological and social processes. However, the social construction of gender and the imposition of a binary gender system go beyond serving as neutral methods of social classification and organization to act as pillars of hierarchical power relations that must be defended as such. Within this construct, people who live in a manner deemed consistent with the gender they were assigned at birth are deemed to be "cisgender," and those who express and live in a manner deemed inconsistent with the gender they were assigned at birth are deemed "transgender." See also Dean Spade, *Normal Life: Critical Trans Politics* (Boston: South End Press, 2011); L'Jerrét Jazelle Ailith, in "When Transness Is an Illusion," *L'Jerrét*, January 30, 2016, <http://www.ljerrét.com/when-transness-is-an-illusion/>, urges wholesale abandonment of gender as a category and challenges conceptions of what it means to be cisgender: "Transness as radical thought requires us to realize that conceptualizations of what embodies cisness and transness are predicated on white narratives and logic. And furthermore, it requires us to rid ourselves of this lie that cisness (especially for black and brown people) has ever existed!"
3. Young and Spencer, "Multiple Jeopardy," 74.
4. Mogul, Ritchie, and Whitlock, *Queer (In)Justice*, 3.
5. Gary Bowen, "Living Our True Spirit: An Entire Rainbow of Possibilities" in *Trans Liberation: Beyond Pink or Blue*, ed. Leslie Feinberg (Boston: Beacon Press, 1998), 63, 64. Bowen also discusses white trans people misappropriating parts of Native culture.
6. Mogul, Ritchie, and Whitlock, *Queer (In)Justice*, 64–65.
7. I. Bennett Capers, "Cross Dressing and the Criminal," *Yale Journal of Law and the Humanities* 20, no. 1 (2008): 8–9; see also Katherine M. Franke, "The Central Mistake of Sex Discrimination Law: The Disaggregation of Sex from Gender," *University of Pennsylvania Law Review* 144, no. 1 (1995): 58.
8. Sears, *Arresting Dress*, quotes here and below from 60, 62, 65, and 80.
9. *Ibid.*, 81; depositions taken in *Tikkun v. City of New York*, in author's collection.
10. Sears, *Arresting Dress*, 86.
11. *Ibid.*, 5, 81, 139.
12. *Ibid.*, 80–81, 94, 140. "According to arrest records, city police made ninety-nine cross-dressing arrests between 1863 and 1900, and local newspapers reported on forty-seven of these; all but one involved a person presumed to be white" (93).
13. Sears, *Arresting Dress*, 87, 90.
14. *Ibid.* Although the grounds for her deportation are unknown, Sears speculates that she could have been deemed to be suffering from "constitutional psychopathic inferiority," to be a "sexual pervert" "in constant conflict with social customs and constituted authorities," or suffering from "moral turpitude." Alternately, she may have been deemed to be "likely to become a public charge" because her gender deviance would lead to either unemployment or incarceration, both of which would render her dependent on the state (137–38).
15. *Ibid.*, 95.
16. Jonathan Ned Katz, "Coming to Terms: Conceptualizing Men's Erotic and Affective Relations with Men in the United States, 1820–1892," in *A Queer World: The Center for Gay and Lesbian Studies Reader*, ed. Martin Duberman (New York: New York University Press, 1997), 230.
17. Susan M. Schweik, *The Ugly Laws: Disability in Public* (New York: New York University Press, 2009), 163.
18. This term was used to describe people who had been assigned female identities at birth but successfully lived as men. It is unclear how Babe would have described Babe's own gender identity. All we know is that Babe lived as a man for much of Babe's life. Susan Stryker and Stephen Whittle, *The Transgender Studies Reader* (New York: Routledge, 2006), 423.
19. Sears, *Arresting Dress*, 122, 123.
20. *Ibid.*
21. *Ibid.*, 87, 95, 122, 123, 141; see also Nayan Shah, *Stranger Intimacy: Contesting Race, Sexuality and the Law in the North American West* (Berkeley: University of California Press, 2011), 40–42, with respect to gender indeterminacy among South Asian immigrants.
22. Mogul, Ritchie, and Whitlock, *Queer (In)Justice*. Leslie Feinberg, in *Trans Liberation*, states, "I have been locked up in jail by cops because I was wearing a suit and tie. . . . The reality of why I was arrested was as cold as the cell's cement floor: I am considered a masculine female. That's a gender violation" (11).
23. Elizabeth Lapovsky Kennedy and Madeline Davis, "'They Was No One to Mess With': The Construction of the Butch Role in the Lesbian Community of the 1940s and 1950s," in *The Persistent Desire: A Femme-Butch Reader*, ed. Joan Nestle (Boston: Alyson Publications, 1992), 62, 69.
24. Audre Lorde, *Zami: A New Spelling of My Name; a Biomythography* (Berkeley, CA: Crossing Press, 1982), 187.