



## Celebrating the Transgender Day of Visibility: An Open Letter From the NAPD Team

April 3, 2023 – As members of the National Association for Public Defense team, we celebrate the Transgender Day of Visibility. Each year the world marks March 31st as a time to lift up transgender people, amplify their voices and honor them for their contributions. We see, and help others to see, the humanity and dignity of transgender, nonbinary and gender non-conforming people - colleagues, family, friends and, of course, our public defense clients.

As transgender, nonbinary and gender non-conforming people have become more visible and awareness about trans people has grown, we've seen progress that should be celebrated. But the Transgender Day of Visibility also requires us to squarely confront the widespread discrimination and violence the transgender community faces simply for being transgender, nonbinary or gender non-conforming people. Recent progress is overshadowed by an unprecedented onslaught of proposed and actual policies across the country that target transgender people to criminalize them and eradicate their legal and human rights. There are accompanying media campaigns that attack transgender people and seek to normalize their persecution.

As public defense professionals, we witness the devastating impact of long standing social, legal and economic policies on our transgender clients. In advocating for our clients, public defenders have always worked to expose and push past myths, misinformation, prejudice and stereotypes to show the true story of their lives. We invite all public defense professionals to join us as we both celebrate transgender people today and rise on behalf of the trans community to meet these threats, and to protect our transgender clients from them.

The ACLU is [tracking](#) hundreds of anti LGBTQ bills that have been filed this year, a number that continues to grow every single day. As of March 30, 2023, 435 bills have been filed in state legislatures across the country. According to the Equality Federation, which [tracks legislation](#) at the state level, 353 of these bills specifically target transgender and gender non-conforming people. Some ban transgender people from using public restrooms. This makes it impossible for trans people to work, travel and participate in public life in these communities. Some bills would ban state employees (like public defenders, in some cases) from referring to trans people by their correct names and pronouns. Anti-trans bills run the gamut from:

- public accommodations “bathroom” bills,
- to restricting legal changes of identifying information such as name changes on official documents like a drivers license or birth certificate,
- to prohibiting evidence based and life-saving access to health care - especially for young people,
- to restricting what may be taught, read or even mentioned in schools,
- to restricting the exercise of first amendment rights,
- to prohibiting gender expression that is not “gender appropriate,”

- to eliminating civil rights protections for transgender people that are enjoyed by cisgender (non transgender people). Some of these bills create criminal penalties. All of them harm transgender, nonbinary and gender non-conforming people.

Transgender and gender non-conforming people already face discrimination that impacts nearly every facet of their lives. High rates of discrimination and victimization existed before the current explosion of transphobic legislation. Here are some of the forms of discrimination that trans people must overcome.

- Trans people are over four times more likely than cisgender people to become victims of violence, including rape, sexual assault, and aggravated or simple assault, according to a [new study](#) by the Williams Institute at UCLA School of Law. In addition, households with a transgender person had higher rates of property victimization than cisgender households.
- According to [Injustice at Every Turn: A Report of the National Transgender Discrimination Survey](#), 26% of trans people lost a job due to anti transgender bias; 50% were harassed on the job by co-workers or supervisors; 20% were evicted, denied housing or shelter; and 78% of trans students were harassed, bullied or assaulted. This comprehensive survey also showed, among other things, that as a result of discrimination, transgender people are more likely to be isolated, experience severe poverty and homelessness, be denied critical medical care, and experience depression and suicidality. Transgender people are more likely to be targeted by police and punished more harshly in court. The data showed that 1 in 6 transgender people have been incarcerated at some point during their lives, compared with the national average of 1 in 20 people. For Black trans people that number is very nearly 1 in 2 people. Across virtually all the categories surveyed, trans people of color suffer discrimination at significantly higher rates than white trans people.
- The Prison Policy Initiative [laid out](#) how LGBTQ people are overrepresented at every stage of the criminal legal system, starting with the juvenile justice system, from arrest to probation and parole. It noted that once “behind bars, trans people face extremely [high rates of harassment and physical and sexual assault](#), are frequently [denied routine healthcare](#), and are at high risk of being sent to [solitary confinement](#)” simply because they are transgender people.

The wave of anti-trans legislative proposals and media coverage from some outlets poses a threat of exponential harm to transgender, nonbinary and gender non-conforming people. Roughly half of the bills target trans youth, with the goal of prohibiting their access to life-saving, gender affirming healthcare. The Trevor Project conducted a [national survey](#) in 2020 which found that over half of trans and nonbinary youth seriously considered suicide. Gender affirming healthcare has been proven to reduce the risk of suicide in youth and also suicidality later in their lives. This care is supported by every major medical organization and by decades of research and evidence showing its efficacy. Parents, their children and doctors make decisions together and no medical treatment with permanent consequences is given until the child is old enough to give informed consent. Yet misunderstanding, misinformation and bias about gender affirming care persist as evidenced by the plethora of bills seeking to restrict it. The Human Rights Campaign (HRC), [released data](#) indicating that “more than half (50.4%) of transgender youth (ages 13-17) have lost or are at risk of losing access to age appropriate, medically necessary gender-affirming care in their state.” Moreover, not only is healthcare access prohibited, but some of this legislation criminalizes parents who allow their trans children to receive medically recommended care. Parents may well find their parental rights in danger and their child removed from the home.

Fair and Just Prosecution, an organization of elected prosecutors and other leaders, issued a [statement](#) in 2021 condemning the criminalization of transgender people and gender affirming healthcare. They correctly noted that these bills threaten public safety, deny transgender people equal protection of the law, erode public trust, and undermine community well-being.

As some of these bills become law, more people will find themselves in the criminal, juvenile and family legal systems. Public defense caseloads will increase. Public defenders must prepare and step up. NAPD is here to help.

Multiple surveys show that only 20% percent of Americans know a transgender person.

- Some of us need to better educate ourselves in general about gender identity and expression, transgender, nonbinary and gender non-conforming people and to learn the vocabulary. In addition to the links provided above, here are a few links to resources and information for those who want to learn more. These [explanations](#) along with the [GLAAD glossary](#) and this [Washington Post glossary](#), and these [tips for allies](#) are good starting points because they are concise, clear, they point out some common areas of misunderstanding, and provide tips for things to do and others about things to avoid. The Movement Advancement Project's [Talking About LGBTQ Issues](#) series is a set of research-based resources designed to help people understand issues of importance to LGBTQ people. *Disclosure* is a Netflix documentary that examines how Hollywood's depictions of transgender people have impacted public perception and bias about trans people. Leading trans creatives and thinkers share their thoughts, reactions and analysis. They share some of their own stories and it is important to hear them.
- Those who are new to representing transgender clients may benefit from learning more about how to represent transgender clients and meet their needs. NAPD and other organizations have presented training programs on the basics of representing a transgender, nonbinary or gender non-conforming client. NAPD resources are available to its members through the MyGideon Resource Library and courses on Talent LMS. NAPD will continue to offer training programs and resources on representing trans people.
- As prosecutions of transgender people commence under new statutes, it will be important to bring robust statutory and constitutional challenges to them. NAPD commits to providing training programs and practically useful resources about litigating these cases.
- NAPD commits to creating, cultivating and sustaining a culture of inclusion for transgender, gender non-conforming and nonbinary people, and to center and listen to their voices. As we move forward, we pledge to keep a growth mindset and hope to model that mindset for others.

As we celebrate the Transgender Day of Visibility, we stand in solidarity with transgender, nonbinary and gender non-conforming people everywhere. We are mindful that these anti-transgender initiatives harm our trans colleagues, friends, family members and our clients. Our goal is to ensure that transgender people have full equality with non-trans people under the law, and to end criminalization of and discrimination against transgender, nonbinary and gender non-conforming people. Transgender people deserve to be seen, valued and respected. We do. We always will.