



## SOLUTIONS & ACTIONS TO

# Eradicate the Criminalization of Gender & Sexuality

We all should have freedom to live without fear of criminalization because of our expressed sex, gender or sexuality. Nonetheless, women, women of color, LGBTQ people and people suspected of engaging in sex work are often profiled because of their expressed gendered identities.

LGBTQ people have been targeted with increased police surveillance; black women and other domestic violence survivors are treated like suspects when they call police for assistance with domestic violence; women, LGBTQ women of color, transgender men and others are targeted for lewd remarks by police; and women and LGBTQ people suspected of sex work have been profiled because they were carrying condoms. This type of criminalization should not be tolerated, and law enforcement should have clear, gender-sensitive guidelines to respond to complaints from diverse communities.

### 1. Prohibit Use of Force on Pregnant Women and Children

Local and state legislatures should pass legislation that prohibits the use of force, including chokeholds, Tasers, and other forms of physical force, on pregnant women or children in favor of de-escalation. Such legislation should also require police officers to respect various genders, sexualities, and gender identities during all police interactions, including searches and placements in police custody.

### 2. Deter Sexual Harassment and Assault

Local law enforcement agencies, chiefs of police, and police administrators should completely bar police officers from engaging in sexual harassment and sexual assault by creating additional mechanisms to discipline and/or suspend officers who have engaged in such conduct.

### 3. Decriminalize Sex Work

Local and state legislatures should pass legislation that decriminalizes all aspects of sex work. At a minimum, local police departments should deprioritize arrests related to all aspects of sex work.

### 4. Grant Vacatur of Criminal Convictions to Human Trafficking Survivors

Local and state legislatures should pass legislation that grants a vacatur—a remedy that completely sets aside a criminal conviction and treats the conviction as if it never existed—to survivors of human trafficking as well as to sex workers.

## 5. Ensure Access to Condoms

Where sex work is still criminalized, local and state legislatures should pass legislation that eliminates the use of condoms as proof of intent to solicit or engage in prostitution or prostitution-related activities.

## 6. Train Law Enforcement on Best Practices for Gender & Policing

Criminal justice actors, including law enforcement agents, prosecutors, defense attorneys, judges, and parole and probation officers should be required to receive training on the implementation of the Department of Justice Guidance on Preventing Gender Bias in Law Enforcement<sup>1</sup> that enables them to respond to people of varying expressed sexes, genders, gender identities, and sexualities; and bans the profiling of people because of their sex, gender, and/or sexuality.

## 7. Repeal Laws that Criminalize Sodomy

Local and state legislatures should repeal legislation that criminalizes consensual sex between adults, including laws that criminalize sodomy.

## 8. Repeal Laws that Criminalize HIV Status

State legislatures should modernize legislation that criminalizes HIV status by repealing laws that do not take into account the modern research on the spread of disease and which make people are living with HIV vulnerable to profiling.

## 9. Collect Demographic Data

Local and state legislatures should require the collection of publicly available data, disaggregated by race, religion, sex, gender, gender identity/expression, pregnancy status, parental status, age, housing status, sexual orientation, HIV status, ethnicity, sexuality, immigration status, national origin, and religious affiliation, for individuals processed in the criminal justice system.

## 10. Ensure Appropriate Facilities for Girls

Local and state legislatures should pass legislation that ensures juvenile facilities for girls are examined through a gender-specific lens and developed to accommodate their needs and protect their rights and safety.

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<sup>1</sup> Department of Justice, "Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence," 2015.