

The Woodhull Freedom Foundation and The Sex Workers Project at the Urban Justice Center

Response to: OHCHR Call for Submissions on Systemic Racism and Police Brutality

Woodhull Freedom Foundation: Building on the affirmations of individual rights contained in the United States Constitution, including the Bill of Rights, and on the Universal Declaration of Human Rights, Woodhull affirms sexual freedom as a fundamental human right. We believe that broad recognition of sexual freedom will lead to a healthier, more humane society and will liberate individual and group energies to create a more just, compassionate and sustainable world. For this reason, Woodhull, while highlighting the benefits of a shared sexual freedom, human rights agenda works to foster collaborative activities that honor individual advocacies and communities, designs creative initiatives to develop broad public support for sexual freedom, and works to transform these initiatives into public policy.

The Sex Workers Project (SWP) and the Urban Justice Center (UJC): One of the first programs in the nation to assist survivors of human trafficking, the Sex Workers Project has pioneered an approach to service grounded in human rights, harm reduction and in the real life experiences of our clients. All of our services are free to sex workers, those profiled as sex workers, and human trafficking survivors. We share our expertise through legal education workshops for sex workers and trainings for service providers and community organizations. We engage in media advocacy, support sex worker-led organizing and pursue policy change, aiming to make a real and demonstrable impact in the lives of our constituents. And we conduct groundbreaking human rights documentation rooted in the real life experiences of sex workers and survivors of trafficking.

Together, Woodhull and SWP have prepared this response to highlight the impacts of systemic racism and police brutality on Black Sex Workers in the United States, this includes immigrants from Africa or African diaspora communities in other countries, as well as people of African descent.

The sex trades are highly stigmatized in the US, Black Sex Workers and people profiled as Sex Workers, which frequently includes Transgender Women of Color, are thus impacted both by discrimination and marginalization due to their race and their occupation. Racism and discrimination against Sex Workers is further compounded for transgender, gender nonconforming, and nonbinary individuals who are targeted due to their gender expression. The violence inflicted on Black Sex Workers and people profiled as Sex Workers infringes on and impacts their enjoyment of their human rights to livelihood, equal protection under the law, freedom, housing, expression, health, and even life itself.

In 2020, [a record number](#) of transgender and gender nonconforming people have been murdered or died under suspicious circumstances. Black transgender women are disproportionately represented among those targeted and killed. The stigma and discrimination inflicted on Black transgender women impacts their economic and work opportunities. The sex trades present an option for a livelihood and survival in a country that does not respect or protect people's rights to even the most basic needs of housing and healthcare. However, due to criminalization of full-service sex work, Sex Workers and individuals profiled as Sex Workers are particularly vulnerable to be the target of police brutality.

Below we have answered some of the questions from OHCHR in preparation of a report on systemic racism and police brutality against Africans and people of African Descent; and repression of anti-racism peaceful protests. We chose to answer questions that highlight the reality of systemic racism and police brutality through the stories of three young women, Cyntoia Brown, Kebrayana Jones, and Layleen Polanco.

Information on specific cases of police brutality against Africans and people of African descent

Sex Work happens on a continuum of choice, circumstance, and coercion. As in other labor sectors, human trafficking occurs within the sex trades. The trafficking of people to work in any field is a grave concern. Rigorous research and evidence must inform approaches to stop human trafficking, including policies to address the factors that make people vulnerable to trafficking, such as insecure housing, impeded access to education, and discriminatory hiring practices in various industries.

We provide this background to be clear that sex work and human trafficking are distinct. Sex work is work and labor violations and exploitation that occur within the sex trades should be addressed as they would be within other fields. Yet in the US, there is a significant conflation between sex work and human trafficking, with public campaigns from government agencies purposefully blurring the two as synonymous. Despite this effort to call all sex work trafficking, two cases demonstrate a phenomenon we see more broadly in which Black victims of trafficking in the sex trades are not given support and care, but are instead criminalized for actions taken while being victimized.

[Cyntoia Brown](#): At 16 years old, Cyntoia Brown shot and killed a man who paid to have sex with her. At the time, Cyntoia was being forced to work in the sex trades by an older man. Given her age, regardless of the force involved in her work, she met the federal legal definition of a victim of trafficking.

Cyntoia's experience of trafficking and that she reported killing the man in an act of self-defense should have been genuinely factored into the investigation and trial procedures. Instead, Cyntoia was sentenced to 51 years in prison, a clear indication that the legal system in no way viewed her as a victim. Her case is indicative of the systemic racism that permeates throughout the legal system in the US.

[Kebreyana Jones](#): Kebreyana began trading sex at 17 years old as the result of coercion. In public statements, Kebreyana is clear that she was a victim of trafficking and that her experiences in the sex trades were not consensual. At 21, Kebreyana was arrested and instead of being identified as experiencing trafficking, she was charged and later convicted of trafficking. Kebreyana served time in federal prison and is now required to register as a sex offender.

[Research shows](#) that women are disproportionately prosecuted for federal sex trafficking offenses. The experiences of, "the Human Trafficking Clemency Initiative (HTCI), a consortium of law school clinics and organizations that seeks clemency for women who have been incarcerated for crimes related to their own trafficking and advocates for these women and others in similar situations," also demonstrate that a disproportionate number of those prosecuted are women of color.

Distinct from Cyntoia and Kebrayana, the details related to Layleen Polanco's death demonstrate the deadly effect of police brutality and systemic racism on Black transgender women in the sex trades.

[Layleen Polaco](#) (AKA Layleen Xtravaganza Cubilette-Polanco): Layleen was a 27-year-old Afro-Latinx trans woman who died from a seizure while in solitary confinement in Rikers Island as police laughed outside her cell. Layleen was arrested in April 2019 on misdemeanor assault charges and held on \$500 bail from a 2017 drug and sex work charge.

Layleen’s case is a clear example for the [urgent need to pass S2253](#) which would repeal the archaic New York State law that allows for arresting individuals for “loitering for the purpose of engaging in prostitution.” The bill is known as the “Walking While Trans Ban” Repeal, as transgender women, most often Black and Latinx, are the targets of such arrests under the current law. In 2018, 49 percent of people charged with Loitering for the Purpose of Prostitution were Black and 42 percent were Latinx.



Did victims get justice for these crimes? if not, why?

Cyntoia: After 15 years Cyntoia was released from prison. This is not justice; she lost her youth and will forever be impacted by the way law enforcement and others within the criminal legal system treated her case.

Kebreyana: Although Kebreyana is no longer imprisoned physically, she is saddled with the long-term impact of a federal felony conviction and registration as a sex offender. This impacts her ability to find employment and enjoy her life.

Layleen: As described above, Layleen was killed because of her incarceration. Layleen’s family filed a lawsuit against New York City. The family agreed to settle the case and will receive \$5.9 million. Despite this being a historic sum for a settlement, Layleen is no longer with her family or community. Money is not justice.

There were also no charges pressed by the Bronx District Attorney who [reported](#) that they found, “no evidence of criminal wrongdoing” in the death of Layleen.

We urge the drafters of the report to include the information contained here and from any other respondents who highlight the realities and lived experiences of Black Sex Workers in the United States. It would be a significant oversight in a report such as this to not to include the ways in which systemic racism and police brutality manifests to further marginalize and harm Black Sex Workers and people profiled as Sex Workers.