

# STRUCTURAL MISGENDERING OF TRANSGENDER SEX WORKERS IN CHICAGO VIA MUG SHOTS? A CASE STUDY OF PRACTICING IN THE SOCIAL SCIENCES

By Rachel Lovell,  
Misty Luminais,  
and Karen Coen Flynn

## Abstract

This article is a case study of practicing in the applied social sciences and explores vital methodological questions at the intersection of sex work, gender identities, sex, and police policy in the context of criminalization. Specifically, how do we conduct research via public, quantitative data on transgender individuals who are not able to self-identify? The project arose from the observation of what were potentially transgender sex-workers' mug shots on a police website used to publicize the arrests of johns buying commercial sex. Our findings complement the literature on sex work in the United States and suggest that the Chicago Police Department is not only misidentifying transgender arrestees on the website but engaging in a form of entrenched gender delegitimization—or *structural misgendering*. The aim of this paper is to bring attention to this potentially harmful practice and encourage discussions and developments for conducting research with and about transgender individuals.

**Key words:** practice, structural misgendering, transgender, sex work, End Demand

## Introduction

This article is a case study of practicing in the applied social sciences and details methodological issues facing applied social scientists—both sociologists

and anthropologists—who conduct research with and about transgender individuals. While working with sex workers on pending legislation that would create designated “prostitution-free” zones in the city of Chicago, the lead author took to the Internet to research what data were available on prostitution-related arrests in Chicago. The first search that came up was a website, hosted by the Chicago Police Department (CPD), that provided mug shots and semi-personal information of men who had been arrested by CPD for buying commercial sex. However, although all the arrestees were designated as male on the website, several of the mug shots appeared to be transgender women—a puzzling observation. This led to more research as to how and why transgender women would appear on a website designed to shame men whom purchase commercial sex. We began by collecting monthly screenshots of the website (as they only stay on-line for thirty days). We also researched the legal codes with which the arrestees were charged. This practice began as an exploration of trying to make sense of the available, observable data but, in the process, raised methodological questions regarding the identification of possible transgender women—specifically, how to know if what we were seeing was, in fact, transgender women being arrested for buying commercial sex in Chicago? The data available to us did not allow the (possible) transgender women to self-identify, and tracking down these individuals to ask them how they identify was both ethically and methodologically infeasible.

This project is an excellent example of what applied researchers are often faced with in practice—less than ideal data and methods but likely important,

disseminable knowledge regarding policies and practices that negatively impact disadvantaged and marginalized groups. Therefore, we employed our training in the scientific methods to set up a set of criteria by which we would systemically, quantitatively code those on the website as either transgender or cisgender individuals (Ansara and Hegarty 2014).

In this paper, we present the results of this data collection but also challenge our fellow applied research practitioners to explore the issue of how to conduct research via public, quantitative data on transgender individuals who may define themselves through a wide variety of bodily, medical, performative, spatial, temporal and/or hegemonic identifiers that as Petra L. Doan (2016:91) explains “reflect multiple subjectivities” and “complicat[e] the collection and analysis of these data” (Dewey and St. Germain 2015; Marksamer 2008). Grounded in Laurel Westbrook and Kristen Schilt’s (2014:34) work on “determining gender”—the social processes by which people assign gender categories to others—we acknowledge how “gender-integrated” versus “gender-segregated” social situations influence modes of gender ascription and how within gender-segregated settings “identity-based and biology-based determinations clash.” For instance, the commercial sex trade is one such environment that is commonly viewed by policymakers, police, and others as a gender-segregated one in which women sell sex and men buy it (Shively 2010). With these complexities in mind and the goal of adding to the body of knowledge on this issue, we explore: (1) what is potentially the *structural misgendering* of transgender sex workers by police in Chicago, Illinois, and (2) how

further discussions and developments in applied social science methods are necessary to more accurately understand and quantify the lived realities of transgender people.

### Chicago's Efforts to Reduce Demand for Commercial Sex

In an attempt to curb the commercial sex trade and following the lead of several other United States cities, in 2005 CPD began arresting and posting on-line mug shots of men or "johns" arrested for soliciting sex workers (CPD 2017). The website has changed in format over the years from one in which all mug shots and associated data were posted on the front page to one in which arrestees are now searchable by name, ethnicity, age range, and the arrest date. All mug shots appear, however, if a website user chooses "Search" and does not specify any search data. Then-Mayor Richard M. Daley explained that targeting johns was supported by the rationale that commercial sex was not a victimless crime and that "[i]ts victims are, first of all, the prostitutes themselves." According to Daley, "[Thousands of] women are involved in prostitution in Chicago.... Once they become prostitutes, they're subject to... violence, abuse, and possible death" (Ruethling 2005; Washburn and Sheehan 2005: para. 7). At the time of data collection, in addition to the mug shots, the website also posted (for thirty days) an arrestee's name, age, sex, home address to the city block, arrest location, arrest date, arrest statute, and whether or not a car was impounded.

While CPD gender-classification practices for transgender arrestees before 2016 is not evident in the available literature, as of January 2016 CPD states, "An arrestee's gender will be classified as it appears on the individual's government-issued identification card." In cases where such a card is unavailable, "If the arrestee states they (1) have male genitalia, the arrestee will be classified as a male; (2) do **not** have male genitalia, the arrestee will be classified as a female" (CPD

2016:para. 4 (C), *emphasis original*). The extent to which CPD's gender classification practices are conducted in this way is unclear in the available literature.

The website was created to shame male arrestees and deter other men from buying sex, a rationale stemming from a growing multi-national movement. Originating in Sweden in the late 1990s—and eventually becoming known in the United States as "End Demand"—this campaign was built on a rigidly heteronormative view of sex work in which women and girls were construed as exploited sellers/victims and men the buyers/victimizers (Shively 2010).

### Data and Methods

Data collection began in February 2010 of what appeared to be transgender women on CPD's john-shaming website. We collected screenshots of the arrestees' posted mug shots and associated information every thirty days from March 8, 2010 to March 30, 2012. The website was temporarily suspended from December 24, 2010 to July 5, 2011, so there are no records from this time. Photographic and quantitative data were collected representing a total of 1,048 individual arrestees who ranged in age from eighteen to seventy-five. All of the arrestees' associated demographic, legal, and car-related information was entered into an Excel spreadsheet and analyzed in SPSS, and spatial data were mapped using ArcGIS.

In 2010, the lead author was a thirty-two-year-old White cisgender woman with a Ph.D. in sociology employed as a senior research methodologist at the Social Science Research Center at Chicago's DePaul University. The three research assistants, who were previously known to the lead author, were graduate students in their early twenties (one Black cisgender woman, one Black cisgender man, and one White cisgender man) and were pursuing their master's degree in sociology at DePaul. The team participated in three consensus-building meetings to

reflect on, discuss, and debate whether it was possible to identify the probable ethnic and gender identities of the arrestees and the pros and cons of doing so. The group agreed that the potential benefits of raising questions about the gender-assignment practices of the CPD and any possible negative outcomes for misgendering transgender sex workers outweighed the researchers' methodological challenges. The research team then set parameters for coding for ethnicity and gender. Mug shot and related data were analyzed by the research assistants under the supervision of the lead author. The team utilized an approach used in the study of police racial profiling during identity checks and stop-and-search practices in the United States and abroad—comparable situations lacking paper trails or opportunities to interview police targets (see Jobard et al. 2012). Through the following structured process and practice, the research team used people's appearance or their "visibility of differences" to code for and assign ethnicity and gender using stereotypes and categories common in the United States (Jobard et al. 2012:359). The research assistants estimated arrestees' ethnicity based on a review of the mug-shot photographs and arrestees' appearance and names. Ethnicity was coded as: "Asian, White—Not Hispanic/Latino, White—Hispanic/Latino, Black—Not Hispanic/Latino, Black—Hispanic/Latino, and 'Undetermined.'" The team estimated transgender status based on the presence of five visual cues in the mug shots: feminine-appearing hairstyle, feminine-appearing clothes, makeup, jewelry, and masculine facial features. These cues were viewed in totality so that, for example, a mug shot did not necessarily need to include jewelry or makeup to be coded as possibly belonging to a transgender individual. The most common transgender status cues were feminine-appearing hairstyles and clothes. There were only a handful of mug shots that sparked debate among the research team and primarily involved whether the individual had a feminine-appearing hairstyle.

Thus, the hairstyle was often the deciding factor in coding an individual's transgender status as "undetermined" as compared to "transgender." All team members had to agree on a final code. An individual's gender or ethnicity was coded as "Undetermined" when a consensus was not reached.

## Results

The team's analysis resulted in the identification of 110 (10.5%) transgender arrestees out of the 1,048 males identified by CPD, and on further quantitative analysis, distinct differences became apparent between these two groups. The 938 cisgender male arrestees were older and more racially diverse—the mean age was 36.5 years (median age of 35), and 407 (43.4%) were Black—Not Hispanic/Latino, 397 (42.3%) were White—Hispanic/Latino, 106 were (11.3%) White—Not Hispanic/Latino, 10 were (1.1%) Asian, and 18 (1.2%) were Undetermined. By comparison, the 110 transgender arrestees had a mean age of 26.2 years (median age of 24), and 102 (92.7%) were Black—Not Hispanic/Latino, 5 (4.5%) were White—Hispanic/Latino, and 3 (2.7%) were White—Not Hispanic/Latino.

The majority of all arrestees (726 cisgender men [77.4%] and 88 [80%] transgender individuals) were arrested under a Chicago municipal, street-based sex statute (§ 8-8-060) that does not distinguish between the buying and selling of street-based sex. The other 234 arrests were made under more specific State of Illinois statutes. One-hundred and forty-five (15.4%) cisgender men and 21 (19%) transgender individuals were charged with §720 ILCS 5.0/11-15: "Soliciting for a prostitute" (arranging for a sex act). Fifty-six (6%) cisgender men and no transgender individuals were charged with §720 ILCS 5.0/11-18: "Patronizing a prostitute" (buying a sex act). Eleven (1.2%) cisgender men and one (.9%) transgender individual were charged with § 720 ILCS 5.0/11-14.1: "Solicitation of a sexual act" (asking to buy a sex act).

The transgender arrestees were more likely to be arrested multiple times. Of the 110 transgender arrestees, 14 (12.7%) were arrested twice, and one (0.9%) was arrested three times. Only 12 (1.3%) out of 938 of the cisgender male arrestees were arrested twice, and none were arrested three times or more.

The majority of all arrest locations fall along major thoroughfares, with arrest sites on some streets spanning multiple neighborhoods and those on other streets running nearly the length of the city limits. The exception to this is a cluster around the Englewood and Auburn Gresham neighborhoods—a high poverty and crime area.

A comparison of the locations of transgender-arrests to cisgender male-arrests reveals that transgender and cisgender male arrests occur in similar locations in the more impoverished areas of the city's west and south sides; however, transgender arrests are clustered into "red-light" districts, primarily in the Englewood, Austin/West Garfield Park and Lakeview neighborhoods. Additionally, a review of the impounded car data shows that cisgender male arrestees often had their cars impounded, 728 (77.6%). Only twenty (18.2%) of the transgender arrestees had a car impounded by the police.

## Discussion and Conclusions

This project is an example of the type of methodological issues applied social scientists face in their practice, as we are often confronted with less than ideal data and methods but an important opportunity to disseminate knowledge regarding a particular policy or practice that disproportionately impacts disadvantaged or marginalized groups—in this case, transgender individuals. We acknowledge the methodological limitation in this study—the inability to acquire subjects' self-identifiers for ethnicity and gender. However, in our view, even with the limitation, it is important to bring attention to and disseminate knowledge about the unintended

consequences of the website for transgender individuals.

We recognize that in our attempt to highlight the need for methodological advances in identifying and quantifying transgender people's lived realities, we employed relatively unconventional research practices and likely increased measurement error. We recognize that using the terms "cisgender male" and "transgender women" for the sake of simplicity imposes another analytical limitation via reliance on an unrealistic cisgender/transgender binary (Ansara and Hegarty 2014). We also understand that an unconventional methodology arguably strengthened by researchers' claims of knowledge, experience, attention to detail, and intuition may be easily argued by critics as a mere gloss for researchers' bias and discrimination. In spite of these limitations, the findings of our exploratory analysis between cisgender and transgender arrestees complement the literature on sex work in the United States and suggest that CPD and their website are not only misidentifying transgender arrestees but engaging in a form of entrenched gender delegitimization—or *structural misgendering*. We argue that structural misgendering is a form of gender delegitimization by powerful social actors, structures, and institutions that, in this case, is the second largest police department in the United States.

All the quantitative findings presented in this paper indicate that the transgender arrestees were different from the cisgender arrestees in ways that would suggest that the transgender arrestees were more likely selling sex instead of buying sex. However, because transgender individuals were arrested under a legal statute that does not differentiate between the buying and selling of street-based sex and they had government-issued identification cards (or "genitalia" according to CPD policy) that identified them as "male," they were included on a website for johns.

A growing literature highlights the extreme discrimination transgender

individuals experience, which includes restricting access to safety, employment, housing, healthcare, and legal documentation. Of over 6,400 transgender individuals participating in a national United States survey, 694 (10.8%) reported having engaged in sex work for their income and survival, and an additional 135 (2.3%) reported engaging in commercial sex or trading sex for housing (Fitzgerald, Elspeth, and Hickey 2015). For other sex workers documented in Chicago, street-based sex work may not only be a legitimate form of employment but also the beginning of a long career that offers flexibility and autonomy, and for many, may continue indoors (Rosen and Venkatesh 2008). Whatever the reason for entering the trade, on a national scale, Black transgender individuals have the highest rate of sex work participation, followed by those who identified as Hispanic or Latino, followed by those identifying as “White Only” (Fitzgerald, Elspeth, and Hickey 2015). The vast majority of Black—Not Hispanic/Latino transgender individuals on the CPD website aligns with this literature. There is a substantial difference between the ages of cisgender male arrestees and transgender arrestees that we cannot currently explain, suggesting this is an area for further study.

Other data also support that the potentially transgender individuals on the CPD website are not johns. Of the twenty-two arrests made of transgender persons under the State of Illinois prostitution statutes, the data show that one transgender individual was charged with “asking to buy,” and twenty-one transgender individuals were charged with “arranging.” None of the transgender arrestees were charged with “buying.” The research team found no examples in the academic literature describing large numbers of transgender individuals buying sex in Chicago or elsewhere in the United States. Instead, the literature suggests transgender women are more likely to be selling or arranging sex (Dank et al. 2015; Grant et al. 2011).

The arrests analyses also support that those identified as transgender arrestees are sex sellers rather than johns because johns are rarely repeatedly arrested over short periods of time (Wortley, Fischer, and Webster 2002). For the majority of transgender arrestees who endured repeated arrests, the arrests occurred in the same locations—ones that corresponded to the transgender arrestees’ home street block.

The data on car impounds also aligns with the role vehicles play in the broader context of the commercial sex trade. Street-based, commercial-sex buyers frequently live at greater distances from the street-based sex workers they are soliciting, who often live in the areas and reportedly walk or take public transport to their work sites (Williams 2014). For these reasons, johns are more likely than sex workers to be in possession of a car at the time of arrest, resulting in johns having a vehicle impounded by the police.

It is beyond the scope of this article but worth pointing out that this analysis does not account for the probability that cisgender men selling sex also have been misidentified as johns in CPD’s practice. End Demand strategies often neglect the nuance of street-based sex work, where people cannot neatly be divided into victims and victimizers based on their gender or any other binary characteristic.

In addition to the previously discussed aims of this paper, we also hope this paper serves as a “call to action” for our fellow applied social science researchers and that, in spite of the limitations of this analysis, the methodological challenges discussed here will encourage new discussions and developments for conducting research with and about transgender individuals, structural misgendering, and the structural lack of inclusivity that prevents the self-identification of gender via public and/or official data.

Many other questions at the intersection of transgender identities, sex work, and policing remain: How do arrestees whose mug shots appear on

john-shaming websites self-identify for gender? What are the effects of john-shaming websites on all of those posted? To what extent are Amnesty International’s (2005) findings of a common pattern of police profiling transgender women as sex workers in Chicago and elsewhere still found today? It is crucial to refine our methods for understanding sex work and its intersection with gender identities, sex, and police policy in the context of the debate about criminalization, decriminalization, or legalization of sex work. Once we are better able to quantify the lived realities of transgender people, we will be able to move beyond further objectifying the already well-established ways transgender individuals experience discrimination.

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**Rachel Lovell** (*Rachel.Lovell@case.edu*) is a sociologist and Senior Research Associate at the Begun Center for Violence Prevention Research and Education at Case Western Reserve University. She focuses on gender and violence, in particular sexual assault, human sex trafficking, and intimate partner violence. She works in the United States.



**Misty Luminais** (*Misty.Luminais@case.edu*) is a cultural anthropologist and Senior Research Associate at the Begun Center for Violence Prevention Research and Education at Case Western Reserve University. She focuses on sexuality, gender, violence, and urban studies. She works in the United States and Central America.



**Karen Coen Flynn** (*Karen.Flynn@case.edu*) is a cultural anthropologist and Research Associate at the Begun Center for Violence Prevention Research and Education at Case Western Reserve University. She conducts research on vulnerable communities in Tanzania, Indonesia, and the United States. ■

