

# Equal access to justice

## Discrimination, the police and the lesbian, gay, bisexual and transgender (LGBT) community in the USA

In many parts of the USA Amnesty International has found a pattern of police failing to respond appropriately to crimes against LGBT individuals. Police lack of understanding, or in more extreme cases hostility, has resulted in officers arresting the victims of the crime rather than the perpetrators. LGBT people also experience "profiling" where they are targeted for the selective enforcement of certain regulations because they are considered to have transgressed certain social "norms".

April Mora, a young lesbian of African American and Native American heritage, was reportedly attacked and slashed with razor blades, in Denver, Colorado, in March 2002. The men carved "dyke" into her forearm and "R.I.P." on her stomach. Of the police response, April said: "I think they're saying that, because I choose to look like this I deserve it or something. It's as if - if I want to look like a guy, I should get beat up like a guy."

One of the most striking aspects of crimes against LGBT individuals is the extent to which these crimes go unreported. The discriminatory attitudes of some law enforcement officials are denying many LGBT people equal access to justice. This is often exacerbated by other prejudices prevailing in society, including racism.

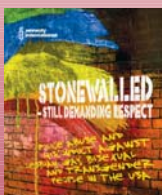
LGBT people often do not report crimes against them because they fear a dismissive, hostile or abusive response from the police. Some may fear revealing their sexual orientation or gender identity or expression to the police since this information could find its way to family, friends and employers. LGBT survivors of crime have been coerced into withdrawing complaints. In other cases police have dismissed the fears expressed by LGBT people and left them unprotected, sometimes with fatal consequences. Survivors of crimes motivated by homophobic discrimination or transphobia (discrimination or hostility towards transgender people) have themselves been threatened with arrest or arrested. In some cases officers have reportedly suggested that the victims were in some way responsible for the crimes committed against them.

Al Everton, a 74-year-old gay man, died in October 2003 in San Antonio, Texas, reportedly after being struck on the left temple with a baseball bat. Before he died, Al Everton identified his attacker to family, friends and the authorities and said that the man had shouted homophobic abuse as he beat him with the bat. Al Everton had initially refused to go to the authorities after earlier incidents of homophobic abuse from the alleged attacker because he did not want the police to know that he was gay. The discriminatory motivations of the crime were never investigated and no charges were filed in connection with his death.

Law enforcement officials frequently fail to identify crimes motivated by discrimination properly. The failure to consider if the sexual orientation or gender identity or expression of the victim was a factor in the crime can hinder the investigation.

Violence in the home is a serious problem in the USA for both heterosexual and same-sex couples. Police knowledge about LGBT domestic violence is minimal and survivors experience extreme isolation - a problem exacerbated by the scarcity of programmes and resources that exist for LGBT domestic violence survivors. Nearly three quarters of US police departments who responded to a survey conducted by Amnesty International reported that they have mandatory arrest policies which require officers to make an arrest when responding to a domestic violence call. In the absence of training that enables an officer to make an appropriate assessment as to who should be arrested, this requirement, when coupled with discriminatory attitudes, can lead to survivors being criminalized rather than protected.

LGBT people are often targeted for the selective enforcement of laws and regulations because of their sexual orientation or gender identity or expression. Such policing practices can affect virtually every sphere of the daily lives of LGBT people and often have an impact that goes far beyond the initial incident.



For more details see AI's report: *Stonewalled - still demanding respect*  
*Police abuses against lesbian, gay, bisexual and transgender people in the USA* (AI Index: AMR 51/001/2006), available from [www.amnesty.org](http://www.amnesty.org)  
For further information see [www.amnestyusa.org/outfront/](http://www.amnestyusa.org/outfront/)

Vague public order or morals laws are one of the factors that increase the likelihood of these sorts of arrests. They often involve offences such "loitering with intent to solicit," "public lewdness" or "disorderly conduct". Such laws can lead to arbitrary arrest and detention because of the degree of discretion granted to officers in determining what is considered "offensive". In the absence of the checks and guidelines which clear legislation should provide, individual judgement can reflect discriminations which are prevalent in society - such as homophobia, transphobia, racism or sexism.

***"The biggest problem we are having from the standpoint of wrongfully charged defendants, is that 95 per cent of them are so embarrassed by the charge -- either indecent exposure, lewd behavior or [sexual] assault on an officer -- they are afraid to fight."***

**Andrew Thomas, Civil Attorney, San Antonio, Texas, December 2003**

Amnesty International's research has revealed a pattern of discrimination and misconduct in the application of "zero tolerance" and "quality of life" policing. These are law enforcement strategies that seek to maintain public order by aggressively enforcing laws against minor offences, for example, public drunkenness, loitering, vandalism, littering or public urination. Regulations on loitering, disorderly conduct and noise violations, for example, are frequently vague, giving individual

A young African American gay outreach worker was waiting at a bus stop in December 2003 when Chicago police officers allegedly arrested him for loitering with intent to solicit. Despite providing identification and corroborating information from the organization he represents, he was reportedly detained in a downtown precinct for two days.

police officers considerable discretion when enforcing them.

Amnesty International's research indicates that so-called morals regulations are disproportionately applied to LGBT people. For example, acts that heterosexual couples can openly engage in, such as kissing, may result in police intervention on the grounds that they are regarded as "offensive" when engaged in by same-sex couples.

Reports from several cities suggest that police operations against "lewd conduct" target places where members of the Latino, African American, South Asian or immigrant communities tend to congregate.

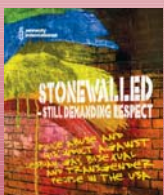
"Quality of life" regulations even when more narrowly drawn – such as those criminalizing the consumption of alcohol, vandalism, littering or urination in public spaces – tend to be applied selectively towards certain communities. There appear to be significant disparities in the way in which these regulations are policed, depending on factors such as the alleged offender's race, age and socio-economic situation. It is therefore perhaps not surprising that LGBT members of ethnic minorities are disproportionately targeted for enforcement of "quality of life" regulations.

## What needs to be done

LGBT people in the USA continue to suffer serious police abuses, in some cases amounting to torture and ill-treatment. Despite some positive initiatives by law enforcement agencies and the justice system, much more needs to be done to protect LGBT people from police abuse and misconduct.

The US authorities must tackle the police abuses that LGBT people face, including by taking the following steps:

- ⊗ Promptly and impartially investigate all allegations and reports of police abuse and misconduct against LGBT people and adequately discipline and bring to justice officers responsible for abuses.
- ⊗ Train police officials to enable them to deal effectively with allegations of violence against LGBT individuals, including how to investigate allegations of domestic violence.
- ⊗ Review all legislation that has in practice resulted in the arrest and detention of individuals because of their sexual orientation or gender identity.
- ⊗ Take action to prevent any discriminatory application of the law by law enforcement officials. In particular, vague legislation which lends itself to discriminatory application should be amended to specifically describe the conduct prohibited and should explicitly require monitoring and oversight of enforcement practices in order to prevent selective enforcement.
- ⊗ Review policing operations to ensure that they are not targeted in a discriminatory fashion, including operations involving the enforcement of "quality of life" regulations and policies.



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