

Human rights, human dignity

Police abuses against transgender women and men in the USA

"I know to be respectful to police officers but I'm tired of the way they are treating us."

Alixxxa, a Latina transgender woman, January 2004

Transgender individuals in the USA – and elsewhere – are at risk of abuse because of their gender identity linked to pervasive discriminatory attitudes deeply ingrained in society. Amnesty International has received many reports of transgender women being stopped by police while they are going about routine, everyday tasks like hailing a cab, shopping or walking the dog and asked about their reasons for being on the street.

Comments made to Amnesty International by police officials suggest that there is a commonly held assumption that transgender women are sex workers. Community-based organizations and individuals report that this "profiling" of transgender women as sex workers frequently leads to arbitrary arrest and detention. For example, lesbian, gay, bisexual and transgender (LGBT) rights activists in Chicago told Amnesty International that officers see transgender women as easy targets when they need to meet their allotted "arrest quota".

In most jurisdictions transgender people's human rights are not legally recognized or protected. Transgender individuals are disproportionately targeted by law enforcement officials and transgender victims of crime are at risk of abuse from the officers called to assist them.

Once transgender people are in contact with the law, abuses often escalate, simply as a result of police reaction to their gender identity. Widespread verbal abuse, unless challenged by those responsible for overseeing police behaviour, can create a culture where discrimination and prejudice are seen to be the accepted norm. It can also create a climate of violence where verbal abuse is at risk of spilling over into physical abuse.

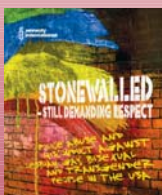
Repeated and unnecessary searches which are humiliating to the transgender person are reportedly common. Often such "checks" appear to be carried out in order to establish a transgender individual's biological sex. Some of these searches amount to sexual abuse and gross infringements of the right to privacy and dignity. There are reports of officers using sexually offensive language; of male police

and prison staff touching transgender women's breasts and genitals; of female staff touching transgender men's genitalia; and of male or female staff and other detainees watching transgender detainees while they are naked.

Amnesty International's survey of police departments in the biggest cities in all 50 US states shows that while 62 per cent of police departments report that they train their officers in how to do strip searches, only 31 per cent instruct their officers in how to strip search a transgender individual and only 24 per cent of police departments reported that they had a policy regarding strip searches of transgender people.

Dean Spade - a transgender man and head of the Sylvia Rivera Law Project, a legal advocacy group for transgender and gender-variant people in the USA - was arrested in 2002 by a Port Authority police officer while using the men's room at Grand Central Station, New York. "I entered a restroom, a cop followed me into the restroom and asked me to show ID [identification]. I explained that I was in the right restroom." When two friends came to his assistance, the officer detained them and arrested all three of them. "The cop was really being aggressive," Dean Spade said. "We tried to leave and he pushed us against the wall... We spent 23 hours in jail and ultimately the charges were dropped because there was no legal basis for our arrests."

Amnesty International has documented serious abuses against transgender people in detention. This includes abuses perpetrated by police and corrections officers as well as by other inmates. Transgender people interviewed by Amnesty International expressed their very real fear of being held in gender-segregated cells according to their biological sex, rather than their gender identity. This kind of inappropriate detention puts transgender inmates – and especially transgender women detained with male prisoners – at risk of violence and sexual assault by other detainees. Of the 29 police departments who responded to Amnesty International's survey, 59 per cent had no policy on the detention of transgender people. The consequences for the rights of transgender people to physical safety



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
For further information see www.amnestyusa.org/outfront

and to justice can be far reaching. In New York activists reported that transgender individuals felt conditions in holding cells to be so dangerous that they were sometimes willing to plead guilty and get a criminal record for an offence they did not commit rather than run the risk of being detained pending trial.

Misunderstandings about transgender people which conflates gender identity with sexual orientation can lead to abuse. A transgender woman reported that when she was screened for a possible place in a special unit for LGBT detainees in Los Angeles, she was questioned extensively about gay male issues. She explained to the officers that she had no knowledge of such issues because she is transgender, not gay. She was subsequently housed with the general prison population.

"When I told them my real name, Rachel, they refused to recognize that and continued to call me by my male name... The State Troopers tried to keep their smirks and comments at a distance, but I still heard words like 'fag' and 'freak' a number of times."

Rachel Thompson, Lehigh Valley, Pennsylvania, March 2004

Some LGBT detainees have experienced great difficulty in accessing medication while in police holding cells. There are reports

that transgender individuals in detention have been prevented from receiving hormone-related medication and denied access to personal items related to their gender identity or expression, such as wigs and make-up. In 1997, a US District Court in Sacramento ruled that the denial of hormone-related medication amounted to cruel and unusual punishment as "abrupt treatment cessation caused nausea, dizziness and reversal of the chemical castration process".

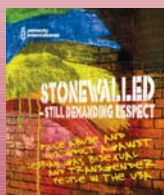
In September 2002, Kelly McAllister, a transgender woman, was detained in Sacramento, California. She told Amnesty International that guards put her in a cell with a male inmate who repeatedly struck, choked and bit her and then raped her. Kelly McAllister asked for medical treatment for her injuries which included a bleeding anus. After a medical examination, she was transported back to the main jail where she was again reportedly subjected to threats of further attacks by male inmates and taunted by the Sheriff's staff. Kelly McAllister reportedly attempted to commit suicide twice after her return to jail. The Sheriff's Department opened an investigation into the alleged rape, and the inmate agreed to a plea of "unlawful intercourse in jail". He was sentenced to three months in jail. Despite having filed a full report with the Sheriff's Department, no Sheriff's Deputy has been disciplined for the failure to protect Kelly McAllister.

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.

US authorities must tackle the particular risks transgender individuals face within the criminal justice system including by taking the following steps:

- ⊗ Make clear to police officers that sexual, physical or verbal abuse based on real or perceived sexual orientation or gender identity or expression will not be tolerated and that officers responsible for such abuse will be disciplined appropriately. Officers should address transgender individuals by the name they regularly use.
- ⊗ A transgender individual's opinion about whether it would be safest to detain them in a men's or a women's detention facility must be a central consideration in decisions about housing transgender detainees. The authorities should consult transgender organizations to identify best practice for policies on making housing decisions in a detention facility.
- ⊗ Transgender individuals should not be searched solely in order to challenge their gender identity. If a search is necessary, it should be carried out in private with full regard to the dignity of the person being searched. If the person is transgender, the search should be carried out by two officers of the gender(s) requested by the individual. If a transgender individual does not specify a preference, then the search should be conducted by officers of the same gender as the detainee.
- ⊗ Training should be provided to law enforcement officials on how to address transgender individuals with respect for their dignity, on how to conduct searches of transgender individuals, and on detention policies and procedures for LGBT individuals, to ensure that they are not targeted in a discriminatory fashion.



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