

USA

New York City: Abuse of Transgender Women by New York City Police Officers

The case of Mariah Lopez

On 17 June 2006, Mariah Lopez, a young transgender Latina woman was arrested by New York City Police Department (NYPD) officers for “loitering with intent to solicit” in the West Village area of New York City. AI is concerned that while in the custody of police and later, the Department of Correction (DOC), Ms. Lopez may have been targeted for abuse by officers on the basis of her gender identity. Ms. Lopez was reportedly forced to undergo multiple humiliating and unnecessary strip searches by male officers, forced into detention cells with male inmates without regard to her safety, subjected to verbal and physical abuse, including severe beatings where she sustained broken cartilage in her nose, a broken tooth, and abrasions and bruises to her face and body.

Shortly after her arrest, Ms. Lopez describes being taken to the NYPD 6th Precinct and being subjected to verbal harassment and other inappropriate treatment. This included being called “he/she,” “it” and “fag.” When Ms. Lopez refused to go into the men’s cell she states that the officers handcuffed her, tied her legs together, and dragged her into the cell. Once she was in the cell the officers allegedly began beating her, hitting her in the back of the head, pushing her face against the floor and kicking her in the genitals.

The following day, Ms. Lopez was taken to the Central Booking department of the NYPD where she reports she started having trauma-related flashbacks. The male guard who came to take her to the hospital allegedly called her a “fucking faggot,” told her to stop faking it, and hit her in the head when she could not walk because she was feeling dizzy. Ms. Lopez describes how she felt blood in the back of her throat after the second blow from the officer caused her to fall and hit her nose against the grate of the cell. While she was down, the officer allegedly kicked her all over and struck her in the head with a metal trash bin.

Ms. Lopez appeared in court on 18 July and was charged with “loitering with intent to solicit” and with “assaulting officers.” Ms. Lopez later entered into a plea agreement in order to get out of jail earlier – she pled guilty to the charges against her and was released on 1 August. Ms. Lopez claims that she pled guilty in exchange for a lighter sentence because she feared for her life and could no longer stand prison conditions but was unable to pay bail.

The case of Christina Sforza

On 10 July 2006, Ms. Sforza, a bi-racial transgender woman, and two friends were at a McDonald’s restaurant located at 341 Fifth Avenue. After eating, Ms. Sforza, a diabetic, went to the bathroom to give herself an insulin injection. The men’s toilet was out of order so a McDonald’s employee told her to use the women’s toilet. Ms. Sforza reports that she had

been in the toilet for not more than a minute or two when she heard banging on the door and someone yelling outside, "I'm going to kill you, faggot. I'm going to kill you."

According to Ms. Sforza, as soon as she opened the door, an African American man in a blue McDonald's shirt, whom Ms. Sforza believes to be the manager, hit her across the head with a lead pipe and kept hitting her in the head, torso and groin, and on her arms when she tried to protect her head and face. When Ms. Sforza managed to get hold of the pipe, the man allegedly began choking her, saying, "I'm going to kill you, you fucking fag, I don't want any fags in here." Ms. Sforza tells AI that a crowd of McDonald's staff and customers were cheering, yelling "kill the fag," and egging the attacker on. At this point, one of Ms. Sforza's friends called the police.

Ms. Sforza states that when the police came they would only speak to her alleged assailant who told the officers that Ms. Sforza had attacked him. When the Emergency Medical Services arrived at the scene the police allegedly refused to let them examine her swollen face and arm. Ms. Sforza was arrested, her injured arm forced behind her and placed in handcuffs. She reports banging her head against the roof of the police car several times as the officers pushed her and kicked her legs into the car to close the door.

According to Ms. Sforza, when she asked the officers why she was being arrested, they told her to shut up and turned up the car radio so as not to hear her. She says that she continued to make a plea for getting her injuries examined until the officers relented and agreed to take her to a hospital saying, "We have to take you to Bellevue. We take all the crazies there." Ms. Sforza reports that the hospital took an x-ray of her arms and discharged her, after which she was taken to the Midtown South Precinct where she says, she was subjected to verbal abuse by officers calling her "Miss Thing" and mocking her swollen arm. When she asked for her bag containing her medicine for diabetes, she was allegedly told, "Don't worry, sweetheart, your friends will get your bag for you." Ms. Sforza reports that although it is essential for her as a diabetic to take her prescribed insulin shots regularly and failure to do so could cause complications or be life-threatening, she never received her medication while in custody.

Ms. Sforza was brought before the judge on 11 July and was released pending trial. A trial date was set for 15 August, but was later adjourned for 26 October. Ms. Sforza has been charged with "assault with intent to cause physical injury" and "harassment in the second degree."

Ms. Sforza states that she attempted to file a criminal complaint against her assailant at the Midtown South Precinct six times but each time was unable to for arbitrary reasons. For example, on 18 July, she reportedly waited for six hours only to be told to come back the following day because the "complaint lady" was not in. On 7 August, the last time she tried to file a complaint, she left after allegedly being threatened with arrest by one of the officers for "attempting to make a false report."

Amnesty International's Concerns

If substantiated, the allegations in these two cases amount to serious human rights violations by NYPD officers. Amnesty International is concerned that these alleged violations may constitute discriminatory behaviour, torture or other cruel, inhuman or degrading treatment, and in Ms. Sforza's case false arrest, failure to exercise due diligence, and denial of access to justice. AI is also concerned that in Ms. Sforza's case, she may have been denied access to essential medication that could have posed a serious threat to her life and well being. AI is calling on the NYPD to conduct immediate and impartial investigations into these serious allegations and to hold accountable any officers found responsible for human rights violations. Amnesty International has written letters to the NYPD Police Commissioner Raymond Kelly to express our concerns regarding both cases but has not received any response.

Background

The allegations in these two cases are consistent with the patterns of police abuse documented in Amnesty International's report, *Stonewalled – Still Demanding Respect: Police abuse and misconduct against lesbian, gay, bisexual and transgender people in the USA* (AI Index: AMR 51/001/2006). Although the report finds that there have been improvements in police sensitivity to working with the LGBT community in some cities like New York, it also documents that there remain ongoing serious problems of police abuse against LGBT people, ranging from sexually explicit, abusive language and threats to physical violence, sometimes amounting to torture and other ill-treatment. The report's findings strongly indicate that transgender people, people from ethnic and racial minorities, young people, sex workers and immigrants within the LGBT community experience heightened risk for abuse by law enforcement officials.

The AI report reveals particularly serious patterns of abuse against transgender people, including the profiling of transgender women as sex workers; repeated and unnecessary search of transgender individuals in police custody; and the placement of transgender women in cells with male inmates exposing them to heightened risk of physical and sexual violence by other inmates.

One of the report's key findings is that police officers often do not respond appropriately to "hate crimes" in which an LGBT person is the alleged victim. This includes failure to properly investigate and document the "hate crime" as well as sometimes blaming the victim and even arresting or threatening to arrest the victim of the "hate crime." The report's findings also indicate that many "hate crimes" go unreported because LGBT people often do not file a report of the crimes against them for fear of dismissive, hostile or abusive response from the police.

US law enforcement officials should use force only when strictly necessary and only to the extent required for the performance of their duty. If the use of force is unavoidable, they must exercise restraint; act in proportion to the seriousness of the offence; minimize damage and injury; and respect and preserve human life. All allegations of possible excessive use of force by police should be subject to prompt, thorough and impartial investigation.

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.

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.

If the allegations in the cases of Mariah Lopez and Christina Sforza are substantiated, such conduct by the NYPD officers would be in breach of international human rights standards, including those set out under the International Covenant on Civil and Political Rights, the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and the United Nations Code of Conduct for Law Enforcement Officials. These serious allegations are also likely to be in violation of the US Constitution, as well as the New York City Human Rights Ordinance which bars discrimination on the basis of sexual orientation or gender identity.

Please write letters to NYPD Commissioner Raymond W. Kelly:

- Say that you are writing to express concern about the serious allegations of human rights violations committed by NYPD officers against Mariah Lopez and Christina Sforza, two transgender women.
- Emphasize that these serious allegations fit the patterns of abuse documented in the Amnesty International *Stonewalled* report, including the report's finding that transgender people are at heightened risk of police abuse.
- Express concern that if the allegations are substantiated, such conduct by the NYPD officers would be in breach of international human rights standards, and likely to be in breach of the US Constitution and local non-discrimination protections, including the New York City Human Rights Ordinance.
- Call on the NYPD to conduct immediate and impartial investigations into the allegations, to make public the results of such investigations, and to ensure that any officers found guilty of human rights violations are adequately disciplined and brought to justice. If convicted, they should face penalties commensurate with the seriousness of the crime. The US government must ensure that the victims receive fair and adequate reparations, including compensation.
- Call on Police Commissioner Kelly to work with local authorities to establish an effective mechanism for reporting complaints of sexual, physical or verbal abuse by law enforcement officials so that victims, relatives and witnesses can file complaints without fear of reprisal, confident that the authorities will act properly and impartially.

- Ask Police Commissioner Kelly to show leadership on this issue by ensuring that NYPD officers are trained on how to identify, respond to and investigate “hate crimes” based on sexual orientation, gender identity or expression. Training should also be undertaken 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. Training should be required for all police, both veterans and new recruits, to enable them to deal effectively with allegations of violence against LGBT individuals.
- Invite a reply.

Police Commissioner Raymond W. Kelly

New York Police Department

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E-mail: <http://www.nyc.gov/html/mail/html/mailnypd.html>

Salutation: Dear Police Commissioner Kelly

Send copies to:

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Phone: (212) 639-9675

FAX: (212) 788-2460

Email:

<http://www.nyc.gov/html/mail/html/mayor.html>

Salutation: Dear Mayor Bloomberg

Speaker Christine Quinn

New York City Council

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Salutation: Dear Speaker Quinn

To read the full *Stonewalled* report, go to:

<http://web.amnesty.org/library/Index/ENGAMR510012006?open&of=ENG-347> or

www.amnestyusa.org/outfront