

Gotham Gazette - <http://www.gothamgazette.com/article/civilrights/20090505/3/2904>

A Retreat on False Arrests from Chelsea to Bushwick **by Andy Humm** **05 May 2009**

One case involves middle-aged gay men at adult bookstores. The other concerns black and Latino teenagers on their way to a wake. One centers around Manhattan, the other in Bushwick.

Both cases, however, involve false arrests and possible abuses of police power. And in the two instances the police and district attorney have had to retreat from their original stands, although many questions and concerns remain.

THE PROSTITUTION ARRESTS

In February, this column [looked at what](#) Council Speaker Christine Quinn, an out lesbian, called a pattern of "false arrests" of middle-aged gay men for prostitution at adult bookstores. The city was apparently using the arrests in an effort to close the businesses under the nuisance abatement laws. Duncan Osborne of the Gay City News uncovered the pattern.

Now, law enforcement -- from the police department to the Manhattan district attorney's office -- appears to be stepping back from those arrests.

By mid-April, six men who had pleaded guilty to minor charges had met with the district attorney's office to have their cases reviewed. There were concerns, Osborne [reported](#), that while "at least 30 men were busted in at least six Manhattan porn shops last year, the district attorney" appears to be reviewing only the arrests made by one undercover officer. The office, Osborne said, was not looking into other suspicious arrests at "spas, private apartments, and on the street in the West Village and in Midtown."

That district attorney's action follows weeks of furor over the arrests. At Quinn's behest, police brass met with the Coalition to Stop the Arrests (now called the Campaign to Stop the False Arrests) on Feb. 11, led by Robert Pinter, a 52-year-old gay man who claims he was falsely arrested in October in the East Village by a young undercover cop who at first asked him for consensual sex and then accused him of soliciting prostitution. Despite protesting his innocence, Pinter pleaded guilty to disorderly conduct to avoid a heavier charge on the advice of his lawyer at Legal Aid, who was not aware of the pattern of false arrests.

Demonstrators protested against the arrests on Feb. 14 at Mayor Michael Bloomberg's Upper East Side residence and on Feb. 21 in Sheridan Square, near the site of the Stonewall Inn. Forty years ago next month, that gay bar was the scene of the [Stonewall Rebellion](#) that catalyzed the modern gay, lesbian, bisexual and transgender rights movement as patrons of the bar fought back against police harassment.

An astounding 66 percent of those arrested at the bookstores that the city wanted closed were over 42 even though only 17 percent of prostitutes arrested citywide are over 42 years of age. The police department is not answering questions about why they would use a use a young, good-looking cop to snare alleged prostitutes when most sex workers are young and seeking older clients.

A Pattern of Denial

Initially, the police department and Mayor Michael Bloomberg defended the arrests. When I asked Bloomberg at a Feb. 7 press conference about the issue, he said, "Some of the men

arrested pleaded guilty. Whether or not they really were or not, the investigation continues. I don't think I have to justify my devotion to tolerance, but there are laws and if you break the laws the police department is going to enforce the laws."

Asked about the disproportionate number of men over 42 arrested, Bloomberg joked, "Careful, don't criticize people over 42 years old."

Bloomberg said he had not personally looked at the pattern of arrests and added, "The police department is looking at it, and you can rest assured that Speaker Quinn is working with our administration to take a look and make sure that whatever was done was done correctly."

Shortly after that, police spokesperson Paul Browne [told](#) the New York Times that police were not targeting gay men. However, he continued, police officials and activists agreed at a meeting "that the police should address quality-of-life issues and illegal activity ... in a way that reassures the gay community that none of its members are being targeted because they are gay."

Change of Course

In March, the New York Post reported that Police Commissioner Ray Kelly had called the head of the department's Organized Crime Control Bureau, which oversees the vice squad, to police headquarters. They decided, the paper said, that any further operations would have to be cleared by bureau chief Anthony Izzo.

The office of the district attorney, which prosecuted the cases, also seemed to acknowledge mistakes. On March 6, Pinter and other activists met with Manhattan District Attorney Robert Morgenthau at the behest of out gay State Sen. [Thomas Duane](#). Joey Nelson of the [Queer Justice League](#) [told](#) the Gay City News "The first thing Morgenthau said was, 'we're going to investigate all these cases.'"

"They weren't trying to cover things up or hide," Pinter told the paper. "Morgenthau himself brought up that he has prosecuted police over 300 times in his career." However, Linda Proust Lopez, a supervising attorney at [Legal Aid](#), told the paper she was "disappointed" that the office was not expanding its investigation to include "all of the male prostitution arrests made by these undercover."

At the meeting, Duane and Assemblymember [Deborah Glick](#), an out lesbian, were reportedly "very outspoken" about what they see as the anti-gay nature of the arrests.

The District Attorney's Office said that it does not comment on ongoing investigations, but a reliable source was told by the office that "they are first investigating the people who pleaded not guilty and after that they will investigate the people who pleaded guilty -- like Rob Pinter," who has just filed a motion to vacate his conviction.

Pinter said that Morgenthau promised to investigate, but Pinter is frustrated with the pace of the investigations. "Maybe they are going to call in everyone else [who was arrested under these circumstances], but it seems very slow," he said.

Osborne also reported [that](#) the District Attorney's Office denied his Freedom of Information filing for details on the cases, based on the fact that they are being "re-investigated." The paper is appealing the denial.

Open Issues

The administration still has not provided a full account of the status of the sting operation and those who carried it out.

The police department did not respond to e-mailed questions about the investigation into the officers who made the arrests or whether these men are still conducting the operation.

The mayor's press office did not answer an e-mail asking whether Bloomberg has looked into the arrests. It also did not respond to a query about why the police department [reportedly](#) withdrew its nuisance complaint into Chelsea's Unicorn DVD bookstore -- a complaint based on these arrests -- just two weeks after it was cleared to go to trial by Judge Michael D. Stallman.

When Osborne [asked Bloomberg](#) on May 1 if City Hall had approved the stings, the mayor passed the buck to the police department. "I've heard people are worried about it, have concern about it," he said. Gay City News is seeking details of the cases from the department under the Freedom of Information Law.

City Councilmember [Rosie Mendez](#) has been among those urging the mayor to look deeper into the cases. "The mayor has an election and doesn't want to lose votes," she said. "We need to put on more pressure to see what happens with those officers. From what I'm being told, the police overstepped their boundaries and did not have sufficient information to leap to the position that these were prostitutes."

Then there are the larger issues. "The arrests in porn stores are part of a larger and wider war on sexual civil liberties in New York," veteran gay activist Bill Dobbs said. He expressed concern that the current protests by the Campaign to Stop the False Arrests are not taking on that bigger issue.

MEANWHILE IN BUSHWICK...

Two years ago, police arrested a group of 32 young people of color on their way to the subway in Bushwick to attend a friend's wake. At the time, Police Commissioner Ray Kelly and Brooklyn District Attorney Charles Hynes defended the arrests. The young people "were not just walking on one car, they were trampling on all sorts of cars," Hynes said at the time. "It was almost as if they were inviting arrest." Kelly also reportedly said the kids were yelling, blocking traffic and climbing on cars.

Bob Herbert, columnist for the New York Times who drew attention to the case in his column, soon [cast doubt](#) on the police statements, speaking with witnesses who completely disputed the police account.

Now, although the city has admitted no wrongdoing on the part of the police, the charges against the 32 have been dropped. Additionally, the 16 young people who sued the city reached settlements in April of between \$9,000 and \$23,000 each.

These young people not only had Herbert and witnesses on their side. Some of them were members of [Make the Road New York](#), a civil rights and community empowerment group with bases in Bushwick as well as Queens and Staten Island. It held a press conference to announce the settlements on April 19 outside police headquarters.

Michael Scolnick, a civil rights attorney who represented the young people, said those arrested "were being orderly -- not even acting like children normally do" when walking in the street because they were mourning.

Some of the young people, he said, were accompanied by their parents. Those parents, according to Scolnick, "were told [by the police] to 'shut the fuck up and get out of the way or we'll arrest you too.'" One [parent] hollered out, 'don't anybody run. You didn't do anything.'"

The fact that the youth stuck together and did not panic or flee probably led to their rare exoneration.

Scolnick said that the settlement "was compensation for alleged violations of their civil rights," which included being handcuffed to pipes or the Snapple machine after arrest at the 83rd Precinct. Some were held for more than a day.

When Scolnick met with the young people to review the settlement he told them, "You all behaved in a sane, responsible way. You refused to accept an ACD [Adjournment in Contemplation of Dismissal]. You did not plead guilty. You have a lot to be proud of. You whipped the system in criminal and civil court."

"The NYPD and DA had it in for these youth because of the fact that they live in a low-income community," said Oona Chatterjee, co-executive director of Make the Road New York. "They didn't hesitate to lie about these youth in the press. Now they are faced with the consequences." She added, "They wouldn't have done this if these kids were from the Upper East Side."

Jesus Gonzalez of Make the Road New York said the group has trained about 200 young people in what their rights are in these situations. Given the hundreds of thousands of youth of color who have been subjected to a stop-and-frisk by the police, it seems many public school students might benefit from such a training progra.

FULL DISCLOSURE

I've written this column for more than seven years, but recently have developed a conflict that readers are entitled to know about. One of my jobs is with Bill Lynch Associates, a consulting firm that has lately taken on representing City Comptroller William Thompson Jr., who is running for mayor against Bloomberg. I don't think that I would have written this column any differently if I didn't work for the firm. Whether I have agreed or disagreed with a public official or candidate, I have always tried to be fair in reporting on them. But readers are entitled to know when some of my income is derived from a source profiting from politicians competing with anyone I write about and this story could not be written without covering Bloomberg's role.

Andy Humm, a former member of the City Commission on Human Rights, has been in charge of the civil rights topic page since its inception in 2001. He is co-host of the weekly "Gay USA" on Manhattan Neighborhood Network (34 on Time-Warner; 107 on RCN) on Thursdays at 11 PM.

Gotham Gazette is brought to you by [Citizens Union Foundation](#). It is made possible by a grants from the Alfred P. Sloan Foundation, the Altman Foundation, the Fund for the City of New York, the John S. and James L. Knight Foundation, New York Times Foundation, the Charles H. Revson Foundation, the Robert Sterling Clark Foundation, the Rockefeller Brothers Fund and readers like you. Please consider making a [tax-deductible contribution](#).

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