

Winston & Strawn and Legal Aid Secure Historic Reforms to Port Authority Police Department's Discriminatory Practices That Targeted LGBTQ+ People

JUNE 1, 2022

New York, NY – Winston & Strawn LLP and The Legal Aid Society announced a settlement in *Holden et al. v. The Port Authority of New York and New Jersey et al.*, a lawsuit filed in 2017 in the United States District Court for the Southern District of New York against the Port Authority Police Department (PAPD) for their discriminatory practice of using plainclothes officers to arrest gay, bisexual, and gender nonconforming people and falsely accuse them of public lewdness and exposure in the Port Authority Bus Terminal men's restrooms.

The parties reached a settlement agreement after the Port Authority's motion for summary judgment to avoid trial was denied last year. In that decision, Judge John G. Koeltl found that plaintiffs had presented enough evidence of the Port Authority's wrongdoings for a jury to hold multiple officers and the Port Authority as a whole liable for violating of the Fourth and Fourteenth Amendment rights of Plaintiffs Mr. Holden and Mr. Mejia.

The settlement requires the PAPD to:

- Cease plainclothes patrols of restrooms for lewdness or exposure, and mandates that any future plainclothes restroom patrols for lewdness and exposure have the highest level senior PAPD sign-off;
- Implement the following trainings:
 - an updated LGBTQ+ sensitivity training for all new recruits to be conducted by the Gay Officer Action League;
 - Roll-call trainings for all current PAPD officers on the PAPD's policy banning bias-based policing that is to include an announcement that violations of the policy are subject to the highest level of PAPD discipline;
 - Roll-call trainings on the PAPD's new guidance banning the use of boilerplate language in arrest reports and requiring a statement of individualized probable cause to justify an arrest.
- Improve the civilian complaint and officer discipline process, by:
 - Updating the civilian complaint form, making it more accessible on the Port Authority website, and tracking optional fields of self-reported gender identity and sexual orientation of the person making the complaint;
 - Seeking the highest level of discipline for violations of their bias-based policing policy.

- Designate a high-ranking PAPD staffer as the Chief of Agency affairs to be a point of contact for community groups representing marginalized identities to ensure that concerns are heard and properly addressed by a member of their senior management team.
- Designate single stall restrooms at the PABT as Gender Neutral Restrooms, including updated restroom signage to read “This restroom may be used by any person regardless of gender identity or expression.”
- Pay Plaintiffs a total of \$40,000 in damages.

“I’m proud of the difference we’ve made by standing up against the PAPD’s bias-based policing. As a commuter who passes through Port Authority facilities on a daily basis, I will feel safer knowing that the reforms we fought for have been put in place, making it so that people like me aren’t arrested just because of who we are or what we look like,” said **plaintiff Miguel Mejia**.

“No one should have to go through what I went through, and I hope that the PAPD will change as a result of this lawsuit and settlement. Now that the case is settled, I’m eager to put it behind me and focus on growing my cake-baking business,” said **plaintiff Cornell Holden**.

“This settlement represents an important victory for our clients, Cornell Holden and Miguel Mejia, who bravely fought to end the Port Authority Police Department’s discriminatory and frankly, downright creepy practice of surveilling men the officers believed to be gay while using public urinals and falsely arresting them for public lewdness,” said **Molly Griffard, Staff Attorney at the Legal Aid Society**. “This kind of blatant homophobia has no place in policing, and the reforms achieved in this lawsuit aim to safeguard against future abuses like the ones experienced and challenged by Mr. Holden and Mr. Mejia.”

Background

In 2013, attorneys in Legal Aid trial offices detected a discriminatory pattern of PAPD false arrests for public lewdness based on the actual or perceived sexual orientation of the person arrested. Upon investigating, it appeared the spike in false arrests was a concerted effort by officers at the PABT to boost their “quality of life” arrest statistics.

Despite the media attention on this egregious practice, and although the PAPD had previously been found liable for precisely the same behavior in 2005, the PAPD continued to make such targeted arrests knowing or believing that most of the people arrested would ultimately plead guilty to lesser charges to avoid public embarrassment and humiliation, costly legal fees, and jail sentences, as well as suffer reputational and professional harm associated with the false charges. Indeed, many of the people arrested for public lewdness in 2014 accepted plea deals for violation-level offenses, which are akin to a mere traffic ticket, in order to make their cases go away quickly.

Legal Aid and Winston & Strawn then filed a federal lawsuit in 2017 challenging the practice, seeking injunctive relief, as well as compensatory and punitive damages.

Over the course of the litigation, Plaintiffs hired experts, Dr. Jason Pierceson and Dr. John Pfaff, to explore the PAPD’s practices.

Dr. Pierceson concluded that, “all of the elements of the 2014 initiative reflect historic patterns of discriminatory policing against men perceived to be gay or bisexual, and/or gender non-conforming, and/or men who have sex with men.”

Dr. Pfaff concluded that, “these results certainly suggest that the spike in public lewdness arrests was the result of intentional policy choices, not incidental to routine police patrols and stops...There does not appear to be any policy barring such behavior, nor any meaningful oversight to prevent such issues from arising.”

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