

UPDATE:  
ENFORCEMENT OF SECTION 647(a) OF THE  
CALIFORNIA PENAL CODE  
BY THE LOS ANGELES POLICE DEPARTMENT

July 19, 1974

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Methodology:

Research was done by Chet R. Toy, student at California State University, at Long Beach. He compiled a list of all 647(a) complaints filed in the Los Angeles Municipal Court, West Los Angeles Branch, for the months of January through April, 1974. The Clerk of that Court had his deputies remove from the files of the Clerk all complaints and arrest reports for those months for 647(a) P.C. which were available. Mr. Toy then read all those complaints and arrest reports and compiled the following data on each case:

1. Case number
2. Gender of Defendant
3. Date of Arrest
4. Arresting officers name and serial number
5. Division of L.A.P.D. involved
6. Complaining witness:
  - a) private citizen
  - b) uniformed officer
  - c) plainclothes vice
7. Place of arrest:
  - a) bar
  - b) street
  - c) car
  - d) park
  - e) restroom
  - f) theatre
  - g) other
8. Nature of offense
  - a) solicitation
    - 1) homosexual type
    - 2) heterosexual type
  - b) engaging in conduct
    - 1) homosexual type
    - 2) heterosexual type
9. Disposition of case

A list of case numbers and a breakdown of those cases according to month is listed on the following page. The total number of cases filed with the Court for 647(a) arrests for the months included in this study was 38. Nine (9) of those complaints and arrest reports were not available in the clerk's office, and therefore were not included in the results of this study. A total of 29 cases were reviewed.

COMPLAINTS FILED FOR VIOLATION OF SECTION 647(a) P.C. WITH THE  
LOS ANGELES MUNICIPAL COURT / LOS ANGELES JUDICIAL DISTRICT  
WEST LOS ANGELES BRANCH / JANUARY THRU APRIL, 1974

January:

802919  
802920  
803162  
803229  
803321  
803326  
803420  
803422  
803481  
803593  
803612

TOTAL FOR MONTH: 12

February:

803785  
803855 \*  
803884 \*  
804051  
804254  
804255  
804271

TOTAL FOR MONTH: 7

March:

804566 \*  
804584 \*  
804333  
804547  
804695  
804702  
804716  
804773 \*  
804823  
804829

TOTAL FOR MONTH: 10

April:

805013  
805107 \*  
805246  
805351 \*  
805367 \*  
805375  
805422  
805479  
805590 \*

TOTAL FOR MONTH: 9

TOTAL COMPLAINTS FILED: 38  
\* UNAVAILABLE: 9  
TOTAL COMPLAINTS READ: 29

STATISTICAL BREAKDOWN OF ARREST REPORTS FOR 647(a) P.C. COMPLAINTS FILED WITH THE  
 LOS ANGELES MUNICIPAL COURT / LOS ANGELES JUDICIAL DISTRICT / WEST LOS ANGELES BRANCH  
 JANUARY THROUGH APRIL, 1974

|  |    |
|--|----|
| TOTAL COMPLAINTS FILED FOR 647(a) P.C. | 38 |
| Unavailable from Clerk's office        | 9  |
| Total arrest reports reviewed          | 29 |

Type of Offense:

|                   |        |
|-------------------|--------|
| Solicitations:    | 5      |
| Homosexual type   | 4      |
| Heterosexual type | 1      |
| <br>Engaging:     | <br>24 |
| Homosexual type   | 18     |
| Heterosexual type | 6      |

Gender of offender:

|        |    |
|--------|----|
| Male   | 28 |
| Female | 1  |

Complaining witness:

|                           |    |                                   |
|---------------------------|----|-----------------------------------|
| Private citizen           | 1  | (heterosexual type case)          |
| Plainclothes vice officer | 25 | ( 22 gay cases / 3 hetero cases ) |
| Uniformed police officer  | 3  | ( all heterosexual type cases )   |

Place of arrest:

|          |   |                       |
|----------|---|-----------------------|
| Bar      | 2 | ( both gay cases )    |
| Vehicle  | 2 | ( both hetero cases ) |
| Park     | 8 | ( all gay cases )     |
| Restroom | 8 | ( all gay cases )     |
| Movie    | 1 | ( gay case )          |
| Other    | 8 |                       |

PERCENTAGE STATISTICS:

|                              |      |                               |
|------------------------------|------|-------------------------------|
| Homosexual type arrests      | 75%  |                               |
| Heterosexual type arrests    | 25%  |                               |
| Arrests by plainclothes vice | 88%  | homosexual / 12% heterosexual |
| Arrests in bars              | 100% | homosexual / 0% heterosexual  |

Type of Offense: Solicitations

There were a total of five (5) cases involving solicitations. Of those five, four (4) were homosexual type solicitations and one (1) was heterosexual type.

All of these arrests were made by plainclothes vice officers. None of them involved a private citizen complaintant.

The one heterosexual type case arose when the vice officers were investigating an advertisement in a sexually oriented magazine. The case involved a man advertising in order to get money from offering the sexual services of his wife. The vice officers were solicited by the husband on the telephone and then they met him in person and made the arrest. Therefore, this case was really one of "prostitution" and not "lewd conduct".

One of homosexual type arrests for solicitation involved the following:

Defendant was waiting for an elevator at the Century Plaza Hotel. While waiting for the elevator the defendant spoke to the plainclothes officer and after a brief conversation stated, "Do you want me to come to your room with you?" The officer stated, "What for?" The reply was, "For some fun." The officer then arrested the defendant. The defendant did not specify that "fun" meant "sexual activity". Neither did he specify any form of sexual activity.

This arrest for solicitation amounted to an arrest for a solicitation of unspecified conduct which was to occur in the privacy of a bedroom.

Type of offense: Engaging in conduct

There were a total of twenty-four (24) arrests for engaging in "lewd or dissolute conduct". Of those six (6) were for heterosexual type and eighteen (18) were for homosexual type conduct.

The conduct for which persons were arrested ranged from mere "kissing and embracing" , cunnilingus, masturbation & fondling.

In two cases, plainclothes vice officers entered a gay bar and arrested the defendants for merely "kissing and embracing one another". These cases were ultimately dismissed by the Court. No heterosexuals were arrested for similar type conduct.

Gender of offender:

Of the twenty-nine (29) cases reviewed, twenty-eight (28) were male defendants, and only one (1) was a female.

The case involving the female really involved prostitution, but the arresting officers were unable to prove that money was involved. The police did report that this was an area where prostitution was known to exist.

Complaining witness:

There was only one formal private citizen complaint for 647(a) arrests. This case was heterosexual in nature.

It is interesting to note a comparison for the ratio of citizen complaints for 314.1 (indecent exposure) arrests. While conducting this study, the researcher reviewed eight (8) 314.1 prosecutions. Of those, six (6) were prosecuted after formal citizen complaints. "Formal citizen complaint" means that the citizen's name actually appears on the arrest report as a complaining witness.

Twenty-five (25) cases were prosecuted upon complaint by a plainclothes vice officer only. All homosexual type arrests were made by plainclothes vice officers without a formal citizen complaint. Plainclothes vice officers arrested only 3 heterosexuals (two of these cases were really prostitution in nature).

Three persons were arrested by uniformed officers (all of these were heterosexual in nature).

Place of Arrest:

Only two (2) arrests were made in bars. Both of these were made by plainclothes vice officers in a gay bar. These arrests were for mere "kissing and embracing" between two men. The police did not go to any heterosexual bars, or at least no arrests were made in such establishments.

Only one (1) arrest was made in a theatre. This was made after the officers observed the defendant masturbating. The officers checked beneath and around his seat to find signs of "fresh semen".

Numerous arrests were made in parks and restrooms. All of these cases were homosexual in nature.

Two arrests were made with the defendants in cars. In both of those the police just sort of stumbled upon the defendants and found them to be engaging in cunnilingus and/or fondling the genital area of the female.

Special observations:

A majority of arrest reports were worded very similar in nature. However, several created serious questions about fabrication of the arrest reports, because of the virtually identical wording of the reports. Five of them were done by Officer Gray, Serial Number 13654.

After reading the arrest reports, the contents, and observing the place of arrest, gender of arrestee, and other circumstances, it became apparent that only male vice officers were employed to enforce Section 647(a) P.C. Female vice officers were not employed to enforce this Section.

It also appeared that the police continued to go to the same places to make arrests, especially those places where they thought they would find homosexual conduct. These were really two places, the restroom on Pacific Coast Highway at Will Rogers State Beach, and Vista Del Mar park.

Finally, a note about the "canned" statements appearing at the beginning of most arrest reports; which were all



worded the same. Each stated: "Due to numerous complaints about homosexual conduct or lewd conduct" the officer had gone to the location. However, in none of these cases did the name of the complaining citizen appear.

#### Disposition of cases:

Instead of going to trial, most of the defendants engaged in plea bargaining.

On a percentage basis, heterosexuals received more dismissals, lighter fines and, shorter or no probation periods.

Gays received, on the average, \$100.00 fine, 18 to 24 months probation, and severe conditions of probation. Many gays received a condition of probation stating that they could not either: 1) Associate with known homosexuals, or 2) Frequent a place where homosexuals congregate.

In no case did a heterosexual receive a condition of probation disallowing them to: 1) Associate with known heterosexuals or 2) Frequent a place where heterosexuals congregate.

#### Conclusions:

See page four for a statistical breakdown of data.

1. The police seem to equate the phrase "lewd and dissolute conduct" with "homosexual conduct".

2. No formal citizen complaints were made against homosexual conduct.

3. Homosexuals were only arrested by plainclothes vice officers.

4. The only bars in which arrests were made were gay bars.

5. The police considered mere "kissing and embracing" between members of the same gender to be "lewd and dissolute conduct".

6. One vice officer arrested a gay man for merely requesting "to go up to the officer's private hotel room".

to engage in unspecified conduct which he referred to as "fun".

7. Many arrest reports gave the indication of fabrication because of their virtually identical wording with other arrest reports written on other occasions.

8. The police only employ male vice officers to enforce Section 647(a) P.C.

9. Considering that homosexuals only comprise about 10 percent of the population, the numbers of homosexuals arrested was extremely disproportionate to their numbers in the general population.

10. Police officers only arrest heterosexuals for violating Section 647(a) P.C. when they stumble upon them and actually catch them in the act, or when a private citizen makes a formal complaint thereby requiring action.

11. Vice officers seem to seek out homosexuals for arrest.

12. Private citizens do not seem to be greatly disturbed, or disturbed at all by homosexual conduct. This is concluded from the fact that no citizens made formal citizen complaints to the police about such conduct. However, it is apparent that when they are greatly disturbed, they will take the time to make such a formal complaint, e.g. 75 percent of arrests for "indecent exposure" resulted from formal citizen complaints.

13. Disposition of cases tends to show a bias on the part of the prosecutor and the court against gay persons. It seems that heterosexuals are the object of favoritism.

14. If the two cases which were really prostitution in nature were removed from this study, the percentage of arrests which were against homosexuals would increase to 83 percent.

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CHET R. TOY

Dated: July 19, 1974