



# THE COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE

DISTRICT ATTORNEY FOR MIDDLESEX COUNTY

CAMBRIDGE 02141

SCOTT HARSHBARGER  
DISTRICT ATTORNEY

September 12, 1984

Mr. Larry Goldsmith  
Gay Community News  
167 Tremont Street  
Boston, MA

Dear Mr. Goldsmith:

I have reviewed your article of August 25 (Vol. 12, No. 17, Gay Community News, "Police Entrapment...") and I believe it fairly presents the facts and issues involved in the continuing problem of the role of the police, the concern of the public and the rights and concerns of the gay community relating to sexual conduct in public areas. I would, however, like to clarify my views on this issue and the prosecutorial policies of the District Attorney's Office in Middlesex County. I do not believe there is anything inconsistent between my views, quoted by you, prior to my election and the policies we have implemented in the first twenty months of my tenure.

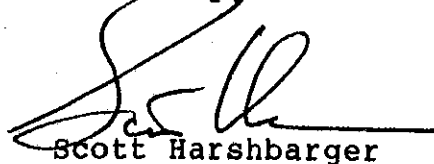
The prosecutorial resources of this office have been directed at serious repeat offenders and violent crimes, crimes and offenders that pose the greatest danger to the public and against which the public is entitled to protection. Consensual sexual conduct by adults is not one of those priorities. On the other hand, we, like the police, do not have the luxury of ignoring citizen complaints or concerns relating to conduct that is still deemed illegal by statute when it occurs in public or in places to which the public has access. When legitimate arrests are made, our response has been to adopt a uniform and consistent set of recommendations for disposition of these cases. By "legitimate", I do not include arrests made for purposes of harassment, nor as a result of entrapment, nor when they are made in a discriminatory manner. In those cases, we would not, and, to my knowledge, have not prosecuted.

I have reviewed the cases you referenced in your article and discussed the issue with the police departments involved. I am satisfied that those arrests were legitimate in the circumstances. Because I see this as in part a legitimate

civil rights issue, I have requested the Chief of my Civil Rights Division to hereafter review any complaints regarding such arrests to ensure that my policies are being implemented throughout this County. However, contrary to John Ward's statement (and I greatly respect and admire John and value his support), I never pledged to "drop" all of these cases--I pledged to do exactly what is described--to review them, to treat them appropriately, and to dispose of them if they were not legitimate arrests, as I defined before. Further, a letter from John served as the basis for our discussions and our guidelines on this issue, and I will ensure it is distributed appropriately.

I know you realize that there are questions of timing and priority involved in directing how quickly to address certain issues. Until your article, and following the meeting of our Civil Rights Task Force, I believed the issue in Middlesex County had become moot. I will, as I noted, address it again to ensure compliance. We will, of course, continue to prosecute cases when the conduct is public, when there is a clear danger posed, and where other crimes are being committed.

Sincerely

A handwritten signature in black ink, appearing to read "Scott Harshbarger", written over a horizontal line.

Scott Harshbarger

SH:mp