Testimony by DCTC member Jason A. Terry
before the DC Council Committee on Public Safety and the Judiciary
Oversight Hearing on the Metropolitan Police Department
March 18, 2011

Councilmember Mendelson and members of the Committee on Public Safety and the Judiciary, I submit testimony on behalf of the DC Trans Coalition (DCTC), a grassroots, community organization of transgender, transsexual and gender non-conforming people and their allies, dedicated to the protection and advancement of the rights of the entire transgender, transsexual and gender non-conforming community of the District of Columbia.

For much of the past year, I have been coordinating most of DCTC’s work with the Metropolitan Police Department (MPD), as we continue to stress the need for trans people to be treated with respect and dignity by all MPD personnel, pursuant to MPD’s General Order 501.02, signed by Chief Cathy Lanier in October 2007. I joined with my colleagues in DCTC and other local LGBT organizations in developing and delivering new comprehensive, community-based training programs for MPD officers affiliating with the Special Liaison Unit. I also serve on the Gay and Lesbian Liaison Unit’s (GLLU) critical incident team, which meets monthly to discuss bias crimes and ensure dialogue between MPD and the LGBT community.

Last month, the National Center for Transgender Equality and the National Gay and Lesbian Task Force released their report on the National Transgender Discrimination Survey. The results of the survey were grim: one-fifth of all participants had experienced bias-related harassment from police officers – a figure that nearly doubled among trans people of color. Twenty percent also reported being denied equal service by police officers, and six percent noted that they had been victims of physical assault at the hands of police. An alarming 46% noted reluctance to seek police assistance, even when they are victims of crime.1

Sadly, these statistics are unsurprising. While DC has implemented – even led the country – in taking the policy steps called for in the in the discrimination survey report,2 and in spite of the significant progress made in the past year, DCTC continues to receive reports of harassment and mistreatment at the hands of MPD officers. Following a prostitution sting last September, trans women involved noted that officers used improper pronouns and derogatory terms when interacting with them.3 Worse still was the incident on December 1, 2010, when Officer Raphael Radon – while off-duty – began to threaten and later brutally beat Chloe Moore, whose

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2 Ibid, p. 171.
only crime was to ask for a light for her cigarette. According to media reports, MPD officers who responded to the call initially sought to arrest and charge Officer Radon, but were overruled by the watch commander, who instead charged Ms. Moore with assault. Chief Lanier assures us that an internal investigation of this incident is taking place, but as yet it is unknown what the timeline for this investigation is, or even if Officer Radon has been suspended pending its outcome.

That said, DCTC is pleased that progress has been made in improving police-trans interactions over the past year. Below we highlight a few areas where advancements have been made, and note where there is room for future progress.

**Fully Implementing General Order 501.02**

In early 2010, DCTC submitted a series of Freedom of Information Act requests to MPD in order to determine the implementation status of General Order 501.02 – Handling Interactions with Transgender Individuals. Results from that request revealed that certain policy and procedural steps outlined in the order have not been followed, namely:

- Calls from or involving trans people, along with the corresponding response rate, are not currently being tracked by the Gay and Lesbian Liaison Unit.
- A memorandum of understanding between MPD and the Office of Unified Communications on tracking calls from or regarding trans people has not been developed.
- Complaints against MPD officers are not being systemically tracked.

In addition, we learned that paper incident/arrest report forms still list “impersonator” as an identifying category, which is a term that invalidates one's gender identity/expression. Though MPD insists such forms are not being used, we received data for several hundred arrests between October 2007 and July 2010 where an “impersonator” was indicated.

Most disturbingly, we learned of a July 2009 incident where MPD improperly transported, housed, and processed an arrestee as male, when in fact the arrestee was female identified. Though General Order 501.02 is explicit that trans arrestees be identified as “at risk” and transported and housed apart from others; in this case, the arrestee was transported and housed collectively with other men. It was not until the arrestee arrived at the DC Jail that this error was corrected. Then-Department of Corrections director Devon Brown alerted Chief Lanier and former City Administrator Neil Albert of the oversight. Albert in turn alerted then-Mayor Adrian Fenty, who inquired as to the outcome. As noted in this email correspondence (attached with this testimony), this event opened up the District to a number of liability issues, and created the potential for negative media attention, which all parties seemed especially keen to avoid.

**Bias Crimes**

Chief Lanier hosted a conference call briefing for LGBT community members on February 2, 2011, to review bias crime data for 2010. The data showed that there were nine gender identity/expression related bias crimes, up from five in 2009. The data also reveal that gender identity/expression related bias crimes account for approximately 14% of all bias crimes over the past four years. For the years 2007-2009, MPD accounted for gender identity/expression

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related bias crimes by manually reviewing and reclassifying crimes that had previously been listed as sexual orientation related. In 2010, MPD began proactively counting such crimes, and in mid-2010, mandated that all report forms indicate whether or not a crime was bias related. Chief Lanier also shared with us that a comprehensive audit of all 2010 crimes was conducted, to identify crimes that may not have been properly reported. It is our understanding that MPD now conducts such audits weekly and monthly, and thus we expect data a much more accurate portrayal of bias crimes data at the close of 2011. We very much appreciate the proactive steps MPD has taken to address bias crime reporting in the past year. In 2011, the Gay and Lesbian Liaison Unit is planning quarterly town hall meetings on bias crimes throughout the city, and we look forward to participating in those events.

Training
As was noted earlier, DCTC and several other LGBT community organizations partnered with MPD in 2010 to provide comprehensive community-based training to officers affiliating with the Special Liaison Unit. In the February 2 conference call, Chief Lanier noted that 92 officers were trained in 2010, of whom 36 were affiliates of the GLLU. In 2011, local LGBT organizations will provide four introductory trainings (one-day sessions) and three advanced trainings (two classroom days plus one day of site visits). It is our understanding that officers may volunteer for such trainings, and that MPD is also taking steps to ensure that a relatively even number of officers from each police district are receiving these trainings. While there is no data yet evaluating the impact of these trainings in the community, DCTC has gathered some anecdotal reports of improved police service.

That said, the case involving Officer Radon reinforces the need for all MPD personnel to receive at least some elementary instruction in LGBT issues as part of their basic training, as is already done for DC correctional officers. Such cases of gross misconduct can erase the fragile progress that has been made in this area, thereby perpetuating a state of conflict and mistrust between police and trans people. In addition, while we welcome the opportunity to train officers, the community trainers are mostly volunteers in grassroots organizations who must take quite a bit of time off from their day jobs to conduct trainings. We would appreciate some modest compensation to the trainers or their organizations in coming years.

Prostitution Enforcement
DCTC also submitted Freedom of Information Act requests related to arrest data for cases involving trans people, which revealed that the vast majority of trans arrests are for prostitution-related offenses. We then requested arrest data on all prostitution-related offenses, regardless of gender identity or expression. DCTC has commissioned a statistical analysis of this information, but we believe that our hypothesis will hold true: that trans people – especially trans women of color – are far more likely to be arrested for sex work than others. Though General Order 501.02 explicitly states “Members shall not solely construe gender expression or presentation as reasonable suspicion or prima facie evidence that an individual is or has engaged in prostitution or any other crime,” we are not convinced that this regulation is adhered to in practice.

A particular point of contention is the declaration of Prostitution Free Zones, which allow for increased surveillance of a given area, and authorize officers disperse suspected sex workers from that area for the duration of the zone (up to ten days), and lower the standard of probable cause for arrest. Prostitution Free Zones thus, in effect, establish zones where in gender-
expression-based profiling is legally sanctioned. Further, because the signage declaring a Prostitution Free Zone is often not taken down after the zone expires, we have received reports of dispersal orders being issued even months after a given zone is no longer in effect. The net result is clear: trans people fall victim to arrest because of unjust enforcement of an unjust law. Furthermore, we are now receiving reports of far heavier police presence in areas where trans women are known to engage in sex work. Such strategies only serve to push sex workers into other areas of the city, often further jeopardizing their personal safety. We believe that criminalizing such behavior does little to curtail it, and that the District should consider a path toward legalization and regulation of this industry, while working with far more urgency to address the severe economic disparities trans communities face.

If, in fact, the District government seeks to reduce the incidence of sex work taking place on our streets, then we recommend taking a wholly different approach. Rather than punish people who are in many cases engaging in survival sex, we should instead make sure that trans-sensitive social programs exist to help people find jobs, housing, and educational advancement. Simply arresting and imprisoning a sex worker only makes their chances of attaining those basic needs all the more difficult, as criminal records consistently contribute to people being denied jobs. We strongly urge the Council to thoroughly examine DC’s anti-prostitution laws, and give careful consideration of their impact on the most marginalized among us. In the meantime, MPD must fulfill its commitment to ensure that profiling of trans people is not taking place.

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In our analysis, after four years of engagement with MPD, we are cautiously optimistic that police interactions with trans people at the street level are gradually improving, in spite of the problem areas noted previously. DCTC enjoys a strong working relationship with MPD, and I particularly appreciate the leadership of Captain Edward Delgado and Sergeant Carlos Mejia, who have consistently demonstrated a proactive approach to dealing with long-running issues, as well as a willingness to take action to address problems as they occur. DCTC looks forward to continuing our work with MPD, and to ensuring that DC’s trans residents receive just treatment from law enforcement. I welcome any questions Councilmembers may have. Thank you.

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5 For a more detailed discussion of Prostitution Free Zones and their impacts on trans people, see Elijah Adiv Edelman, “‘This Area Has Been Declared a Prostitution Free Zone’: Discursive Formations of Space, the State and Trans ‘Sex Worker’ Bodies,” forthcoming 2011, *The Journal of Homosexuality*.