

PORTLAND CITY COUNCIL AGENDA
City Hall - 1221 SW Fourth Avenue
WEDNESDAY, 9:30 AM, DECEMBER 23, 1998

- 1851** **TIME CERTAIN: 9:30 AM** - Direct City Bureaus to implement anti-discrimination protections on the basis of gender identity (Resolution introduced by Mayor Katz and Commissioner Kafoury)

CONSENT AGENDA - NO DISCUSSION

- 1852** Accept bid of Pacific Coast Construction, Inc. to furnish Ery Lind Stadium improvements for \$325,175 (Purchasing Report - Bid 99047-rebid)
- 1853** Accept bid of Soledad Electric, Inc. dba Ampere Electric to furnish NE Martin Luther King Jr. Blvd., Fremont to Shaver, electrical improvements for \$138,999 (Purchasing Report - Bid 99052 SMP-rebid)
- 1854** Accept bid of Pacific Coast Construction, Inc. to furnish Pittock Mansion improvements for \$501,600 (Purchasing Report - Bid 99066)

Mayor Vera Katz

- 1855** Confirm appointment of Ken Berry to the Portland Cable Access Board of Directors (Report))
- 1856** Accept Bureau of Risk Management report regarding Prudence Twohy bodily injury claim (Report)
- *1857** Authorize Revenue Bonds to finance unfunded PERS liability (Ordinance)
- *1858** Authorize contract with Workforce Development Board for planning and assistance for the Outer Southeast Employment and Development project (Ordinance)
- *1859** Pay claim of Marcelino Gongora (Ordinance)
- *1860** Pay claim of Thuan Nguyen (Ordinance)
- *1861** Pay claim of US West Communications (Ordinance)
- *1862** Pay claim of Marcelino Samuel Gonzalez (Ordinance)
- *1863** Extend legal services agreement with Lehner, Mitchell, Rodrigues & Sears LLP for outside litigation representation. (Ordinance; amend Agreement No. 31640)

- *1864 Extend legal services agreement with Hoffman, Hart & Wagner for outside litigation representation (Ordinance; amend Agreement No. 31768)
- *1865 Adjust FY 1998-99 Budget recognizing and appropriating additional year-end balance from FY 1997-98 (Ordinance)

Commissioner Jim Francesconi

- 1866 Accept contract with J.P. Contractors, Inc. as substantially complete and authorize final payment and release of retainage (Report; Contract No. 31347)
- *1867 Accept a public trail access easement from Skyline Ridge Development, LLC and assign to Portland Parks and Recreation (Ordinance)
- *1868 Amend contract with LGA Architecture to include additional services in the amount of \$1,380 (Ordinance; amend Contract no. 30116)
- *1869 Authorize the purchase of 73 digital copiers through the State of Oregon price agreement and provide for payment (Ordinance)
- *1870 Authorize the Bureau of General Services to negotiate a contract with Aaron Faegre & Associates for architectural services for the expansion and remodel of the Portland Communications Center and provide for payment (Ordinance; Projects 9051 and 9052)

Commissioner Charlie Hales

- 1871 Accept renovation by American Building Construction of Peninsula Park restroom as substantially complete, authorize the final payment and release retainage (Report; Contract No. 31630)
- 1872 Accept completion for improvement of NE Martin Luther King Jr. Blvd. from NE Fremont to NE Shaver, median project #1, and authorize final payment to All Concrete Specialties, Inc. (Report; Contract No. 31971)
- *1873 Authorize the continuance of negotiations for the purchase of a temporary construction easement required for construction of slide damage repair, authorize the City Attorney to commence condemnation proceedings and to obtain early possession (Ordinance)
- *1874 Authorize acceptance of a Quitclaim Deed for the N Columbia Boulevard, N Lombard Street and N Burgard Road improvement project and designate and assign parcels of land as street area (Ordinance)
- *1875 Authorize an intergovernmental agreement with the State of Oregon to provide up to \$44,033 for the Lents Town Center project, an approved Transportation Growth Management Program planning project (Ordinance)

Commissioner Gretchen Miller Kafoury

- *1876 Amend agreement with Sabin Community Development Corporation to increase compensation by \$10,000 and provide for payment (Ordinance; amend Contract No. 31889)
- *1877 Contract with Central City Concern in the amount of \$500,000 to reduce the operating debt for the renovations of the Rose Wood Apartments for persons with HIV/AIDS and provide for payment (Ordinance)

Commissioner Erik Sten

- 1878 Accept the project by Oregon Asphaltic Paving Co. to reconstruct Road 1008 in the Bull Run watershed as substantially complete and authorize final payment (Report; Contract No. 31867)
- *1879 Authorize an intergovernmental agreement with the Multnomah County, Division of Community Programs and Partnerships, for \$120,000 to provide services for the Block-by-Block Weatherization Program (Ordinance)
- *1880 Provide additional funds for the Mt. Tabor Reservoir 5 liner project, Project No. 3184 (Ordinance; amend Contract No. 31738)

REGULAR AGENDA

- 1881 Update Council on the status of certain types of electronic signs and the City's ability to regulate them (Report introduced by Mayor Katz and Commissioner Hales)
- 1882 Consolidate the Vehicle and Equipment Maintenance section of the Bureau of Fire, Rescue and Emergency Services with the rest of the City fleet under the management of the Bureau of General Services (Resolution introduced by Commissioners Francesconi and Kafoury)
- 1883 Vacate a certain portion of SW Multnomah Boulevard between SW 40th and SW 45th Avenues, under certain conditions (Previous Agenda 1809; by Order of Council; C-9943)

Mayor Vera Katz

- 1884 Adopt the Five Year Financial Forecast upon which the FY 1999-00 Budget shall be based (Resolution)
- *1885 Accept a \$12,000 grant from the Oregon Department of Transportation for pedestrian safety law enforcement (Ordinance)

Commissioner Charlie Hales

- 1886 Adopt Vintage Trolley operating plan for 1999 and direct payment of funds to Vintage Trolley, Inc. to support operating costs (Resolution)
- 1887 Support and endorse the Regional Job Access Transportation Plan grant proposal submitted by Tri-Met to the Federal Transit Administration (Resolution)
- 1888 Amend Title 33, Planning and Zoning, to establish the Portland International Raceway Plan District (Second Reading Agenda 1849)
- *1889 Amend Section 34.30.030.B.7 of Title 34, Subdivision and Partitioning Regulations to be consistent with Title 33 to allow land divisions creating lots less than 50 feet wide (Previous Agenda 1850; amend Title 34)

11-6-98

From: Terry Anderson
To: MYSAM
Subject: Transgender concerns

As a follow up to Gretchen's meeting with transgender/ transsexual representatives, I recently spoke to Kim Roth. I understand that you will be meeting with a delegation about the issues next week. I wanted you to know that we had a very positive meeting with the delegation. Gretchen is interested in supporting an approach that uses the City as a model to increase understanding and acceptance. There are several steps we can take to "put our house in order"; these do not involve changing the City's Civil Rights Ordinance at this time.

If, after exploring the issues, you recommend proceeding down this path, Gretchen would be interested in co-sponsoring something with Vera and get things moving before the end of December. I don't know if this would come in the form of a resolution or some other way. In case Madelyn Wessel is not able to join you in the discussion, she thinks this gradual approach is feasible and positive.

Here are the elements we talked about and Gretchen supports:

1. Review City employment policies on discrimination with intent of including protections for rights of gender identity. We were concerned about including City contractors because they are contending with a number of new issues and procedures; another requirement on contractors might be counter-productive. We may need some more discussion about this; it might be a good idea to defer protections as regard contractors until we have more experience with the issues within the City's workforce. Model good practices first.

2. Review City's health insurance plans; assure that transgender/ transsexual medical needs and treatments are available to employees. Other employee benefits should be reviewed to eliminate any unintended discrimination. This would involve personnel from Risk Management, City Attorney, OFA.

3. Include the transgender/ transsexual people in services offered by the City's Mediation Pilot Project.

4. Periodically assess the results of these changes and the number of City employees who are impacted. City officials to help increase understanding about gender identity issues; help counter the biases and assumptions; help extend respect for human dignity and choice.

Let me know how you would like to proceed after your meeting with the delegation.

CC: Attorney.ATWESSEL

Lori Buckwalter
2271 SE 37th Ave.
Portland, OR 97214

October 23, 1998

The Honorable Gretchen Kafoury
Commissioner, The City of Portland

RECEIVED BY
OCT 26 1998
COMMISSIONER
GRETCHEN MILLER KAFOURY

Dear Commissioner Kafoury:

Thank you for your time and concern, in discussing issues of concern for Portlanders who are transgendered and transsexual.

I implore your further help to establish an incremental process of understanding and action surrounding employment rights issues for transgendered and transsexual citizens. The City of Portland's example can be instrumental in creating models of success for the resolution of these issues for others. This will enhance a tradition of this city's respect and advocacy for the human rights of all its citizens.

Specifically:

- We ask that the City of Portland review its anti-discrimination policies as an employer and contractor, and make them inclusive of individual rights of gender identity and expression.
- We ask that the City of Portland's Mediation Pilot Project be expanded to offer services to transgendered and transsexual people.
- We ask that the City of Portland undertake a risk management review of the City's health insurance carriers, to assure that at least one health insurance package available to its employees includes provisions for medical treatment for transgendered and transsexual people.
- We ask that, if possible, the City of Portland work in concert with Multnomah County to undertake these initiatives.

I will confer with professionals, and others experienced in implementing similar changes in municipal and corporate policies, and convey this information to any further considerations of these proposals. Certainly, the City can develop successful policies that will respect the interests of all involved, and provide the basis for further understanding and collaboration.

Please advise me if there is any way I can be of help in your considerations.

Respectfully,



Lori Buckwalter
Executive Director
It's Time, Oregon!

To: GMK
Fr: terry
10/14/98

RE: Transgender Issue

The agreed upon approach will be to look at what the City can do to "get its own house in order." There are steps that can be taken for the City to test out strategies or serve as a role model of good employer behavior. The following avenues may be used:

1. Amend the City's internal civil rights policy to include prohibiting discrimination on the basis of gender identity (or transgender). This should not extend to City contractors at this point as they are contending with a number of new issues and another requirement might be counter productive.

2. Convene appropriate City representatives to look at inclusion of transgender medical costs as a covered insurance benefit. Other benefits should be examined also to eliminate any unintended discrimination (City Attorney, Risk Management, OFA).

3. Add transgender as a type of discrimination which could be addressed by the pilot Mediation Project. (Madelyn thinks this strategy should not be tried for several months. Give Mediation a chance to get running before adding another very contentious issue to their responsibilities.)

Do you want to take the lead on this? A resolution could be prepared which would declare intentions, give directions to bureaus. The implementation work will take several months.

Do you want Kim Roth to present it to Vera and ask her to carry it forward?

Do other Council members need a contact from the delegation before anything further is done?

*joint w/ Vera
offer as delegation
letter to ...*



CITY OF
PORTLAND, OREGON

Gretchen Miller Kafoury, Commissioner
1220 S.W. 5th Avenue
Portland, Oregon 97204
Telephone: (503) 823-4151
Fax: (503) 823-3036

MEMORANDUM

TO: Kim Roth, Mayor's Liaison

FROM: Terry Anderson, Kafoury's Office

DATE: August 31, 1998

In preparation for a meeting with Gretchen on Transgender issues, you asked me to outline some questions she might have. I'm attaching her memo of 12/2/96 in response to MHRC's request to amend the City's Civil Rights Ordinance to include transsexuals and possibly other sexual minorities.

In particular I think she would like a discussion on issues in #4. Where is the consensus on inclusion at this point? I'm forwarding to you some information we received from AEGIS some time ago.

I'm sure she will want to know why the delegation feels it is important to amend the Civil Rights Ordinance. We need convincing and compelling evidence to be able to defend against a challenge.

Beyond these concerns, I think she simply wants to hear the concerns and to know what general level of support there is for amendment.

Mary Carroll will be calling you soon to arrange an appointment. Call me if I can be of other help.



CITY OF
PORTLAND, OREGON

Gretchen Miller Kafoury, Commissioner
1220 S.W. 5th Avenue
Portland, Oregon 97204
Telephone: (503) 823-4151

MEMORANDUM

TO: MHRC Commissioners and Staff

FROM: Gretchen Miller Kafoury, Commissioner

DATE: December 2, 1996

RE: Discrimination Against Transsexuals

Thank you for your report on the extent and nature of discrimination against transsexuals in Portland. I have read the report and considered your recommendation to expand and amend the City's Civil Rights Ordinance to include transsexuals and possible other sexual minorities. After a good deal of thought, and in consultation with the City Attorney's office, I have decided not to present such a recommendation to the City Council at this time.

That I have reached such a conclusion will be a disappointment to some but may be understandable given the factors I weighed. I have based my decision on the following considerations:

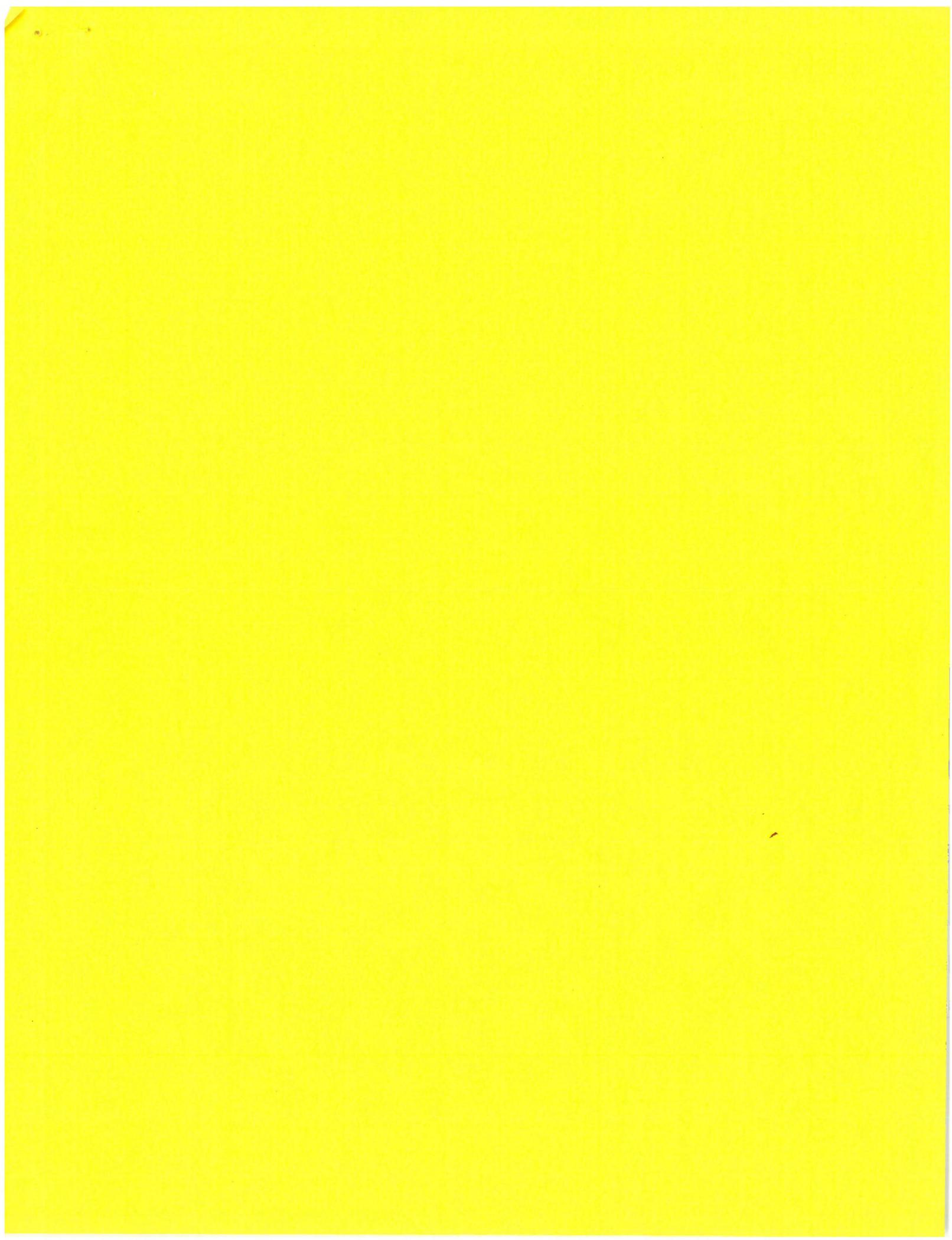
1. Since your report was released, BOLI (State Bureau of Labor and Industries) has ruled that it will take cases of alleged discrimination against transsexuals under the State's law prohibiting discrimination on the basis of disability. The full extent of the protections to be afforded under State law are not yet clear, but it can no longer be argued that transsexuals have no avenue of redress. Because cases brought to BOLI under State law provisions are paid for by the State, I believe it is prudent to use this newly available route and review the progress of any claims by transsexuals made under State law before looking to other remedies at additional cost to the City.
2. In reviewing the report, I did not find the extent and kind of evidence of discrimination that we had presented in 1991 when the Civil Rights ordinance was originally adopted and we extended protections on the basis of sexual orientation and source of income. The evidence presented to Council at that time was ample to defend against a challenge that the City was acting in an area without adequate justification. I do not see the same level of information here..
3. The greatest problems noted in the report were in the area of health care and insurance. However, amending the City's ordinance would not affect these problems. Our Civil Rights ordinance covers discrimination in housing, employment, and public accommodations. The City has little or no authority to regulate the health care and insurance industries in the State.

MHRC, p. 2

4. There appear to be disagreements within sexual minorities groups about who should be included in any modification or amendment of the ordinance and why (as a category of disability? as a fundamental right? a choice?). I am concerned that in the face of this lack of consensus, forwarding the claims of one perspective may needlessly invite factionalism and acrimony.
5. Recent challenges to the City's Civil Rights Ordinance have surfaced in several court cases. The City's jurisdictional authority to protect civil rights and to provide a private right of action has been challenged. It is my strong belief that the City's legal resources (limited and necessarily prioritized) must be used prudently and strategically on defense of the current ordinance.

As a City official, and as a strong supporter and co-sponsor with Commissioner Mike Lindberg of the City's original Civil Rights Ordinance, I have given a good deal of thought to the above considerations and to your report. I would be willing to revisit the issue in a year or so when we have obtained better guidance from the courts on the ordinance generally, and after we've had an opportunity to determine whether state law is providing an adequate remedy.

cc. Mayor Vera Katz
Commissioner Charles Hale
Commissioner Mike Lindberg
Commissioner Erik Sten
Commissioner-elect Jim Francisconi



**Presentation on Employment and Housing Issues
Surrounding Gender Identity**

September 30, 1998

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Minneapolis, MN
Evanston, IL
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Diversity Training - Wash. D.C.
Time Magazine

NW Gender Alliance
Transsexuals,
appearance

consistency of identity

the education that's
~~needed~~
needed

gender identity

problems: the perception of
who you are, not a disability
ability, suitability

treatment: must assume other
role for a transitional time.

"real life" - for a year or 2.
Worries - have to be able
to support you -
a single man.

"standards of
care"

course

energy invested in hoping
to be productive + effective

living to lives in very

hard
city ~~to~~ insurance doesn't
have

St. O'Terme America

St. O'Terme Oregon
hate, head, inclusive human rights

Commissioner Gretchen Kafoury
Portland City Council
1221 SW 4th Ave.
Portland, OR 97204

September 30, 1998

Commissioner Kafoury:

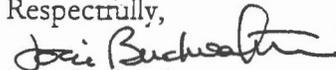
Thank you for agreeing to meet with us to discuss the human and civil rights of all citizens of Portland. Today, we would particularly like to address issues surrounding gender identity.

The vitality of the City of Portland depends on utilizing the full range of talents of its diverse people. City government must lead by example, by actively supporting human rights, especially with respect to employment and housing. All of us wish to contribute to this community, and to be considered for opportunities based on our abilities and experience. We are made hopeful by the advances that have been made toward this end.

Portland City Council has confirmed its commitment to human rights by requiring that its contractors establish policies of non-discrimination regarding sexual orientation, and has created a mediation process for employment disputes around alleged discrimination. These initiatives are important steps towards recognizing the rights of all citizens, and are highly commendable. They should also be made inclusive of individuals' rights of gender identity and its expression. This approach has proved successful in other cities and states for a number of years.

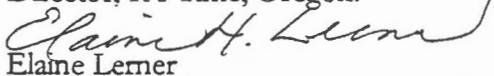
Therefore, we ask you to amend these human rights initiatives of the City of Portland, to make them inclusive of transgender individuals.

Respectfully,



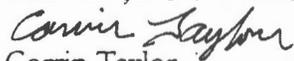
Lori Buckwalter

Director, It's Time, Oregon!



Elaine Lerner

President, Northwest Gender Alliance



Corrin Taylor,
City Employee

Lori Buckwalter is the Executive Director of It's Time, Oregon!, and serves on the Portland Police Bureau's Sexual Minorities Round Table, and as an appointee to the Chief's Forum on community policing. She has worked as a facilitator of community dialogue with Pride Northwest, and does educational and collaborative work around human rights and public safety issues here in Portland, and nationally. She is the parent of two children who are graduates of Portland Public Schools, and currently lives in Southeast Portland. She works as a systems analyst for Kaiser Permanente.

Elaine Lerner is the president of Northwest Gender Alliance, and an educational professional.

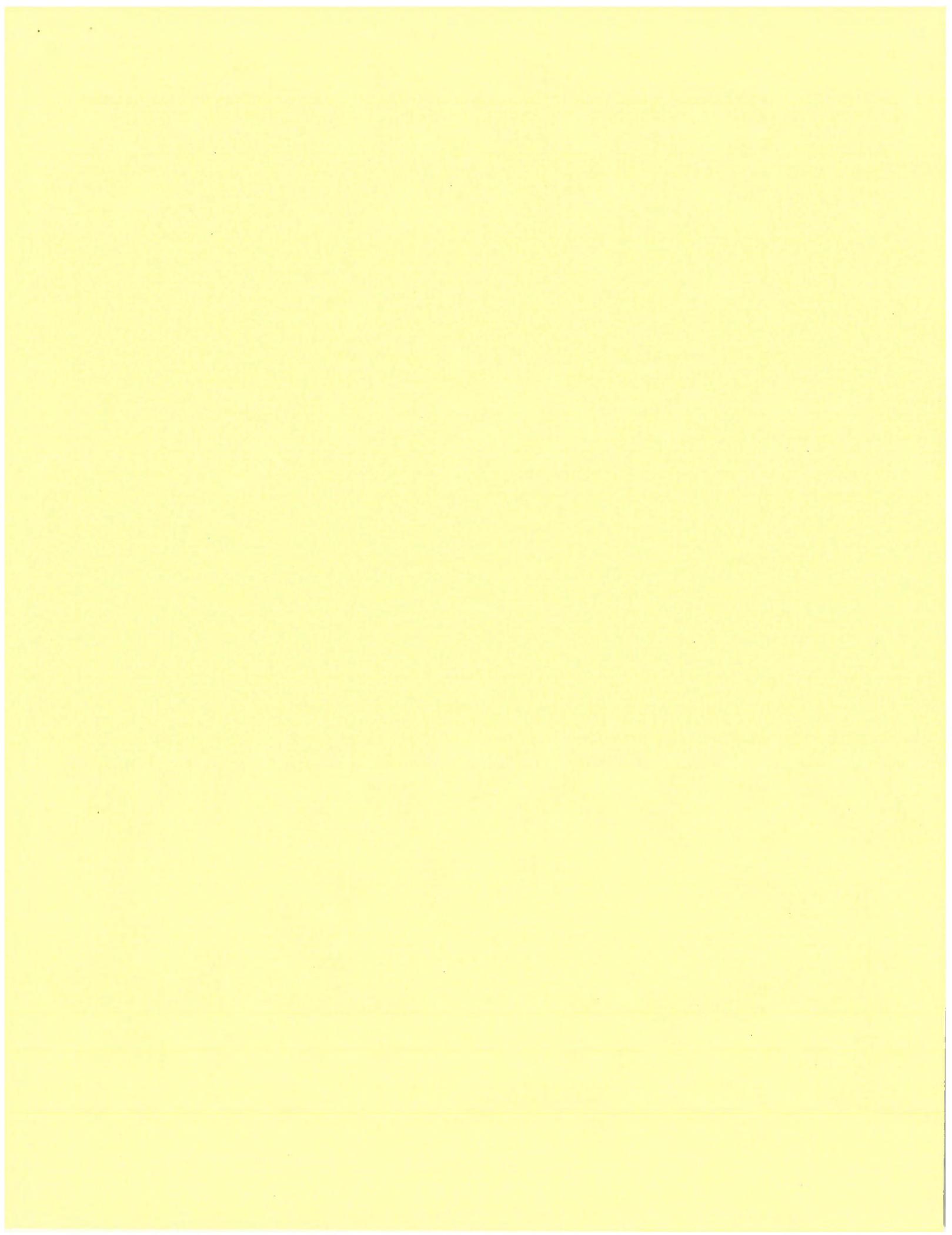
Corrin Taylor works for the City of Portland, and is a prominent member of Northwest Gender Alliance.

It's Time, Oregon! is a network of individuals and organizations which is working to improve public understanding and acceptance surrounding issues of gender identity here in Oregon. We are a state chapter of the national organization, It's Time, America!

It's Time, America! is the first nationally-organized grassroots civil rights group seeking to secure and safeguard the rights of all transgendered persons. Formed during the 1994 Transgender Law Conference, It's Time, America!'s mission is to educate and influence the U.S. Congress, State and Local Governments, and other transgendered and non-transgendered political organizations, on the issues and concerns of transgendered people, and to safeguard and to secure our rights as American citizens.

The Northwest Gender Alliance is a non-profit social, educational, and support group serving the transgender community in Oregon and Southwest Washington. The NWGA welcomes as members all individuals concerned with issues of gender identity and expression, regardless of race, religion, sexual orientation, or birth sex. This includes, but is not limited to: crossdressers, transsexuals, (male to female or female to male), intersexed individuals, their families, friends, supporters, and caring professionals.

The NWGA is the largest transgender group in Oregon, with a current membership of about 100 individuals, mostly from the Portland area. There are hundreds of former members throughout the Northwest, as well as a large number of supportive individuals in affiliated groups in cities and towns throughout Oregon and Southwest Washington. The group holds monthly meetings and social functions, conducts workshops on transgender issues for college classes, and is affiliated with several organizations involved with human rights and sexual minority issues, such as the Portland Sexual Minorities Roundtable, PFLAG, and Pride Northwest.



Metropolitan Community Church of Portland

The Reverend Roy A. Cole, Pastor

October 23, 1997

Mayor Katz and
Members of the Portland City Council
1220 Southwest Fifth
Portland, OR 97204

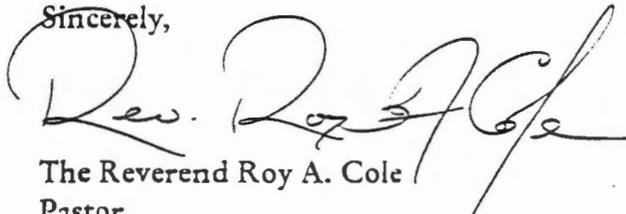
Dear Mayor Katz and Portland City Council Members,

I am writing on behalf of Ms. Lori Buckwalter and the important work she is doing as director of It's Time Oregon. In the year I have known Lori, both as a frequent congregant at Metropolitan Community Church and as a strong, articulate voice on the Sexual Minorities Roundtable, I have found her to be fair minded, insightful and politically aware.

As the City of Portland addresses the issues of non-discrimination for the sexual minority communities, I believe Ms. Buckwalter would bring a fresh perspective to the discussion of issues specific to the transgendered community.

I hope you will have an opportunity to hear her words.

Sincerely,



The Reverend Roy A. Cole
Pastor



WORKING TO **KEEP DISCRIMINATION OUT** OF THE OREGON CONSTITUTION

October 24, 1997

Commissioner Gretchen Kafoury
City of Portland
1400 SW Fifth Avenue
Portland, OR 97204

Dear Commissioner Kafoury,

I would like to recommend that you meet with Lori Buckwalter, to discuss the need to make civil rights ordinances of the City of Portland inclusive of protections for individuals' gender identity and gender expression. This is a splendid opportunity to continue Portland's exemplary history of commitment to the civil rights of its citizens.

Lori is a compelling and reasoned advocate of inclusive protections for all people from gender bias and discrimination. Her work with the Portland Police Department and Metropolitan Human Rights Center has won broad support within these agencies, and she has tried to build bridges of understanding within the larger community. As the state Director of It's Time, America, she has also worked to improve understanding of gender-bias issues on state and national levels.

I support Lori's efforts to present issues which affect Portland's gender minorities, in a way that is respectful, constructive and inclusive of common concerns of other minority communities, and of all citizens. Please offer her a chance to speak with you in the near future, and consider seriously what she has to say.

I thank you for your kind consideration in this matter.

Warmly,

Jean Harris
Executive Director

Washington, DC Office
It's Time, America

P.O. Box 65, Kensington, MD 20895

(301) 949-6049

November 1, 1997

CITY of Portland, Oregon
Mayor Vera Katz
City Council
Metropolitan Human Rights Commission

Dear Madame Mayor, City Council Members and Commissioners:

I am the National Director of It's Time, America! a national transgendered political action organization with chapters in twenty-five states. Transgendered persons include pre-operative and post-operative transsexuals; transgenderists (persons living full-time in a gender opposite their birth sex with no desire to pursue surgery); crossdressers (formerly called transvestites - those whose gender expression is at variance with their birth sex); "mannish" or "passing" women, whose gender expression is masculine and who are often assumed to be lesbians, although this is not necessarily the case; "feminine" men who are often assumed to be homosexual, although they are just as often heterosexual; and many intersexed persons, whose sex was arbitrarily assigned after birth and who often manifest physical characteristics, expression or identity that differs from the sex assigned.

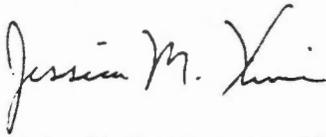
Like gay men, lesbians and bisexual persons, transgendered persons face employment and housing discrimination. They are also denied public accommodations and access to health care for their medical conditions. They are also potential targets for hate crimes: verbal harassment, hate mail, harassing telephone calls and even acts of violence committed by the same persons who hate homosexuals and bisexuals.

It's Time, Oregon! under the leadership of its Director, Ms. Lori Buckwalter, has been working to advance the rights of transgendered Oregonians now for the past year, and I am justly proud of her efforts, in the light of a difficult political climate. The civil rights of stigmatized sexual minorities is always a problematic concern for the officials of any elected government, and I applaud you for your efforts to deal concretely with the needs and concerns of transgendered citizens of Portland.

Please be aware that Portland is not alone in considering civil rights measures to protect transgendered people. Minnesota's state anti-discrimination law, as amended in 1993, forbids discrimination based on sexual orientation which is defined to include transgendered people. The cities of Santa Cruz, Berkeley and San Francisco, California; Seattle, Washington; Cedar Rapids and Iowa City, Iowa; Minneapolis and St. Paul, Minnesota; Evanston, Illinois; and Cambridge, Massachusetts all have municipal ordinances that specifically protect individuals from discrimination based on their gender identity or expression. There also are many other state and local initiatives for inclusion of protection for transgendered people in sexual orientation anti-discrimination measures.

I pray that you will help Ms. Buckwalter in her difficult work by allowing her to educate you and other appropriate officials regarding the need for protections for transgendered people of Portland. Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Jessica M. Xavier". The signature is written in dark ink and is positioned above the typed name.

Jessica M. Xavier, National Director
It's Time, America!

HOT SEAT QUESTIONS about TRANSGENDERED PERSONS

What's 'Transgendered' supposed to mean?

A 'transgendered' person is someone whose gender identity or expression differs from conventional expectations of masculinity or femininity. Their internal sense of being male or female differs from their physical sex. They include male-to-female and female-to-male transsexuals, male and female crossdressers, and other men and women with unconventional gender expressions.

Aren't Transgendered People just flamboyant homosexuals ?

Some are gay, lesbian or bisexual , but most transgendered people consider themselves to be heterosexuals. However, transgendered people are usually misperceived as gay, and thus are discriminated against in similar ways.

Aren't Transgendered Persons sexually perverted ?

Transgendered people are no more sex-driven than anyone else. Most transgendered people express their gender difference simply to be who they are, and do not connect their gender expression or identity to their sexuality or sexual orientation.

Aren't Transgendered people mainly prostitutes and shoplifters?

Transgendered people are mainly law-abiding, hardworking folks who pay their taxes, own homes, and support their young children and aging parents. All transgendered people, however, suffer unfairly from society's pervasive stigmatization of them, and judging them solely on that basis is equivalent to judging other minorities using common negative stereotypes.

What makes a transgendered person want to change sex?

Very few transgendered persons actually go through sex reassignment surgery (the "operation"). Only transsexual persons do, and many of them cannot afford the costs of these surgeries. Most transgendered persons do not want to change their anatomical sex, but many modify their bodies by taking hormones or by undergoing various cosmetic procedures.

Aren't Transsexuals just men who want to be women ?

There are just as many transsexual men and persons born with female bodies who feel their gender identity or expression is masculine. The Female-To-Male (FTM) half of the transgendered community ranges from stone butch lesbians and passing women to transsexual men, who go through hormonal and surgical transformation of their bodies.

Isn't a "man in a dress" just out to solicit sex from other men?

Most crossdressing males are heterosexual, married men who are faithful to their wives. This common misconception is due to the media's mislabeling of any men who appear crossdressed in public as gay prostitutes. Most crossdressers are simply being themselves and have no interest in sex with other men.

Aren't Transgendered people just Drag Queens?

Drag Queens and Kings are usually gay men or lesbians who crossdress as part of their performance art. It is a common mistake to confuse Drag Queens and Kings, who receive a lot of media attention, with those who crossdress for gender identity reasons. Drag performers, whose flamboyant personas are part of their acts, practice the art of female or male illusion, and most do not identify themselves as transgendered.

Isn't being transgendered just another deviant lifestyle?

The latest scientific research indicates that gender identity is innate. This suggests that Transgendered people are born with gender identities that simply don't match their physical sex. Due to the likelihood of a biological cause, being transgendered is neither a choice nor a "lifestyle" and thus it cannot be considered immoral.

Some Common Myths About Transgendered People

Due to the pervasive stigmatization of transgendered people, almost all of them strongly wish to keep their transgendered status private. Reading this section will help you understand the most popular stereotypes and misconceptions about transgendered people, and why nearly all of them seek to escape these falsehoods by keeping their transgendered status secret.

"Transgendered persons are sexually perverted."

Transgendered people are no more sex-driven than anyone else. For most transgendered persons, the predominant desire is to fully be themselves. Most transgendered people express their gender difference simply to be who they are, and do not connect their gender expression or identity to their sexuality or sexual orientation.

Transgendered people are mainly prostitutes and shoplifters.

Transgendered people are law-abiding, hardworking folks. The majority work hard in ordinary jobs, pay their taxes, own homes, and support their young children and aging parents. All transgendered people, however, suffer unfairly from society's pervasive stigmatization of them, and judging them solely on that basis is equivalent to judging other minorities using common negative stereotypes. Many transgendered persons are marginalized by society and cannot find adequate employment, but when they are afforded their human dignity and treated with respect, most thrive in regular jobs.

A "male in a dress" is out to solicit sex from other men.

Most crossdressers are heterosexual, married men who are faithful to their wives. This common misconception is due to the media's mislabeling of any men who appear crossdressed in public as gay prostitutes. Almost all crossdressers are simply being themselves and have no interest in sex with other men.

Transgendered people are simply flamboyant homosexuals.

Gender Identity is different from Sexual Orientation. Transgendered people have gender identities or expressions that differ from those society deems appropriate for their physical sex. Like non-transgendered people, most are heterosexual, and a smaller percentage are homosexual or bisexual. Despite this reality, transgendered people are almost universally perceived to be homosexual simply because of their appearance, which is often that of a masculine woman or a feminine man. Because this perception is so pervasive, a transgendered person is particularly subject to a disproportionate amount of anti-gay violence or discrimination.

Transgendered people are just Drag Queens

Drag Queens and Kings are usually gay men or lesbians who crossdress as part of their performance art. It is a common mistake to confuse Drag Queens and Kings, who receive a lot of media attention, with those who crossdress for gender identity reasons. Drag performers, whose flamboyant personas are part of their acts, practice the art of female or male illusion. Although some like RuPaul are famous and color the public's perception of transgendered people, most drag performers do not identify themselves as transgendered. Most transgendered persons attempt to lead quiet, ordinary lives, just like everyone else.

Transsexuals are just men who want to be women.

There are just as many transsexual men and female-bodied transgendered persons. Although the media has focused on the sensational aspects of "men becoming women" through "the operation", a large portion of the transgendered population are those born with female bodies but who feel their gender identity or expression is more masculine. The Female-To-Male (FTM) half of the transgendered community ranges from stone butch lesbians and passing women to transsexual men, who go through hormonal and surgical transformation of their bodies. And it also is important to remember that most transgendered people do not want to change their anatomical sex - only the transsexuals do.

The lifestyles of transgendered people are immoral.

Current research suggests Gender Identity is innate. Recent scientific research suggests that transgenderism has a strong biological component and that many people are born with gender identities that simply don't match their physical sex. Due to the likelihood of a biological cause, being transgendered is neither a choice nor a "lifestyle" and thus it cannot be considered immoral.

CODE OF ORDINANCES City of MINNEAPOLIS, MINNESOTA Codified through Ord. No. 97-Or-088, enacted October 24, 1997 and Amendment of November 4, 1997. (Supplement No. 14, Update 7)

CODE OF ORDINANCES

Title 7 CIVIL RIGHTS*

CHAPTER 139. IN GENERAL

139.10. Findings, declaration of policy and purpose. (a) Findings. The council finds that discrimination in employment, labor union membership, housing accommodations, property rights, education, public accommodations and public services based on race, color, creed, religion, ancestry, national origin, sex, including sexual harassment, *affectional preference*, disability, age, marital status, or status with regard to public assistance or familial status adversely affects the health, welfare, peace and safety of the community. Such discriminatory practices degrade individuals, foster intolerance and hate, and create and intensify unemployment, substandard housing, under-education, ill health, lawlessness and poverty, thereby injuring the public welfare.

(1) To recognize and declare that the opportunity to obtain employment, labor union membership, housing accommodations, property rights, education, public accommodations and public services without discrimination based on race, color, creed, religion, ancestry, national origin, sex, including sexual harassment, *affectional preference*, disability, age, marital status, or status with regard to public assistance or familial status is a civil right;

(2) To prevent and prohibit all discriminatory practices based on race, color, creed, religion, ancestry, national origin, sex, including sexual harassment, *affectional preference*, disability, age, marital status, or status with regard to public assistance with respect to employment, labor union membership, housing accommodations, property rights, education, public accommodations or public services;

139.20. Definitions. *Affectional preference*: Having or manifesting an emotional or physical attachment to another consenting person or persons, or having or manifesting a preference for such attachment, or having or projecting a self-image not associated with one's biological maleness or one's biological femaleness.

(a) Discrimination by a labor organization. Except when based on a bona fide occupational qualification, for any labor organization, because of race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, age, marital status, or status with regard to public assistance:

(b) Discrimination in employment. Except when based on a bona fide occupational qualification, for an employer because of race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, age, marital status, or status with regard to public assistance:

(c) Discrimination by an employment agency: Except when based on a bona fide occupational qualification, for an employment agency because of race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, age, marital status, or status with regard to public assistance:

(1) To require a person to furnish information that pertains to race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, age, marital status, or status with regard to public assistance, unless:

b. For the purpose of compliance with the Public Contracts Act or any rule, regulation or laws of the United States or of this state requiring information pertaining to race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, age, marital status, or status with regard to public assistance is required by the United States, this state, or a political subdivision or agency of the United States or this state; or

(2) To cause to be printed or published a notice or advertisement that relates to employment or membership and discloses a preference, limitation, specification, or discrimination based on race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, age, marital status, or status with regard to public assistance.

(1) To refuse to sell, rent or lease, to offer for sale, rental or lease, or otherwise deny or withhold any real property to or from any person or group of persons or to refuse to negotiate for the sale, rental or lease of any real property to any person or group of persons because of race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, marital status, status with regard to public assistance or familial status;

(2) To represent that real property is not available for inspection, sale, rental or lease when in fact it is so available, or otherwise deny or withhold any real property or any facilities of real property to or from any person or group of persons because of race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, marital status, status with regard to public assistance or familial status;

(3) To discriminate against any person in the terms, conditions or privileges of the sale, rental or lease of real property or in the furnishing of facilities or services in connection therewith because of race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, marital status, status with regard to public assistance or familial status; or

(5) To print, circulate or post, or cause to be printed, circulated or posted, any advertisement or sign, or use any form of application for the purchase, rental or lease of any real property, or make any record or inquiry verbal or written in connection with the prospective purchase, rental or lease of any real property, which expresses directly or indirectly, any limitation, specification or discrimination as to race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, marital status, status with regard to public assistance or familial status.

(f) Discriminatory representation by real estate brokers or real estate salespersons. For any real estate broker or real estate salesperson, property owner, rental agent, property manager, caretaker or any agent or employee thereof, for the purpose of inducing a real property transaction from which a person, that person's firm, or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, marital status, status with regard to public assistance or familial status of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other public facilities.

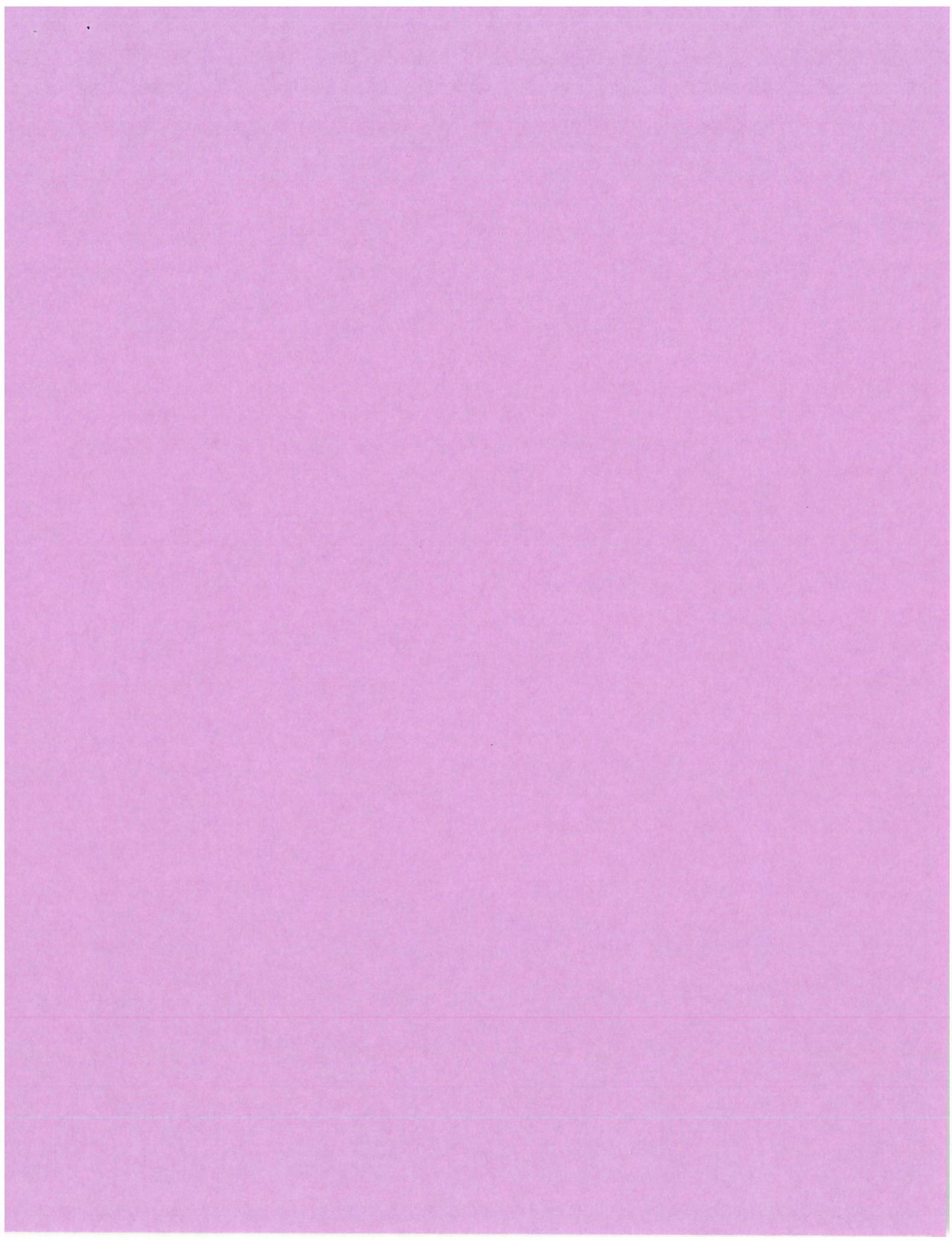
(g) Discrimination by professional organizations. Except when based on a bona fide occupational qualification, for any professional association, because of race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, age, marital status, status with regard to public assistance or familial status:

(1) To discriminate against any person or group of persons because of race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, marital status, or status with regard to public assistance or familial status in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions or privileges of any such financial assistance or in the extension of services in connection therewith;

(2) To use any form of application for such financial assistance or make any verbal or written record or inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, any preference, limitation, specification or discrimination as to race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, marital status, or status with regard to public assistance or familial status or any intent to make any such preference, limitation, specification or discrimination;

(i) Discrimination in public accommodations. For any person engaged in the provision of public accommodations, because of race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, marital status, or status with regard to public assistance:

(j) Discrimination in public services. For any person engaged in the provision of public services, because of race, color, creed, religion, ancestry, national origin, sex, *affectional preference*, disability, marital status, or status with regard to public assistance, to discriminate against any person in the access to, admission to, full use of or benefit from any public service.



61-0-97

AN ORDINANCE

Amending Various Sections of the Evanston City Code Prohibiting Discrimination Against Transgender Individuals

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: That Section 1-12-2 of the Evanston City Code, 1979, as amended, is further amended as follows:

1-12-2: PURPOSE AND DECLARATION OF POLICY: It is hereby declared to be the purpose of this Chapter and the policy of the City in the exercise of its police and regulatory powers for the protection of the public safety, for the health, morals, safety and welfare of the persons in and residing in the City and for maintenance and promotion of commerce, industry and good government in the City, to secure to all persons working or desiring to work for the City or for any vendor to the City or for any contractor or subcontractor of the City, an equal opportunity to secure employment or to enjoy the benefits of employment without discrimination based on race, color, religion, national origin, sex, sexual orientation (as defined in Section 5-5-6 of this Code), marital status, age or physical or mental handicaps that do not impair ability to work.

This Chapter applies to discriminatory employment practices by the City or by any vendor to the City or by any contractor or subcontractor of the City, and shall be construed according to the fair import of its terms and shall be liberally construed to further the purposes and policy stated in this Section and the special purpose of the particular provision involved.

SECTION 2: That Section 2-3-10 of the Evanston City code, 1979, as amended, is further amended as follows:

2-3-10 DISCRIMINATION: Discrimination against any person in recruitment, examination, appointment, promotion, retention or any other personnel action, because of religious opinions or affiliations, or because of race, color, national origin, or sexual orientation, as defined in Section 5-5-6 of this Code, is prohibited. Discrimination because of age, handicap or sex, except where determined to be a bona fide occupation qualification, is prohibited.

SECTION 3: That Section 2-5-4 of the Evanston City Code, 1979, as amended, is further amended as follows:

2-5-4: STATEMENT OF POLICY: The purpose of the Human Relations Commission shall be to foster, encourage and stimulate the improvement of human relations among and between citizens of all races, colors, creeds, national origins, sexes, ages, familial status, martial status, religions, physical/mental disabilities, sexual orientation (as defined in Section 5-5-6 of this Code), and economic and educational levels so as to provide all individuals with an equal opportunity to grow, participate and share to the best of their ability in our economic, educational, political, social and judicial systems.

SECTION 4: That Section 5-4-3-6 of the Evanston City Code, 1979, as amended, is further amended as follows:

5-4-3-6: EQUAL OPPORTUNITY: No person shall be denied the right to purchase or lease a condominium unit because of race, color, religion, sex, age, martial status, presence or age of children, national origin, or sexual orientation (as defined in Section 5-5-6 of this Code).

SECTION 5: That the first paragraph of Section 5-5-6 of the Evanston City Code, 1979, as amended, is further amended as follows:

5-5-6 DISCRIMINATION PROHIBITED: No person, including, but not limited to, any owner, manager lessee or sublessee of real property, real estate broker, lender, financial institution, advertiser, real estate appraiser or agent of any of the foregoing, shall discriminate against any other person (or discriminate against such person because of the race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin of the friends or associates of such person) in regard to the sale or rental of or dealings concerning real property. Sexual orientation is defined as: Having or perceived as having emotional, physical, or sexual attachment to another without regard to the sex of that person or having or being perceived as having an orientation for such an attachment, or having or being perceived as having a self image or identity not traditionally associated with one's biological maleness or femaleness. "Sexual orientation" does not include a physical or sexual attachment to children by an adult. Any such discrimination shall be unlawful. Without limiting the foregoing, it shall also be unlawful discrimination for any person to:

SECTION 6: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

**Transgender Handout for the Diversity & Sensitivity Training Programs
of the DC Metropolitan Police Department, Fire Department & Emergency Medical Services
(prepared by Transgender Nation, Washington DC, for Gay Men and Lesbians Opposing Violence)**

DEFINITION: A *transgendered* person is someone whose *gender identity or expression* is different from their physical sex or the sex in which they were born. According to recent scientific research, such persons are thought to have been born with physiological changes in the brain.

TYPES: Transgendered persons can be crossdressers (also called transvestites), transsexuals and other gender variant persons - the term transgendered is non-specific. Only a small number of transgendered persons, the *transsexuals*, are seeking or already have had *sex reassignment surgery* -the "sex change operation". Transgendered people are not only male-to-female - there also are female-to-male transgendered people.

PROBABLE CAUSE: Transgendered persons cross-dress for a variety of reasons, but only a small minority do so for illicit purposes (solicitation, shoplifting, and fraud). Thus it is important to note that **BEING CROSSDRESSED IS NOT PROBABLE CAUSE TO ARREST A TRANSGENDERED PERSON.**

PERCEPTION AS GAY: Most transgendered persons identify themselves as *heterosexual*. Even though *sexual orientation* is not the same thing as *gender identity or expression*, most people *perceive* transgendered people to be *gay men or lesbians*, and thus they can become victims of hate crimes and discrimination in similar ways.

Some Simple Guidelines for Dealing with Transgendered Persons

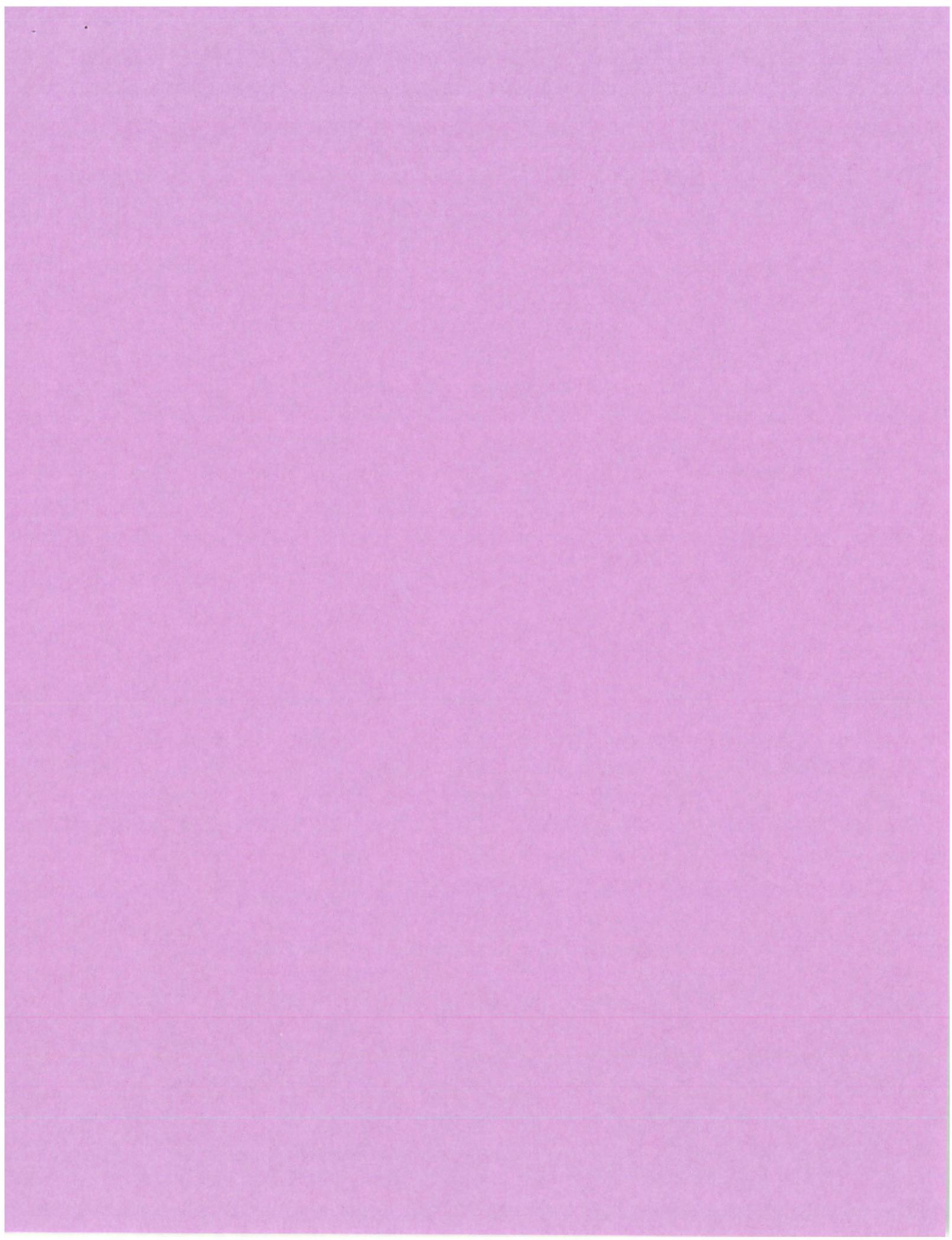
HOW TO RESPECTFULLY REFER TO THEM: Although transgendered people may seem to you to be a "man in a dress" or a "woman living as a man", they should be respectfully referred to with terms appropriate to their presenting gender. Transsexual and transgendered women (male-to-females) should be addressed as *Ma'am* and referred to as *she* and *her*, and *Sir*, *he* and *him* should be used for transsexual and transgendered men (female-to-males). When in doubt about how to address or refer to someone transsexual or transgendered, just ask them.

IDENTIFICATION: Transgendered persons often have IDs that do not match their physical sex or chosen names, although it's common for transsexual women and men in gender transition to change their names and obtain driver's licenses in their new names. However, their sex status cannot be legally corrected until they have had sex reassignment surgery, which means their driver's licenses may show a woman's name with a male sex, or vice-versa. Nevertheless, their licenses are legal and should be accepted as such. Many transsexual people also carry with them letters certifying their transsexual status from their psychotherapists.

INCARCERATION: Any transgendered person who requires incarceration and is not a post-operative transsexual should be put in a separate cell, away from the other prisoners. Post-operative transsexual women should be placed with the rest of the women's population, but only post-operative transsexual men who have had phalloplasties should be placed with the men's population. Other transsexual men should be placed in a separate cell, away from the other male prisoners. If in doubt, ask them.

MEDICAL: Some transgendered persons develop medical complications from high dose hormonal therapy, such as thromboembolisms which cause phlebitis, heart attacks and strokes. Some transgender women also get silicone injections which can also cause embolisms and other problems.

Although you may not understand transgendered people, they are still members of the community you serve and therefore citizens deserving of your respect. Intentionally showing disrespect to transgendered people is called *transphobia*, which hurts as much as racism, sexism or homophobia.



TIME MAGAZINE: SOCIETY
JULY 20, 1998 VOL. 152 NO. 3

Trans Across America

Watch out, Pat Buchanan. Ridiculed for years, "transgenders" are emerging as the newest group to demand equality

By JOHN CLOUD /ST. LOUIS

When James Madison was urging his young nation to refrain "from oppressing the minority," he was talking about "other sects," not other sexes. Shannon Ware, an engineer from St. Louis, Mo., who began life as Craig Ware but now lives as a woman, would grant that much. But since a high school civics teacher inspired her, she has clung to the belief that social change is possible, that America is elastic enough to accommodate all minority groups--even when the minority is as caricatured and misunderstood as hers.

Ware is "transgendered," which means her mental gender--her deepest awareness of her identity--doesn't correspond to the parts she was born with. Though she has become an activist in the past year or so, Ware struggled with these feelings for years. Now, at 45, she is happy with her inner and outward selves, the latter feminized with hormones and women's clothes. Ware isn't yet "transsexual," but she does plan to undergo what doctors call "sex-reassignment surgery" when she and her beau David can afford it; it will cost about as much as their new Nissan.

Since transsexuals burst on the scene in the 1950s, when a G.I. went from George to Christine Jorgensen, journalists have periodically revisited the subject in tones varying from the dryly medical to the hotly

sensational. But today many forms of gender nonconformity have actually become mainstream. In the past five years, several movies, plays, tabloid shows and famous cross-dressers like RuPaul have moved drag from the fringes of gay culture to prime time. Even Teletubbies, a show for toddlers, features Tinky Winky, a boy who carries a red patent-leather purse.

Less noticed, however, is that gender nonconformists have been working together, with some remarkable successes, to build a political movement. Their first step was to reclaim the power to name themselves: transgender is now the term most widely used, and it encompasses everyone from cross-dressers (those who dress in clothes of the opposite sex) to transsexuals (those who surgically "correct" their genitals to match their "real" gender).

No one knows how many transgendered people exist, but at least 25,000 Americans have undergone sex-reassignment surgery, and the dozen or so North American doctors who perform it have long waiting lists. Psychologists say "gender-identity disorder" occurs in at least 2% of children; they experience discomfort with their assigned gender and may experiment with gender roles. Some of these people turn out to be gay; most don't. The overlapping permutations of gender and sexuality can get baffling, which is why transgender activist Riki Anne Wilchins simply declared "the end of gender" in her recent book, *Read My Lips*. Wilchins believes that male-female divisions force constructed social roles on all of us and create a class of the "gender oppressed"--not only transgenders but also feminine men, butch women, lesbians and gays, "intersexed" people (hermaphrodites) and even people with "alternative sexual practices." (Marv Albert, meet your leader.)

In the early '90s, transgenders started forming political groups, mostly street-level organizations, which

picketed the American Psychiatric Association, for instance, for using the gender-identity-disorder diagnosis. Previously, transgenders appeared as figures in the early gay-liberation movement: it was cross-dressing men--their "hair in curls," as they chanted--who threw the first rocks in the 1969 Stonewall riots in New York City's Greenwich Village. But as the gay movement went mainstream, it jettisoned transgenders as too off-putting.

Transgenders faced practical obstacles to organizing themselves separately. Most couldn't simply dress as a member of the opposite sex without getting beaten or fired. Many felt pressured to undergo expensive genital and cosmetic operations, which doctors wouldn't perform unless the patients also underwent years of psychiatric treatment. After the surgery, some had to move to find a new job and start a new life. Political organizing was a luxury.

Today medical rules are getting more relaxed. Some transgenders still elect to have full operations, but others (especially the young) express gender their own way, perhaps just with clothing or hormone treatments or with partial surgery. Increasingly, they simply refuse to discuss their private parts. "What's important is hate crimes and job discrimination," says Shannon Minter, a female-to-male transgender and civil rights lawyer. "Why does everyone want to talk about my genitals?"

Governments and employers are starting to listen. Although just one state, Minnesota, has a law protecting transgenders from job and housing discrimination, cities all over the country (including San Francisco, of course, but also Seattle and, as of last year, Evanston, Ill.) have passed similar legislation. Recently the California assembly approved a bill to increase penalties for those who commit crimes against transgenders: the bill awaits senate approval.

Lawyers with the Transgender Law Conference have

helped pass statutes in at least 17 states allowing transsexuals to change the sex designation on their birth certificate, which means their driver's license and passport can reflect reality. (One unintended consequence: legal marriages between people who have become the same sex.) In Missouri, the house judiciary committee met in March to discuss the state's first civil rights bill to include "sexual orientation"--defined to include gender "self-image or identity." Illinois and Pennsylvania considered similar bills. None passed, but "we were happy to get the issue out there," says activist Ware.

Many transgenders are furious that the biggest gay lobbying group in the U.S., the Human Rights Campaign, opposes adding transgenders to the Employment Nondiscrimination Act, a gay job-protection bill that has been pending in Congress since 1994. But the Campaign is coming around. Last year it helped arrange a meeting between transgender activists and Justice Department officials to discuss anti-trans violence (a 1997 survey of transgenders found that 60% had been assaulted). The Campaign is also lobbying for a bill that would give U.S. district attorneys the authority to handle state crimes involving bias against "real or perceived ... gender." Transgenders have their own D.C. presence, Gender pac. It sponsored its third Lobby Day on Capitol Hill in April, when more than 100 transgenders met members of Congress. A state-focused group called It's Time America! has chapters in half the states. And of course, transgenders are talking about staging a march on Washington--de rigueur for any minority going mainstream.

Businesses are paying attention. Computer firm Lucent Technologies has added "gender-identity characteristics or expression" to its equal-opportunity policy. The University of Iowa has similar language, and in February, Rutgers adopted more limited protections for "people who have changed or are in the

process of changing" their sex. Last year Harvard allowed an incoming female-to-male freshman to live on a male dorm floor. Campus groups have asked the college to formally protect transgenders, but Harvard being Harvard, the university is studying the issue. Transgenders are pushing ahead in the courts as well. In a little-noticed but groundbreaking case last year, a Minnesota male-to-female transsexual won Social Security "widow's benefits" following her husband's death in 1995. The Social Security Administration declined to grant them at first but reversed itself after the woman appealed, with the A.C.L.U.'s help.

The most important victories are often won outside the public arena. A little over a year ago, Shannon Ware was the host of a constituent meet-and-greet for her state representative. Over coffee and snacks, Ware introduced Representative Patrick Dougherty, a moderate Democrat and devout Roman Catholic, to several transgenders. He was set to consider legislation that would make it difficult for transsexuals to gain even partial custody of their children after a divorce. For Ware, it wasn't an academic issue. She was once married and has a daughter, Elizabeth. Though the 13-year-old and her mom have been "totally cool" about her transition from Craig to Shannon, Ware knew others weren't as lucky as she was. Another Missourian, Sharon (ne Daniel), has fought her ex-wife for six years for the right simply to visit her two boys.

The low-key meeting at Ware's house worked. Dougherty listened as she and several others told their stories. Some had lost jobs, some had been rejected by family, all felt battered by a society that insists that biology is destiny. Dougherty left seeing no reason to attack these folks with a new law. A few days later, he quietly let the legislation die in his committee.

CERTIFIED -- RETURN
RECEIPT REQUESTED

Margaret Deirdre O'Hartigan
6902 N. Missouri
Portland, OR 97217
(503) 735-1184

January 2, 1997

Victoria Pratt, Senior Investigator
Oregon Bureau of Labor and Industries
Civil Rights Division
800 NE Oregon Street, #32
Portland, OR 97232

RE: Complainant: Margaret Deirdre O'Hartigan
Respondent: VavRosky, MacColl, Olson & Miller, PC
Case Numbers: DP-EM-DP-960416-1879
ST-EM-RE-960712-1033

Dear Ms. Pratt:

I am writing to inquire as to the status of the above-referenced complaints of discrimination inasmuch as I have heard nothing from BOLI concerning these matters for more than two months.

I delivered my Response to Respondent's Legal Arguments on August 30, 1996 -- more than 4 months ago -- and have heard nothing concerning the course of the investigation of my charge of retaliation (ST-EM-RE-960712-1033).

I delivered material regarding my original February 15, 1996 complaint of discrimination (DP-EM-DP-960416-1879) on November 12, 1996, and have heard nothing concerning the course of investigation in that matter since the October 21, 1996 notice that BOLI was re-opening that charge.

It is nearly a year now since I first reported to BOLI my initial complaint of discrimination, and it is more than 7 months since I notified BOLI of my employer's retaliation.

I would very much appreciate being appraised of the status of these complaints at your earliest convenience.

In light of BOLI's past practice of refusing to follow ORS 659 in relation to complaints of discrimination reported by transsexuals I am sure you will understand my concern over the fact that

BOLI has not even conducted an initial interview with me concerning my original complaint of discrimination.

Thank you for your time and consideration in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Margaret Deirdre O'Hartigan".

Margaret Deirdre O'Hartigan

bcc: Commissioner Gretchen Miller Kafoury

Dear Commissioner Kafoury:

In your December 2, 1996 Memorandum to MHRC Commissioners and Staff you stated your decision not to present a recommendation to expand and amend the City of Portland's Civil Rights Ordinance to include transsexuals. You stated that your decision was based, in part, on your wish to "review the progress of any claims by transsexuals made under State law before looking to other remedies".

I am providing you the attached copy of my January 2, 1997 letter to the Bureau of Labor and Industries in which I inquire as to the status of my nearly year-old complaint in order to provide you exactly the sort of information regarding "progress" which you stated you wished to review.

While you may not be familiar with the usual progress with which BOLI accords complaints of discrimination reported by non-transsexuals, let me assure you that BOLI's handling of my complaint of discrimination and retaliation does not conform to the Bureau's usual practice.

For example, in the matter of Jerry Kallioinen's complaint of discrimination on the basis of sex and sexual orientation which was filed with BOLI November 14, 1994 against Tri-Met/Metropolitan Transport and Obie Outdoor Advertising (PT-PA-SO-941114-1616, ST-PA-SX-941114-1621, PA-PA-SO-941114-1617 and ST-PA-SX-941114-1620) a fact-finding conference was held by Jerry Weller of BOLI on January 5, 1995 and a settlement agreement between Kallioinen, Tri-Met and Obie was signed in late January and early February of that same year.

In the very same length of time in which BOLI has done nothing since notifying me on October 21, 1996 of its intention to re-open my original complaint of discrimination then, the Bureau managed to receive Kallioinen's complaint, hold a fact-finding conference, facilitate a settlement agreement and obtain signatures from all of the parties involved.

To provide further comparison with which to assess the "progress of any claims by transsexuals made under State law", please consider the fact that although I first reported my allegation of discrimination to BOLI in writing in the middle of February 1994, to date BOLI has not even interviewed me concerning that charge. This disparity is all the more notable in light of the fact that within 4 days of receiving my notarized complaint of retaliation on July 15, 1996, BOLI had scheduled an in-depth interview for September 8, 1996 regarding my charge of retaliation. BOLI is thus clearly handling a complaint of discrimination on the basis of transsexualism far differently than it does complaints of discrimination on the basis of sex, sexual orientation or retaliation.

While the Bureau may claim to accept for investigation complaints of discrimination on the basis of transsexualism, it is patently obvious that the Bureau itself is still practicing discrimination.

Please feel free to contact me regarding this matter should you have any questions or concerns. Thank you for your time and consideration in this matter.

Sincerely,



cc: Lowen Berman, MHRC Chair
Mayor Vera Katz
Commissioner Francesconi
Commissioner Hales
Commissioner Sten

Margaret Deirdre O'Hartigan

RECEIVED FEB 27 1996

Margaret Deirdre O'Hartigan
P.O. Box 82447
Portland, OR 97282
735-1184

February 26, 1997

Lowen Berman, Chairman
Metropolitan Human Rights Commission
5908 NE 32nd Avenue
Portland, OR 97211

Dear Mr. Berman:

As you can see from the enclosed press release, last night the Olympia City Council voted to extend civil rights protection to transsexuals, transvestites and transgenders, using those specific terms.

I have also enclosed a copy of the complete city ordinance.

Thank you for your time and consideration in this matter.

Sincerely,



Margaret Deirdre O'Hartigan

encls.

cc: MHRC Commissioners
Mayor Vera Katz
Commissioner Jim Francesconi
Commissioner Charlie Hales
Commissioner Gretchen Kafoury
Commissioner Erik Sten

D. "Familial Status" means one or more individuals (who have not attained the age of 18 years) being domiciled with: 1) a parent or another person having legal custody of such individual or individuals; or 2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

E. "Gender Identity" includes the status of being transsexual, transvestite, or transgender.

F. "Housing accommodations" includes any dwelling, or dwelling unit, rooming unit, rooming house, lot or parcel of land in the city which is used, intended to be used, or arranged or designed to be used as, or improved with, a residential structure for one or more human beings.

G. "Lender" includes any bank, insurance company, savings or building and loan association, credit union, trust company, mortgage company, or other person engaged wholly or partly in the business of lending money for the financing or acquisition, construction, repair, or maintenance of a housing accommodation.

H. "Occupant" includes any person who has established residence or has the right to occupancy in a housing accommodation.

I. "Owners" include persons who own, lease, sublease, rent, operate, manage, have charge of, control, or have the right of ownership, possession, management, charge, or control of the housing accommodation, on their own behalf or on behalf of another.

J. "Person" includes one or more individuals, partnerships, or other organizations, trade or professional associations, corporations, legal representatives, trustees, trustees in bankruptcy, and receivers.

K. "Person aggrieved" means any person against whom any alleged unfair housing practice has been committed.

L. "Prospective borrower" includes any person who seeks to borrow money to finance the acquisition, construction, repair, or maintenance of a housing accommodation.

M. "Prospective occupant" includes any person who seeks to purchase, lease, sublease or rent a housing accommodation.

N. "Real estate ((agent)) broker, associate broker, ((salesman)) salesperson, or employee" includes any person employed by or associated with a real estate broker to perform or assist in the performance of any or all of the functions of a real estate broker.

CERTIFIED --- RETURN
RECEIPT REQUESTED

Margaret Deirdre O'Hartigan
P.O. Box 82447
Portland, OR 97282
735-1184

January 7, 1997

RECEIVED 1/10/97

Helen Cheek, Director
Metropolitan Human Rights Commission
1120 SW 5th Avenue, Room 516
Portland, OR 97204-1989

Dear Ms. Cheek:

Thank you for your letter of December 30, 1996. In light of your statement that "there has been no such communication" with the City Attorney's office on equal protection under the law for transsexuals, would you please explain the statement contained on page 3 of the MHRC fact-finding report on discrimination against transsexuals in Portland which reads: "Based upon existing law, the City Attorney is of the opinion that Portland's current civil rights ordinance covers transsexuals only to the extent that sexual orientation discrimination is also involved"? If no communication occurred between the City Attorney's office and the Commission, on what basis did the MHRC report state the City Attorney's opinion regarding existing law?

Additionally, at the October 8, 1996 MHRC meeting, when a Commissioner asked you why the draft report summary specifically concluded that "(i)t appears that there is not a 'system' or 'pattern' of discrimination in the City of Portland against transsexuals", you responded that the City Attorney's office had advised you as to the language necessary. If there was no communication between yourself and the City Attorney's office, on what basis did you state the City Attorney's advice?

Please respond to these questions at your earliest convenience. Thank you for your time and consideration in this matter.

Sincerely,



Margaret Deirdre O'Hartigan

cc: Lowen Berman, Chair
✓ Commissioner Kafoury
Madelyn Wessel
Nyla McCarthy, MHRC Commissioner

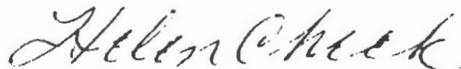
**METROPOLITAN** 1120 SW Fifth Avenue, Rm. 516
HUMAN RIGHTS COMMISSION Portland, Oregon 97204-1989

December 30, 1996

M. D. O'Hartigan
PO box 82447
Portland, OR 97282

Dear Ms. O'Hartigan,

Concerning your request for copies of any communication with Commissioner Kafoury, the City Attorney's office or BOLI on equal protection under the law for transsexuals, there has been no such communication.



Helen Cheek
Director

CC: Terry Anderson
Madelyn Wessel
Lowen Berman

Margaret Deirdre O'Hartigan
P.O. Box 82447
Portland, OR 97282
735-1184

January 7, 1997

Madelyn Wessel
Chief Deputy City Attorney
City of Portland
1220 SW 5th Avenue
Portland, OR 97204

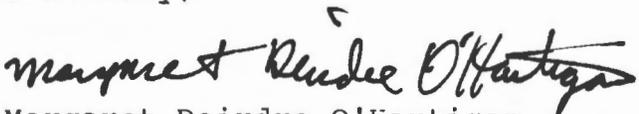
Dear Ms. Wessel:

As you can see from the enclosed letter to me from Helen Cheek dated December 30, 1996, Ms. Cheek is stating there has been no communication between the MHRC and your office. As you can also see from my January 7, 1997 letter to Ms. Cheek, I am questioning the MHRC report's statement of the City Attorney's opinion regarding existing law as it pertains to transsexuals in Portland. I am also questioning Ms. Cheek's basis for stating at the October 8, 1996 MHRC meeting that wording contained in the MHRC draft fact-finding report on discrimination against transsexuals in Portland was on advice from your office.

Would you please inform me as to whether or not there has been any communication between your office and the MHRC regarding the MHRC report's language and/or regarding the opinion of your office regarding existing law pertaining to Portland's current civil rights ordinance in relation to transsexuals? If there has been such communication, would you please provide me copies and/or characterize such communication?

Please respond to these questions at your earliest convenience. Thank you for your time and consideration in this matter.

Sincerely,


Margaret Deirdre O'Hartigan

cc: Lowen Berman, Chair
Commissioner Kafoury
Nyla McCarthy, MHRC Commissioner
Helen Cheek

12/10/96

From: MHRC

To: Commissioner Gretchen Kafoury

Re.: Transsexuals and Portland Civil Rights Ordinance

Draft

Thank you for your memo of 12/05/96 in which you indicate that you have decided against asking the City Council to amend the City's Civil Rights Ordinance to include transsexuals and other sexual minorities not currently covered by the ordinance.

The MHRC respectfully asks you to reconsider this decision and to propose such an amendment to the City Council as recommended by MHRC. Please consider these responses to the five points of consideration that you mention in your memo to us.

1. The fact that BOLI has finally decided to accept complaints of discrimination from transsexuals on the basis of disability is not an appropriate reason for barring these individuals from protection under Portland City Ordinance. BOLI protects individuals from discrimination on the basis of race and religion under state law. The City Council has decided that this is not a reason for declining to protect individuals from discrimination on these bases under the Portland City Ordinance. The City Council has seen fit to pass the Portland Civil Rights Ordinance so that the city can set its own standards and procedures for civil rights protection within its jurisdiction.

BOLI's protection is only on the basis of disability. As you mention in your memo, this is, and has been, a controversial question both within and without the sexual minority community. A change in interpretation of a medical diagnosis could remove protection for transsexuals overnight. It is the view of MHRC that transsexuals need protection on the basis of their sexual minority status regardless of their medical diagnosis. Adding transsexuals to the Portland Civil Rights Ordinance on the basis of their membership in a sexual minority class, would remove the medical controversy from relevance regarding civil and human rights protection.

The financial concerns mentioned in your memo are of much greater significance in relation to other bases of discrimination which are properly covered by the Portland Civil Rights Ordinance. There are some costs associated with civil and human rights protection. This is not a reason to deny such protection. This is especially true in the case of the small potential costs associated with protection of the tiny transsexual community.

2. It is the view of MHRC that the evidence of discrimination presented by the transsexual community was actually overwhelming. The community is very small, but of those that were willing to come forward and testify publicly at the two hearings held by MHRC, the experience of discrimination was nearly universal. Eleven of thirteen transsexuals testifying before the Commission described experiences of significant discrimination. Every other witness spoke of substantial, often devastating discrimination. Because the sample was small, we indicated in our report that statistical proof of a pattern of discrimination was

difficult to obtain. However, we indicated then, and repeat now, that the existence of substantial discrimination is a clear reality. It would be inappropriate to deny protection to any group facing discrimination on the basis of group size. It is precisely the smallest minorities that may be most in need of protection.

3. The fact that transsexuals face significant discrimination in areas that the City does not regulate is not a reason to deny protection in areas that the city can control. The MHRC believes that anyone present at these hearings would not doubt that transsexuals face at least as much discrimination in employment, housing and public accommodations as do other members of the sexual minority community, including those presently covered under the Ordinance.

Also in regard to discrimination regarding insurance and health care: It might well help the transsexual community in its struggles in these areas, to be able to point to protection on the basis of their membership in a sexual minority class under the Portland Civil Rights Ordinance.

4. In regard to who might be included for protection under an expanded sexual minority definition: There are certainly disagreements within the sexual minority community regarding certain questions surrounding transsexualism. Some of these questions involve differences over strategy in the fight against discrimination and for survival. However, we have heard no testimony from any sexual minority group that would suggest approval of discrimination against transsexuals. The MHRC would be happy to facilitate meetings involving the City Attorney and legal experts from the sexual minority community to draft language that would meet the criteria of consensus regarding the specific issue of expanding civil rights protection to include transsexuals and possibly other sexual minorities.
5. MHRC does not understand how extension of civil rights protection to transsexuals would effect the City's ability to defend against attacks on its jurisdictional authority to protect civil rights and provide a private right of action. However, even if this were true, we do not feel it appropriate to deny needed protection on this basis.

Thank you for your continuing consideration of this matter. We continue to recommend that action be taken now to add protection of transsexuals to the Portland Civil Rights Ordinance. The City simply needs to "do the right thing." We feel that in the face of continuing experiences of discrimination and in light of the consideration discussed above, it would not be appropriate to wait a year or so to reconsider this matter.

- cc. Mayor Vera Katz
Commissioner Charles Hale
Commissioner Mike Lindberg
Commissioner Erik Sten
Commissioner-elect Jim Francisconi

AEGIS

American

Educational

Gender

Information

Service

COPY

17 October, 1996

ATTN: Helen Cheek
Metropolitan Human Rights Commission
1120 SW 5th, Ste. 516
Portland, OR 97204

A 501(c)(3) Nonprofit
Corporation

Ms. Dallas Denny, M.A.
Executive Director

P.O. Box 33724
Decatur, GA 30033

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aegis@mindspring.com

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aegis (e'jis), n. 1. in
Greek mythology, a shield
or breastplate used by
Zeus and later, by his
daughter Athena; hence,

2. a protection.

3. sponsorship; auspices.

Dear Ms. Cheek:

I understand from her press release that Margaret O'Hartigan objected to our definitions (apparently the ones on our "Pride Special" and "Watch Your Language" flyers). She is the first to have a complaint.

It also seems from Ms. O'Hartigan's press release that Portland is considering legal protections only for transsexuals, and not for other transgressively gendered persons.

The "classical" definition of transsexualism was formulated by the late Dr. Harry Benjamin and described in his 1966 book "The Transsexual Phenomenon." For many years, following Benjamin's model, transsexuals were considered to be "trapped in the wrong body," salvageable only by sex reassignment, which inevitably included hormonal therapy and genital surgery, and a post-surgical disappearance into society as a "normal" man or woman. Transsexuals were considered to be very different from the other people we now call transgendered, who were believed to lack some essential inner spark which made them "really" transsexual. Sex reassignment was held to be a big mistake for anyone other than the "true transsexuals." Access to treatment was limited to those who presented with characteristics which matched the expectations of clinicians who held with Benjamin's model. Consequently, many transsexuals misrepresented themselves to clinicians, trying to meet the clinician's pre-set expectations.

Problems with this model began to emerge in the 1970s, and were documented by anthropologist Anne Bolin, transsexual Sandy Stone, and myself, among others (Bolin, 1988; Denny, 1991; Kessler & McKenna, 1978; Stone, 1991). This eventually led to what I have called a new model, under which it is possible for transsexuals and other transgressively gendered people to be proud of their identities, and not to view themselves as having a "disorder." The new model also made it possible for individuals to choose exactly what they would and would not do to their bodies rather than assuming that all transsexuals would desire and eventually have genital sex reassignment surgery.

Such new realizations have led to a renaissance in treatment, and to the removal of transsexualism from the 1994 Diagnostic and Statistical Manual of Mental Disorders (4th Edition) of the American Psychiatric Association. The DSM places transsexuals with other transgendered people in the general category Gender Identity Disorder.

Transsexualism is certainly not a lifestyle choice. For many people, having genital surgery is essential; for others, it is not. Transsexuals come in all shapes and sizes, and view themselves and their conditions in very different ways. Those who do not desire surgery suffer the same anguish in figuring themselves out and face the same discrimination as those who for whom surgery is critical. Forcing everybody into an artificial category which requires them to do specific things to their bodies-- especially having irreversible surgery-- is very harmful to those people who do not want those things done.

Consequently, the transgender community currently consists of people who fit the classical model of transsexualism, crossdressers, and everyone in between. Many in the community take hormones and cross-live permanently without having genital surgery; some identify as neither men nor women; some identify as both, and some have genital surgery and disappear into society. All, however, struggle with intense inner feelings which can and often are very destructive.

Transsexuals are terribly discriminated against, as Ms. O'Hartigan has doubtless demonstrated. However, other transgendered persons and crossdressers face the same discrimination, and are equally in need of protection under the law. After all, transsexuals do not wear signs which identify them; it is not possible to determine which of two fully dressed individuals has had genital surgery.

* I hope that Portland will offer protection to all transgendered persons, and not just those who meet the classical definition of transsexualism; to do otherwise cleaves, as does Ms. O'Hartigan, to an obsolete model which marginalized thousands of transgendered people in favor of those who could convince clinicians of their authenticity-- usually by lying.

I'm enclosing a copy of my essay "The Politics of Diagnosis" and an issue of our newsletter, AEGIS News, which documents the problems with the old model and the arising of the new.

I would be happy to provide you with the DSM-IV diagnostic criteria for Gender Identity Disorder or the other materials I have referenced.

Sincerely,

Dallas Denny, M.A.
Licensed Psychological Examiner

pc Commissioner Gretchen Kafoury
Mayor Vera Katz

RECEIVED OCT 23 1996

Margaret Deirdre O'Hartigan
P.O. Box 82447
Portland, OR 97282
735-1184

October 22, 1996

Commissioner Gretchen Kafoury
City of Portland
1220 SW 5th Ave., Rm. 211
Portland, OR 97204

Dear Commissioner Kafoury:

As you can see from the enclosed news item from the October 16, 1996 Willamette Week, the Oregon Bureau of Labor and Industries has agreed to accept complaints of discrimination reported by transsexuals -- on the basis of Oregon's existing prohibition of discrimination against individuals with disabilities.

I cannot over-emphasize, however, the continued need for specific inclusion of transsexuals in Portland's human rights ordinance. Protection now accorded transsexuals under ORS 659.400 et. seq. could be revoked through either another administrative decision or through legislation amending current law. The fact that BOLI has, for the 16 years transsexualism has been recognized by the American Psychiatric Association as a legitimate mental disorder, failed to abide by state law in regards to transsexuals illustrates how easily our civil rights can be abrogated without specific legal protection identifying transsexuals as a protected category.

Inclusion of transsexuals in Portland's human rights ordinance, in light of the recent BOLI decision regarding transsexuals, would create a situation similar to that which currently exists in Seattle. Transsexuality is specifically included in that city's human rights ordinance, while transsexuals throughout the State of Washington are, in certain instances, provided protection from discrimination

under state law prohibiting discrimination on the basis of disability (see Jane Doe v. Boeing Company, 121 Wn.2d 8, 846 P.2d 531).

While some might argue that inclusion of transsexuals in Portland's human rights ordinance, given BOLI's recent decision, would provide redundant protection against discrimination, the vulnerability of transsexuals to discrimination exemplified by BOLI's failure to adhere to applicable Oregon law in our regard is the clearest indication that city-wide protection of transsexuals is necessary.

I would like to take this opportunity to thank you and the entire City Council, the Metropolitan Human Rights Commission staff and commissioners, and everyone else who has participated in this process, for the hard work and sensitivity to the civil rights of transsexuals. I look forward to a speedy resolution of this process, and hope for the inclusion of transsexuals in Portland's human rights ordinance.

Thank you for your time and consideration in this matter.

Sincerely,



Margaret Deirdre O'Hartigan

encl.

METROPOLITAN HUMAN RIGHTS COMMISSION

Fact Finding Report: Discrimination Against Transsexuals in Portland



October 1996

FACT FINDING REPORT: DISCRIMINATION AGAINST TRANSSEXUALS IN PORTLAND

INTRODUCTION

On January 10, 1996, Margaret Deirdre O'Hartigan appeared before City Council to request that civil rights protection be extended to transsexuals by amending the City of Portland's Civil Rights Code. The current Civil Rights Code protects basic human rights in areas of employment, housing and public accommodations based on the following classifications: race, religion, color, sex, age, familial status, marital status, national origin, mental disability, source of income, physical disability, and sexual orientation.

Mayor Vera Katz requested that Commissioner Gretchen Miller Kafoury manage the gathering of information relating to transsexual discrimination issues. Commissioner Kafoury directed the Metropolitan Human Rights Commission (MHRC) to hold fact finding hearings to assess the level of discrimination found in the City of Portland and to report the findings back to Council.

News releases were sent to thirty media contacts in the Portland area announcing two "Fact Finding Hearings." The purpose of the hearings was: "to assess the level of discrimination experienced in the City of Portland by transsexuals and other sexual minorities not currently included in the Portland civil rights ordinance."

A number of groups not associated with transsexuals asked that they be allowed to testify. These included transvestites and cross-dressers. A decision was made that such groups should be allowed to testify if they desired. Ultimately, limited testimony was presented by these groups.

Two evening hearings were held: (1) March 25, 1996 from 6:30 p.m. until 8:30 p.m. in Room C of the Portland Building and (2) and April 25, 1996, from 6:30 p.m. until 8:00 p.m at the same location. In an attempt to compile as complete a record as

possible and to be as inclusive of community interests as possible, the original deadline for submission of written testimony, May 3, 1996, was extended to June 21, 1996.

In addition to the press releases, the fact-finding purpose of the hearings was announced on flyers handed out at the door and was repeated before the beginning of the testimony.

Members of the Metropolitan Human Rights Commission who listened to the testimony at the first hearings were: Anita Ball, Nyla McCarthy and Mohammed Hassan. At the second hearing, the MHRC members in attendance included Nyla McCarthy, Mohammed Hassan, Cecil Prescod, Judy Blankenship, Janet Kakishita and Greg Asher. Terry Maxwell, who is the City/County Advisory Committee on the Disabled liaison to MHRC attended the second hearing. Twelve people testified at the first hearing. Nine testified at the second hearing. Three testified at both hearings. In all, eighteen individuals presented testimony in person. In addition to oral testimony, 22 letters or written comments were received as part of the written record. Both hearings were tape recorded. Both oral comments and originals of the written comments are available to the Council if requested.

BACKGROUND INFORMATION

The following quotation, from an American Education Gender Information Service (AEGIS) bulletin, may contribute to further understanding of the feelings of oppression experienced by transsexuals:

Almost all transpersons and intersexed persons grow up with a deep sense of internalized shame. We do not choose to be who we are any more than do gay men, lesbians or bisexuals; in fact, many of us actively fight our true natures, desperately seeking to fit in gay and straight cultures. Our "coming out" process is parallel to that of gay men, lesbians, and bisexuals, and can result in loss of support of family, friends, and employment.

Discrimination against transpeople is extreme—even greater than for gay men and lesbians. We must fight to keep our jobs, whether as physicians, teachers, airline pilots, truck drivers, or cooks in restaurants. A disproportionate number of "gay bashings" are directed at transpeople, who by our very nature are the most visible members of the queer culture.

Laws which negatively impact gay men, lesbians, and bisexuals affect transpeople in the same manner. Our rights to marry, to hold jobs and otherwise fully participate as citizens in American culture are as jeopardized as those of gay men, lesbians and bisexuals. And yet without specific trans-inclusive language in bills like The Employment Nondiscrimination Act (ENDA), transpeople can be excluded from protection.

An article entitled *Gender Dysphoria Update* by Blaine R. Beemer, Bsc, RN, is included as part of this report. In order to comply with copyright regulations, it has not been reprinted but can be found at the end of this document. An attached list of definitions and terms from the American Educational Gender Information Service (AEGIS), gives additional information on gender identity issues.

Based upon existing law, the City Attorney is of the opinion that Portland's current civil rights ordinance covers transsexuals only to the extent that sexual orientation discrimination is also involved. In most cases, this is apparently not the case or is not readily proven. The State of Oregon Bureau of Labor and Industries (BOLI), which has the contract to enforce civil rights laws for the City of Portland, the State of Oregon and the Federal Government, does not consider transsexualism to be covered under state or Federal law, nor does BOLI consider transsexualism to be covered by the City's civil rights ordinance.

Several other cities—including Minneapolis, San Francisco and Seattle—have ordinances which explicitly cover transsexuals. Different language is used in each case. Some ordinances are very specific as to who is covered. Others use the more encompassing phrase "gender identity." MHRC did not review these statutes, but vocused rather on the anecdotal incidents of perceived discrimination.

SCOPE OF THE HEARINGS

Despite the fact that the Metropolitan Human Rights Commission, consistent with the Council's directive, sought specifically to assess only the level of discrimination in the City of Portland, many people testified about issues outside this charge. These issues included (1) whether or not the health and insurance industries should be regulated to cover transsexuals—including lifetime hormone injections and long-term counseling, both pre- and post-operative; and (2) whether or not BOLI's interpretation of city, state and federal law was correct, especially with regard to ADA-based protections for transsexuals based on disability.

MHRC is focusing on the testimony as it relates to the task of determining the level and scope of discrimination in the City of Portland. Other information, particularly on insurance, has been included because the frequency of testimony on this issue indicated that it was of grave concern.

TESTIMONY AS TO THE NEED FOR A CHANGE

A variety of opinions was expressed about the appropriateness of amending the City's civil rights ordinance to add transsexualism, and about possible language. It should not be assumed that there is unanimity on the desirability of a change to the ordinance within the transsexual community. Based on the evidence received by the MHRC, such a consensus does not exist.

Complaints about lack of health insurance and mistreatment by the medical community were frequent and demonstrated the substantial need for policy decisions to be made at the legislative levels of state government regarding these issues.

One person made the claim that transsexuals are "getting killed across the country," yet when pressed, did not know of any cases in Portland and could not cite any statistics from other parts of the country. The field of employment was an area in which discrimination seemed to be most prevalent. Two people complained about the Bureau of Labor and Industries' rejection of their claims. Many told stories of extreme personal anguish and pain associated with the condition and the treatment they received.

ANECDOTAL INFORMATION

EMPLOYMENT

When a person undergoes the change from one sex to another, it is not uncommon to also undergo a change from a name usually associated with one gender to that of the other. When an employer or prospective employer discovers a name change in a person's work history, that is frequently a point at which discrimination occurs. It is virtually impossible to bring about a name change in all documents in a person's history. Some transsexuals, in an effort to be honest with employers, reveal this information at the point of hiring to avoid problems at a later date if someone finds out about the sex change. The employer may refuse to make the hire, even though the

applicant “presents” credibly, would not be a disruptive influence in the work place, and has the skills and experience for the job.

One person testified to discrimination by an employer when, in making the transition from male to female, he worked with the human resources department to ensure a smooth transition in the workplace. When he showed up at work in women’s clothing, which is a part of the pre-operative transition process, he was threatened with dismissal unless he came to work “clearly groomed” as a man. The company’s only policy on dress was that workers follow practices of “safety, hygiene and good taste.”

One person who testified worked in the shipyards during his transition. The word “trans” was added to his personal records. Since that time he gets very little work. The name change in the work history has presented problems. He expressed frustration with the discrimination he found in these words: “I do not want to be outed or refused a job because of my transsexuality.”

Others testified that they lived in fear of discovery and consequent dismissal.

MEDICAL AND HEALTH INSURANCE

Inadequate health insurance coverage and mistreatment by the medical profession were mentioned most frequently. Health care insurance does not pay for hormones, a standard treatment when one undergoes a sex change. The need for hormones continues throughout life. The claim was made that women who require hormones after surgery which stops the natural production of hormones are covered by medical insurance but men who undergo a surgical change to become women do not.

Although transsexualism is diagnosed as a medical condition, surgery to treat it is not covered. The claim was made that the decisions to exclude transsexualism are based on unfair moral judgments. Discrimination by the medical community was described in detail. For example, doctors have refused to treat transsexuals based on “the moral code of my work.” Although medical care and health insurance coverage are not likely to be affected by a change in the City’s Civil Rights Code, which covers employment, housing and public accommodation, it appears to be indicative of an underlying attitude of discrimination within these professions.

SOCIAL DISCRIMINATION

According to the testimony, social service organizations that serve women do not typically accept transsexuals. Transsexuals who have become women through medical procedures including hormone therapy and surgery believe they should be accepted by the women's community. Often they are not.

Restaurants have on occasion refused service. On other occasions, some testified, they have never been discriminated against in a public accommodation.

Using restrooms and dressing rooms presents problems for both transsexuals and cross dressers. Some businesses such as hotels and banquet facilities refuse to allow groups expressing a different gender identification to use their facilities.

SAFETY AND SOCIAL CONCERNS

The president of the Northwest Gender Alliance reported that members are frequently harassed and assaulted, particularly by young males. Transsexuals expressed feelings of lack of hope. One person who works for a social service agency testified that the suicide rate of transsexuals was ten times as high as for the population at large, particularly among youth. Another expressed fear of going to a doctor and of having been disowned by parents for a condition which comes with birth and is not chosen. Participants testified to "tremendous suffering" by being "marginalized" by society, parents, former employers and co-workers—and, in some cases, former spouses.

One person in transition from female to male was raped by his father when he told his parents of his decision to begin medical treatment to transition to become a male. The attack was reported to the police. According to the testimony, the police laughed. The father has never been charged. A doctor from whom he sought treatment for cervical cancer was amused and curious about his condition, but refused to treat him.

WRITTEN TESTIMONY

The written testimony may be divided into three general classifications:

1. Opinions on the current laws and suggestions for language to be used in any legal changes.
2. Accounts of alleged discrimination, some of which occurred in the past or outside of the City of Portland.
3. Information from other cities on relevant ordinances and other legal issues.

Opinions on appropriate changes and language ranged from leaving Portland's civil rights ordinance alone because it covers transsexuals under "sexual orientation," to adding a classification which could be "transsexual" or the more inclusive "transgender," which includes cross dressing.

The accounts of alleged discrimination were largely in employment, with some in public accommodation. A social service and counseling organization—which stated that because of confidentiality, it could not be more specific—claimed discrimination against transsexuals is "rampant" in the Portland area.

A wealth of information was submitted about legal issues, particularly the *Proceedings from the First and Second International Conferences on Transgender Law and Employment Policy*. (A copy is available for examination in the MHRC Office.) Copies of ordinances from San Francisco, Minneapolis, the State of Minnesota, and Seattle were obtained. If any changes are considered for Portland's civil rights ordinance, it is suggested that these ordinances be reviewed in detail and that a review of their application history be undertaken by the City Attorney.

SUMMARY

These hearings were fact finding only. They were organized "to assess the levels and types of discrimination, if any, within the City of Portland, against transsexuals and other sexual minorities not currently included in the Portland civil rights ordinance."

Because the number of transsexuals is small, estimated by one person testifying to be less than one thousand (1,000) in all of Oregon, it is difficult to determine the number of people being discriminated against and how often. As mentioned earlier, 18 people testified at the two MHRC public hearings and although 22 pieces of written testimony were received, only 10 of them were from parties who did not also testify orally. This makes a total of 28 people submitting testimony, either oral or written. Testimony was received on eleven specific allegations of discrimination against transsexuals in the City of Portland involving public accommodation, employment, or housing. One was from an observer of the discrimination. Two transsexuals testified that they had never been discriminated against.

The data gathered was insufficient to clearly establish whether or not a system or pattern of discrimination exists; however, there were a number of reported individual incidents of discrimination within the City of Portland in housing, employment and public accommodation. It is these areas that would be covered by the ordinance, if amended or expanded. It is also clear from testimony that problems in obtaining medical services and insurance would continue, and that these areas are not likely to be affected by an amendment to the ordinance.

The fear of discovery that accompanies being a "trans" may prevent people from coming forth to testify. We applaud the courage of those who came forward to tell their stories. The names and addresses on the personal letters have been blocked out in order to protect the privacy of the writers.

CONCLUSION

This report was accepted by the Metropolitan Human Rights Commission on October 8, 1996. Although the Commission was mandated to gather information only, in view of the evidence presented, it decided to recommend that the City of Portland's Civil Rights ordinance be amended to include transsexuals and other sexual minorities not currently included.

The vote was unanimous. The Commissioners present were:

Lowen Berman, Chair
Greg Asher
Anita Ball
Judy Blankenship
Leon Fox
Mohamed Hassan
Nadia May Kahl
Janet T. Kakishita
Nyla McCarthy
Joan H. Strouse
Norma Timble
Nagu Veera
Scott Welch

The report was presented to Commissioner Kafoury on Oct. 21, 1996 with a recommendation that she develop an ordinance to present to City Council which would amend the Civil Rights ordinance.

The principal author of the report is Helen Cheek, Director of the Metropolitan Human Rights Commission.

EXHIBITS

Press Releases - 2

Flyer [distributed at hearings]

City Ordinances: San Francisco; Seattle (partial) and Minneapolis (partial)

State Legislation: Minnesota

Written Testimony - 22 documents

Definitions and Terms

***Existing Statutory Protection for Transsexuals and Transvestites* by Margaret Deirdre O'Hartigan**

***Bureau of Labor and Industries Discrimination Against Transsexuals* by Margaret Deirdre O'Hartigan**

Letter of Transmittal: Chair of the MHRC to Commissioner Gretchen Kafoury

**METROPOLITAN HUMAN RIGHTS COMMISSION**
1120 SW Fifth Avenue, Rm. 516
Portland, Oregon 97204-1989

April 16, 1996

For Immediate Release

For further information: Helen Cheek, Director, 823-5136

HUMAN RIGHTS COMMISSION HOLDS FACT FINDING
HEARINGS

At the request of City Council, the Metropolitan Human Rights Commission is holding the second of two fact finding hearings to assess the level of discrimination experienced in the City of Portland by transsexuals and other sexual minorities not currently included in the Portland Civil Rights Ordinance. The hearing will be held in Room C, second floor of the Portland Building on April 25 from 7 to 9 P.M. Written testimony can be sent to the Metropolitan Human Rights Commission, 1120 S.W. Fifth, Room 516, Portland, OR 97204.

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1120 SW Fifth Avenue, Rm. 516
Portland, Oregon 97204-1989

For Immediate Release

For further information: Helen Cheek, Director, 823-5136

HUMAN RIGHTS COMMISSION EXTENDS DEADLINE FOR
WRITTEN TESTIMONY ON DISCRIMINATION AGAINST
TRANSEXUALS

At the request of City Council, the Metropolitan Human Rights Commission has held two fact finding hearings to assess the level of discrimination experienced in the City of Portland by transsexuals and other sexual minorities not currently included in the Portland Civil Rights Ordinance. The deadline for written testimony has been extended to June 21, 1996. Testimony may be sent to the Metropolitan Human Rights Commission, 1120 S.W. Fifth, Room 516, Portland, OR 97204.

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Fact finding hearing -April 25, 1995, 7 PM to 9 PM

The purpose of this fact finding hearing is to assess the level of discrimination experienced in the City of Portland by transsexuals and other sexual minorities, not currently included in the Portland Civil Rights Ordinance.

Written testimony will be accepted until May 3, 1996.

After all of the information is gathered, the Metropolitan Human Rights Commission will submit a report to City Council.

If you wish to testify, please sign the sheet at the door. You will be called in the order in which you signed up. Each person wishing to testify will be given three minutes. Please state your name and address. If you wish to remain anonymous, please say so. If you are representing an organization, give the name of the organization. After your three minute testimony, the members of the Metropolitan Human Rights Commission sitting on the panel will have the opportunity to ask questions.

This hearing is being tape recorded.

CHAPTER 12A

HUMAN RIGHTS COMMISSION

- c. 12A.1. Findings.
- c. 12A.2. Declaration of Policy.
- c. 12A.3. Scope of Ordinance.
- c. 12A.4. Establishment; Appointment; Terms; Executive Secretary.
- c. 12A.5. Powers and Duties.
- c. 12A.6. Advisory Council; Special Committees.
- c. 12A.7. Cooperation With Other Communities.
- c. 12A.8. Unfair Neighborhood Practices.
- c. 12A.9. Adjustment and Settlement of Complaints.
- c. 12A.10. Rules and Regulations.
- c. 12A.11. Reports.
- c. 12A.12. Data.
- c. 12A.13. Individual Remedies.
- c. 12A.14. Repeal.
- c. 12A.15. Severability.
- c. 12A.16. Meetings Public.

SEC. 12A.1. FINDINGS. The population of this City and County is composed of people of various racial, religious and ethnic groups. In this City and County the act of discrimination on the grounds of race, religion, color, ancestry, age, sex, sexual orientation, gender identity, disability or place of birth and the exploitation of prejudice related thereto adversely affects members of minority groups.

Such discriminatory practices are inimical to the public welfare and good order that they: (a) impede social and economic progress for the entire citizenry by preventing members of minority groups from achieving full development of their individual potentialities and from contributing fully to the cultural and business life of the community; (b) constantly frustrate, degrade and embitter members of minority groups, thereby diminishing their initiative and interests in the community; and (c) tend to create intergroup hostilities and antisocial behavior.

The products of discrimination accumulate continuously, with the result that the racial, economic and educational gaps between those suffering discrimination and the majority of the community constantly widen. As a result, mere prohibition of future and present discrimination, while essential, will not reduce the inequalities and disadvantages which a history of discrimination has produced. Accordingly, affirmative remedial action must be initiated, encouraged and coordinated.

Experiences of other urban centers throughout the nation have proved the need for and effectiveness of commissions empowered to study community race relations problems, to work with interested citizens to develop programs to ameliorate tensions and to reduce cultural, social and economic disadvantages and to encourage and coordinate implementation of such programs consistent with the needs and rights of members of both the majority and the minority.

A substantial number of the aforementioned evils in this City and County are beyond the regulation of applicable State law, and insofar as State law is applicable,

voluntary compliance therewith should be fostered by a local human relations commission. (Amended by Ord. 75-77, App. 3/4/77; Ord. 433-94, App. 12/30/94)

SEC. 12A.2. DECLARATION OF POLICY. It is hereby declared:

That the policy of the City and County of San Francisco is to act to give effect to the rights of every inhabitant of the City and County to equal economic, political and educational opportunity, to equal accommodations in all business establishments in the City and County and to equal service and protection by public agencies;

That an instrumentality should be established to give effect to such rights, to eliminate prejudice and discrimination because of race, religion, color, ancestry, age, sex, sexual orientation, gender identity, disability, or place of birth, to inform the inhabitants of the City and County of developments in human relations, to provide expert advice and assistance to the officers, agencies, boards, departments and employees of the City and County in undertaking ameliorative practices to keep peace and good order and to officially encourage private persons and groups to promote and provide equal opportunity for and good will toward all people. (Amended by Ord. 75-77, App. 3/4/77; Ord. 433-94, App. 12/30/94)

SEC. 12A.3. SCOPE OF ORDINANCE. This ordinance applies to all discriminatory practices and to resulting intergroup tensions specifically covered by the provisions of this ordinance that occur within the territorial limits of or within any agency under the jurisdiction of the City and County of San Francisco and to the extent permitted by law, to activities outside this City and County which reasonably affect such practices and tensions within said territorial limits. Nothing in this ordinance, however, shall be interpreted or applied so as to create any power or duty in conflict with the preemptive effect of any federal or State law.

(a) As used in this Chapter, the term:

"Age" refers to and shall include any person who has attained the age of 40 years and has not attained the age of 65 years.

"Sex" shall mean the character of being male or female.

"Sexual orientation" shall mean the choice of human adult sexual partner according to gender.

"Gender identity" shall mean a person's various individual attributes as they are understood to be masculine and/or feminine.

"Disability" is a physical or mental impairment which substantially limits one or more major life activities, is regarded as having such an impairment, or has a record of such an impairment.

"Qualified Disabled Employee" shall mean a person able to perform the essential functions of a job with reasonable accommodation. (Amended by Ord. 489-86, App. 12/18/86; Ord. 433-94, App. 12/30/94)

SEC. 12A.4. ESTABLISHMENT; APPOINTMENT; TERMS; EXECUTIVE SECRETARY. (a) There is hereby established a commission to be known as the Human Rights Commission of the City and County of San Francisco (hereinafter called "Commission"), consisting of 15 members broadly representative of the general public and the employer, labor, religious, racial, age, sex, sexual orientation, gender identity, disabled and ethnic groups in the City and County, to be appointed by the Mayor. Four of the members who are first appointed shall be designated to serve for

ms of one year, four for two years, four for three years and three for four years on the date of their appointments. Thereafter, members shall be appointed as provided for a term of office of four years, except that all of the vacancies occurring during a term shall be filled for the unexpired term. A member shall hold office until his or her successor has been appointed and has qualified. The Commission shall elect its chair from among its members. The term of office as chair of the Commission shall be for the calendar year or for that portion thereof remaining after each such chair is designated or elected. The compensation of members of said Commission shall be \$5 for each meeting of the Commission actually attended by said members; provided, however, that no member shall be paid for attending more than four Commission meetings in any one calendar month.

(b) The position of Executive Secretary to the Commission shall be established pursuant to and subject to Sections 3.500 and 8.200 of the Charter of the City and County of San Francisco. The person occupying such position shall be appointed by the chair of the Commission with the approval of a majority of the members of the Commission. The position of Executive Secretary to the Commission shall be exempted from the residency and electoral requirements of Section 16.98 of the San Francisco Administrative Code. All staff personnel shall be under the immediate direction and supervision of the Executive Secretary. (Amended by Ord. 503-83 App. 1/14/83; Ord. 271-89, App. 7/28/89; Ord. 433-94, App. 12/30/94)

SEC. 12A.5. POWERS AND DUTIES. In addition to the other powers and duties set forth in this ordinance, the Commission shall have the power and duty to:

(a) Study, investigate, mediate and hold public hearings on community-wide problems arising in this City and County which may result in intergroup tensions or discrimination because of race, religion, color, ancestry, age, sex, sexual orientation, gender identity, physical disability or place of birth. In the performance of its duties under this subsection, the Commission, as permitted by law, may require by subpoena ad testificandum setting forth the specific nature of its inquiry, the attendance and testimony under oath of any person directly involved in or concerned with discrimination within the scope of this ordinance whose presence and testimony is reasonably necessary to its inquiry; provided, however, that any such inquiry involving any agency, board, or officer of the City and County shall be governed by the provisions of Subsection (f) hereof. In case of the refusal of any person to attend or testify as required by a subpoena ad testificandum issued by the Commission, the Commission may proceed to petition for a court order pursuant to Section 1991 of the California Code of Civil Procedure.

(b) Prepare and disseminate educational and informational material relating to prejudice and discrimination and ways and means of eliminating such prejudice and discrimination.

(c) Furnish cooperation, information, guidance and technical assistance to other public agencies and private persons, organizations and institutions engaged in activities and programs intended to eliminate prejudice and discrimination.

(d) Consult with and maintain contact with other public agencies and with representatives of employers, labor unions, property owners associations, realtor associations, religious denominations and institutions, professional associations, cultural groups, community organizations concerned with interracial, interreligious and multicultural understanding, social welfare organizations and such other

private organizations and institutions as the Commission shall deem advisable to further the objectives of this ordinance.

(e) Cooperate with and make written recommendations to City and County agencies, boards and officers, as well as the agencies, boards or officers operating under State law within the City and County of San Francisco, towards the development and implementation of programs and practices for the purpose of furthering the objectives of this ordinance. The Commission and the affected agency, board or officer shall submit reports of progress in establishing and implementing such programs and practices as are from time to time requested by the Mayor through the chair of the Commission.

(f) Subject to the approval of the Mayor or the Chief Administrative Officer where appropriate, request of any City and County agency, board or office information, services, facilities and any other assistance for the purpose of furthering the objectives of this ordinance. All such requests shall be promptly complied with by the affected agency, board or officer.

(g) Investigate and, with the assent of the parties, mediate all incidents of discrimination within the scope of this ordinance to the extent such functions are not within the exclusive responsibilities of the California Fair Employment Practices Commission or any federal or other State agency, and make specific and detailed recommendations to the interested parties as to the method of eliminating such discrimination. The Commission shall also be authorized to investigate complaints of discrimination brought by citizens involving agencies, boards or officers operating under State law within the City and County of San Francisco, and, where appropriate, to make written recommendations to said agencies or to represent citizens before said agencies.

(h) Prepare, encourage and coordinate programs of voluntary affirmative action to reduce or eliminate existing inequalities and disadvantages in the City and County resulting from past discriminatory practices. (Amended by Ord. 599-82, App. 12/24/82; Ord. 433-94, App. 12/30/94)

SEC. 12A.6. ADVISORY COUNCIL; SPECIAL COMMITTEES. (a) There shall be established a council to be known as the Advisory Council on Human Rights (hereinafter called "Council"), representative of the following interests or groups: Employer, labor, racial, religious, ethnic, housing, appropriate governmental agencies, and such other as the Mayor shall deem advisable. The members of the Council shall be appointed by the Mayor to serve at his or her pleasure and shall not be subject to the residence requirements of the Charter. The Council shall advise the Commission and shall be authorized to mediate and conciliate, upon specific request by the Commission, and to perform such other functions as shall from time to time be deemed appropriate by the Commission.

Members of the council shall serve without compensation.

(b) The Commission may form such special committees within and without the Advisory Council as are necessary to assist the Commission in the solution of specific problems within the scope of its responsibilities. The members of such committees shall be appointed by the Mayor upon the recommendation of the Commission, and shall serve until released by the Mayor upon the recommendation of the Commission and shall be residents of the City and County of San Francisco.

Members of special committees shall serve without compensation.

(c) There shall be established a special committee of no fewer than three persons who are publicly identified with the lesbian/gay community or who have worked closely with such community. The members of the committee shall be appointed by the Commission and shall serve until released by the Commission. Members shall be residents of the City and County of San Francisco.

The committee shall address itself specifically to the identification and solution of problems associated with the lesbian/gay community, and shall file written reports thereon with the Commission.

Members of the committee shall serve without compensation and all meetings of the committee shall be public.

(d) The Board of Supervisors declares that individuals appointed to the Advisory Council on Human Rights and Special Committees created pursuant to this section, and other advisory committees created to advise the Commission, are intended to represent and further the interests of Minority Business Enterprises, Woman Business Enterprises and Local Business Enterprises, and that such representation and furtherance will ultimately serve the public interest. Accordingly, the Board of Supervisors finds that for the purposes of persons who hold such office, the owners, officers, and employees of Minority Business Enterprises, Women Business Enterprises, and Local Business Enterprises are tantamount to and constitute the public generally within the meaning of Section 87103 of the California Government Code. Amended by Ord. 540-82, App. 11/12/82; Ord. 180-91, App. 5/15/91)

SEC. 12A.7. COOPERATION WITH OTHER COMMUNITIES. The Commission shall consult with and maintain contact with the human relations officers and other appropriate officers of other communities in the Bay Area and shall cooperate in the development and implementation of intercommunity human relations programs to further the objectives of this ordinance. The Commission shall encourage the Association of Bay Area Governments to develop and implement similar programs. Added by Ord. 209-64, App. 7/24/64)

SEC. 12A.8. UNFAIR NEIGHBORHOOD PRACTICES. (a) It shall be an unfair practice for any person, firm, partnership, association or corporation engaged in the business of real estate development, purchase, sale and/or brokerage to commit intentionally any one or more of the following acts in the course of such business:

(1) Induce directly or indirectly or attempt to induce directly or indirectly the sale or listing for sale of real property by representing that a change has occurred or will or may occur with respect to the racial, religious or ethnic composition of the block, neighborhood or area in which said property is located;

(2) Induce directly or indirectly or attempt to induce directly or indirectly the sale or listing for sale of real property by representing that the residence or anticipated

residence of any particular race, religious or ethnic group in the area will or may result in: (i) the lowering of property values; (ii) a change in the racial, religious or ethnic composition of the block, neighborhood or area in which the property is located; (iii) an increase in criminal or antisocial behavior in the area; and (iv) a decline of the quality of the schools serving the area.

(3) Make any representation to any prospective purchaser that any block, neighborhood or area has undergone or will or might undergo a change with respect to the religious, racial or ethnic composition of the block, neighborhood or area for the purpose of discouraging the purchase of property in a particular area.

(b) Nothing in this ordinance shall be construed to discourage any person, firm, partnership, association or corporation from engaging in legitimate business practices related to the purchase from or sale to persons of any race, religion, color, ancestry, age, sex, sexual orientation, physical disability or place of birth, of real property in any neighborhood of this City and County, nor shall anything in this ordinance be construed as discouraging any person or family of whatever race, religion, color, ancestry, age, sex, sexual orientation, physical disability or place of birth from seeking real property in any neighborhood of this City and County. (Amended by Ord. 410-74, App. 8/28/74)

SEC. 12A.9. ADJUSTMENT AND SETTLEMENT OF COMPLAINTS.

(a) Upon the filing with the Commission of a verified written complaint by any person specifying in detail that an unfair practice, as defined in Section 12A.8 hereof, has occurred, the chair of the Commission, pursuant to regulations duly adopted by the Commission, shall designate one of the commissioners to make, with the assistance of the Commission's staff, a full and prompt investigation in connection therewith. If, upon such investigation, it is found that the person charged in the complaint has not engaged in or is not engaging in such unlawful practice, such finding, in writing, shall be filed with the Commission and the complaint shall be dismissed. If, upon such investigation, it is found that probable cause exists for the allegations made in the complaint, the chair of the Commission, pursuant to regulations duly adopted by the Commission, shall direct appropriate personnel to endeavor to eliminate the unfair practice charged in the complaint by means of conciliation and persuasion.

(b) In case of failure to eliminate the unfair practice by the means provided in Subsection (a) of this Section, the Commission shall review the matter and shall, by conciliation and mediation, endeavor to eliminate the unfair practice. The Commissioner who shall have previously made the investigation provided for in Subsection (a) of this Section shall not participate in any of the proceedings hereunder except as a witness and the aforesaid endeavors at conciliation shall not be received in evidence. In furtherance of such conciliation and mediation, the Commission may make specific recommendations to the parties involved, but such recommendations shall not constitute a decision, finding of fact, judgment or order of the Commission, or be binding upon or be admissible in any court in any subsequent proceeding brought under Subsection (f) of this Section.

In the performance of its duties under the provisions of this Subsection, the Commission may require, by subpoena setting forth the specific nature of its inquiry, the attendance of any person and/or the production of any papers, documents or records under his or her control which are relevant and reasonably necessary to its activities. In case of the refusal of any person to attend or testify or produce any

papers, documents or records required by a subpoena issued by the Commission, the Commission may proceed to petition for a court order pursuant to Section 1991 of the Code of Civil Procedure. All proceedings under this Subsection shall be public.

(c) All evidence and information given to or obtained by the Commission in any proceedings under the provisions of Subsection (a) of this Section shall be confidential, and except as provided in Subsection (a) of Section 12A.11 of this ordinance no such evidence or information shall be divulged or revealed to any person other than parties to the proceedings, members of the Commission and its staff, and the City Attorney, or used against any person at any time by any member or employee of the Commission. Violation of this Subsection shall constitute official misconduct and shall constitute cause for removal or discharge pursuant to Section 8.341 of the Charter of the City and County of San Francisco.

(d) The voluntary giving or furnishing of any information or evidence to the Commission in any proceedings under the provisions of this Section shall not constitute a waiver of any legal or constitutional privileges or defenses.

(e) If the party committing the unfair practice complies with the recommendations of the Commission, the matter shall be deemed settled and terminated and no other proceedings shall be had or taken.

(f) If the Commission is unable to eliminate the unfair practice, it may certify the matter to the City Attorney for appropriate legal action to eliminate such unfair practice. The Commission shall, at the time of certifying said matter, transmit to the City Attorney a copy of its findings and recommendations in such case. The City Attorney shall proceed in the name of the City and County no less than 20 and no more than 40 days after certification, to secure from an appropriate court an order enjoining the defendant from continuing or repeating such practice. If the Commission, prior to the commencement of the court proceedings, as a result of its effort of adjustment or otherwise, finds that the potential defendant is no longer engaging in the unfair practice described in its findings and has complied with the recommendations of the Commission, no such proceeding shall be instituted.

(g) In any court proceedings instituted by the City Attorney hereunder, the court shall hear and consider the matter as if it had never been before the Commission. There shall be no presumptions in favor of any prior action of the Commission, nor shall there be any presumption against a defendant arising out of said defendant's refusal to comply with any recommendation of the Commission. In such cases, the burden of proof shall be upon the City and County to establish by competent and substantial evidence that the defendant has violated this ordinance. (Added by Ord. 209-64, App. 7/24/64)

SEC. 12A.10. RULES AND REGULATIONS. The Commission shall issue such rules and regulations for the conduct of its business as are necessary to carry out the purpose of this ordinance. Those portions of such rules and regulations which govern public hearings by the Commission shall conform as nearly as practicable to pertinent sections of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2, of California Government Code. (Added by Ord. 209-64, App. 7/24/64)

SEC. 12A.11. REPORTS. The Commission shall render a written report of its activities to the Mayor and to the Board of Supervisors not less than once every three months. Such reports shall include:

(a) Case histories of conciliation settlements made under this ordinance, the disclosure of which, in the judgment of the Commission, will further the objectives of this ordinance, but such reports of case histories shall not include names or other facts which might clearly identify the parties involved, without the prior consent of the parties first obtained.

(b) Recommendations to the Mayor and the Board of Supervisors for the development of policies and procedures which will further the objectives of this ordinance.

(c) Recommendations to the Mayor and the Board of Supervisors for additional legislation deemed by the Commission to be necessary to carry out the purposes of this ordinance.

(d) Instances of discrimination by any agency, board or officer of this City and County which the Commission determines to have occurred subsequent to the issuance of its prior report.

(e) Recommendations of actions to be taken by any agency, board or officer of this City and County for the purposes of furthering the objectives of this ordinance. (Added by Ord. 209-64, App. 7/24/64)

SEC. 12A.12. DATA. The Commission shall maintain and, subject to the limitations of Section 12A.9 (c) of this ordinance, shall serve as the source of accurate and reliable data on practices, activities and other problems which are the subject of this ordinance. (Added by Ord. 209-64, App. 7/24/64)

SEC. 12A.13. INDIVIDUAL REMEDIES. Nothing in this ordinance or the provisions thereof shall be construed as granting to an aggrieved individual any right to pursue a civil action against any person, firm, partnership, association, corporation or any agency, board or officer of this City and County. (Added by Ord. 209-64, App. 7/24/64)

SEC. 12A.14. REPEAL. Any ordinance or part of any ordinance conflicting with the provisions of this ordinance hereby is repealed to the extent of such conflict. (Added by Ord. 209-64, App. 7/24/64)

SEC. 12A.15. SEVERABILITY. If any part or provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end the provisions of this ordinance are severable. (Added by Ord. 209-64, App. 7/24/64)

SEC. 12A.16. MEETINGS PUBLIC. All meetings of the Commission shall be public. (Added by Ord. 209-64, App. 7/24/64)

Seattle

function or basis of government and related institutions and activities, whether or not characteristic of any political party or group. This term includes membership in a political party or group and includes conduct, reasonably related to political ideology, which does not interfere with the property rights of the landowner as it applies to housing, or which does not cause substantial and material disruption of the property rights of the provider of a place of public accommodation.

V. "Prospective borrower" includes any person who seeks to borrow money to finance the acquisition, construction, repair, or maintenance of real property.

W. "Prospective occupant" includes any person who seeks to purchase, lease, sublease or rent real property.

X. "Real estate agent, salesperson or employee" includes any person employed by, associated with or acting for a real estate broker to perform or assist in the performance of any or all of the functions of a real estate broker.

Y. "Real estate broker" includes any person who for a fee, commission, or other valuable consideration, lists for sale, sells, purchases, exchanges, leases or subleases, rents, or negotiates or offers or attempts to negotiate the sale, purchase, exchange, lease, sublease or rental of real property of another, or holds themselves out as engaged in the business of selling, purchasing, exchanging, listing, leasing, subleasing, or renting real property of another, or collects the rental for use of real property of another.

Z. "Real property" includes housing accommodations, buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

AA. "Respondent" means any person who is alleged to have committed an unfair practice prohibited by this chapter.

BB. "Rooming unit" includes one (1) or more rooms within a dwelling unit or rooming house containing space for living and sleeping.

CC. "Section 8 rent certificate" means a document issued by a government agency declaring the holder thereof eligible to participate in the Section 8 program and stating the terms and conditions of such participation.

DD. "Section 8" means a federal, state or local

government program in which a tenant's rent is paid partially by the government program (through a direct contract between the government program and the owner or lessor of the real property), and partially by the tenant.

EE. "Sexual orientation" means actual or perceived male or female heterosexuality, bisexuality, homosexuality, transsexuality, or transvestism and includes a person's attitudes, preferences, beliefs and practices pertaining thereto.

(Ord. 114864 § 1, 1989; Ord. 113610 § 2, 1987; Ord. 113144 § 2, 1986; Ord. 112903 § 10, 1986; Ord. 108205 § 1, 1979; Ord. 104839 § 2, 1975.)

1. Ordinance 103387 is codified at Chapter 3.110 of this Code.

14.08.030 Unfair practices forbidden.

Unfair practices as defined in Sections 14.08.040 through 14.08.090 are contrary to the public peace, health, safety and general welfare and are prohibited by the City in the exercise of its police power.

(Ord. 113610 § 3, 1987; Ord. 109050 § 1(part), 1980; Ord. 108205 § 2(part), 1979; Ord. 104839 § 3(1), 1975.)

14.08.040 Unfair practices—Generally.

A. No owner, assignee, real estate broker, real estate agent, salesperson or employee, or other person having the right to sell, rent, lease, sublease, assign, transfer, or otherwise dispose of real property, shall discriminate by undertaking or refusing to sell, rent, lease, sublease, assign, transfer or otherwise deny to or withhold from any person or group of persons such real property, or segregate the use thereof, or represent that such real property is not available for inspection, when in fact it is so available, or expel or evict an occupant from real property because of the person's race, color, creed, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status, political ideology, possession or use of a Section 8 certificate, or the presence of any sensory, mental or physical handicap or the use of a trained guide or service dog by a handicapped person, or to discriminate against or segregate any person because of such person's race, color, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status, political ideology, possession or use of a Section 8 certificate, or the presence of any sensory, mental or physical

CHAPTER 139. IN GENERAL

139.10. Findings, declaration of policy and purpose. (a) Findings. The council finds that discrimination in employment, labor union membership, housing accommodations, property rights, education, public accommodations and public services based on race, color, creed, religion, ancestry, national origin, sex, including sexual harassment, affectional preference, disability, age, marital status, or status with regard to public assistance or familial status adversely affects the health, welfare, peace and safety of the community. Such discriminatory practices degrade individuals, foster intolerance and hate, and create and intensify unemployment, substandard housing, undereducation, ill health, lawlessness and poverty, thereby injuring the public welfare.

(b) Declaration of policy and purpose. It is the public policy of the City of Minneapolis and the purpose of this title:

- (1) To recognize and declare that the opportunity to obtain employment, labor union membership, housing accommodations, property rights, education, public accommodations and public services without discrimination based on race, color, creed, religion, ancestry, national origin, sex, including sexual harassment, affectional preference, disability, age, marital status, or status with regard to public assistance or familial status is a civil right;
- (2) To prevent and prohibit all discriminatory practices based on race, color, creed, religion, ancestry, national origin, sex, including sexual harassment, affectional preference, disability, age, marital status, or status with regard to public assistance with respect to employment, labor union membership, housing accommodations, property rights, education, public accommodations or public services;
- (3) To prevent and prohibit all discriminatory practices based on familial status with respect access to real estate and services related to real estate;
- (4) To protect all persons from unfounded charges of discriminatory practices;

- (5) To eliminate existence and the development of any ghettos in the community; and
- (6) To effectuate the foregoing policy by means of public information and education, mediation and conciliation, and enforcement. (Ord. of 12-30-75, § 1; 82-Or-114, § 1, 6-25-82; 93-Or-132, § 1, 8-27-93)

139.20. Definitions. (a) Affectional preference. "Affectional preference" means having or manifesting an emotional or physical attachment to another consenting person or persons, or having or manifesting a preference for such attachment, or having or projecting a self-image not associated with one's biological maleness or one's biological femaleness.

(b) Age. "Age" insofar as it refers to any act prohibited by section 139.40(a), (b), (c), or (d) shall be deemed to prohibit using a person's age as a basis for a decision if the person is over the age of majority.

(c) American Indian. For the purpose of meeting any goals required pursuant to section 139.50, "American Indian" shall mean any person who is an enrolled member of an Indian tribe, or who is a descendent in the first or second degree of any such member, or who is recognized as an Indian by the Secretary of the Interior.

(d) Commission. "Commission" means the Minneapolis Commission on Civil Rights.

(e) Complainant. "Complainant" means a person for or on whose behalf a complaint alleging unlawful discrimination has been filed or issued.

(f) Department. "Department" means the Minneapolis Department of Civil Rights.

(g) Director. "Director" means the director of the department of civil rights.

(h) Disability. "Disability" means any condition or characteristic that renders a person a disabled person. A disabled person is any person who:

- (1) Has a physical, sensory or mental impairment which materially limits one or more major life activities; or
- (2) Has a record of such an impairment; or

Minneapolis

MARC / Rm. 510

AN ACT

This bill was passed in conformity to the rules of each house and the joint rules of the two houses as required by the Constitution of the State of Minnesota.

Dee Long
Dee Long
Speaker of the House of Representatives.

Allan H. Spear
Allan H. Spear
President of the Senate.

Passed the House of Representatives on March 31, 1993.

Edward A. Burdick
Edward A. Burdick
Chief Clerk, House of Representatives.

Passed the Senate on April 1, 1993.

Patrick E. Flahaven
Patrick E. Flahaven
Secretary of the Senate.

This bill is properly enrolled and was presented to the Governor on April 2, 1993.

Harry M. Walsh
Harry M. Walsh
Revisor of Statutes.

Approved on April 2, 1993, at 10:27 A.M.

Arne H. Carlson
Arne H. Carlson
Governor.

Filed on April 2, 1993.

Joan Anderson Grove
Joan Anderson Grove
Secretary of State.

1
2 relating to human rights; prohibiting unfair
3 discriminatory practices on the basis of sexual
4 orientation; amending Minnesota Statutes 1992,
5 sections 363.01, subdivision 23, and by adding a
6 subdivision; 363.02, subdivisions 1, 2, 4, and by
7 adding a subdivision; 363.03, subdivisions 1, 2, 3, 4,
8 5, 7, 8, and 8a; 363.05, subdivision 1; 363.11;
9 363.115; and 363.12, subdivision 1; proposing coding
10 for new law in Minnesota Statutes, chapter 363.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

12 Section 1. Minnesota Statutes 1992, section 363.01,
13 subdivision 23, is amended to read:

14 Subd. 23. [LOCAL COMMISSION.] "Local commission" means an
15 agency of a city, county, or group of counties created pursuant
16 to law, resolution of a county board, city charter, or municipal
17 ordinance for the purpose of dealing with discrimination on the
18 basis of race, color, creed, religion, national origin, sex,
19 age, disability, marital status, status with regard to public
20 assistance, sexual orientation, or familial status.

21 Sec. 2. Minnesota Statutes 1992, section 363.01, is
22 amended by adding a subdivision to read:

23 Subd. 45. [SEXUAL ORIENTATION.] "Sexual orientation" means
24 having or being perceived as having an emotional, physical, or
25 sexual attachment to another person without regard to the sex of
26 that person or having or being perceived as having an
27 orientation for such attachment, or having or being perceived as
28 having a self-image or identity not traditionally associated

1 with one's biological maleness or femaleness. "Sexual
2 orientation" does not include a physical or sexual attachment to
3 children by an adult.

4 Sec. 3. Minnesota Statutes 1992, section 363.02,
5 subdivision 1, is amended to read:

6 Subdivision 1. [EMPLOYMENT.] The provisions of section
7 363.03, subdivision 1, shall not apply to:

8 (1) The employment of any individual
9 (a) by the individual's parent, grandparent, spouse, child,
10 or grandchild, or

11 (b) in the domestic service of any person;

12 (2) A religious or fraternal corporation, association, or
13 society, with respect to qualifications based on religion or
14 sexual orientation, when religion or sexual orientation shall be
15 a bona fide occupational qualification for employment;

16 (3) A nonpublic service organization whose primary function
17 is providing occasional services to minors, such as youth sports
18 organizations, scouting organizations, boys' or girls' clubs,
19 programs providing friends, counselors, or role models for
20 minors, youth theater, dance, music or artistic organizations,
21 agricultural organizations for minors, and other youth
22 organizations, with respect to qualifications of employees or
23 volunteers based on sexual orientation;

24 (4) The employment of one person in place of another,
25 standing by itself, shall not be evidence of an unfair
26 discriminatory practice;

27 (5) The operation of a bona fide seniority system which
28 mandates differences in such things as wages, hiring priorities,
29 layoff priorities, vacation credit, and job assignments based on
30 seniority, so long as the operation of the system is not a
31 subterfuge to evade the provisions of this chapter;

32 (6) With respect to age discrimination, a practice by
33 which a labor organization or employer offers or supplies
34 varying insurance benefits or other fringe benefits to members
35 or employees of differing ages, so long as the cost to the labor
36 organization or employer for the benefits is reasonably

1 (4) In public services because of race, color, creed,
2 religion, national origin, sex, marital status, disability,
3 sexual orientation, and status in with regard to public
4 assistance; and

5 (5) In education because of race, color, creed, religion,
6 national origin, sex, marital status, disability, status with
7 regard to public assistance, sexual orientation, and age. Such
8 discrimination threatens the rights and privileges of the
9 inhabitants of this state and menaces the institutions and
10 foundations of democracy. It is also the public policy of this
11 state to protect all persons from wholly unfounded charges of
12 discrimination. Nothing in this chapter shall be interpreted as
13 restricting the implementation of positive action programs to
14 combat discrimination.

15 Sec. 20. [363.20] [CRIMINAL CODE; EFFECT.]

16 Nothing in this chapter alters the provisions of chapter
17 609 or other law relating to criminal penalties.

1 The provisions of this chapter shall be construed liberally
 2 for the accomplishment of the purposes thereof. Nothing
 3 contained in this chapter shall be deemed to repeal any of the
 4 provisions of the civil rights law or of any other law of this
 5 state relating to discrimination because of race, creed, color,
 6 religion, sex, age, disability, marital status, status with
 7 regard to public assistance or, national origin, sexual
 8 orientation, or familial status; but, as to acts declared unfair
 9 by section 363.03, the procedure herein provided shall, while
 10 pending, be exclusive.

11 Sec. 18. Minnesota Statutes 1992, section 363.115, is
 12 amended to read:

13 363.115 (REFERRAL TO LOCAL COMMISSION.)
 14 The commissioner, whether or not a charge has been filed
 15 under this chapter, may refer a matter involving discrimination
 16 because of race, color, religion, sex, creed, disability,
 17 marital status, status with regard to public assistance,
 18 national origin, age, sexual orientation, or familial status to
 19 a local commission for study and report.

20 Upon referral by the commissioner, the local commission
 21 shall make a report and make recommendations to the commissioner
 22 and take other appropriate action within the scope of its powers.

23 Sec. 19. Minnesota Statutes 1992, section 363.12,
 24 subdivision 1, is amended to read:

25 Subdivision 1. It is the public policy of this state to
 26 secure for persons in this state, freedom from discrimination;

27 (1) In employment because of race, color, creed, religion,
 28 national origin, sex, marital status, disability, status ~~in~~ with
 29 regard to public assistance, sexual orientation, and age;

30 (2) In housing and real property because of race, color,
 31 creed, religion, national origin, sex, marital status,
 32 disability, status with regard to public assistance, sexual
 33 orientation, and familial status;

34 (3) In public accommodations because of race, color, creed,
 35 religion, national origin, sex, sexual orientation, and
 36 disability;

1 equivalent for all members or employees;
 2 (6) (7) A restriction imposed by state statute, home rule
 3 charter, ordinance, or civil service rule, and applied uniformly
 4 and without exception to all individuals, which establishes a
 5 maximum age for entry into employment as a peace officer or
 6 firefighter.

7 (7) (8) Nothing in this chapter concerning age
 8 discrimination shall be construed to validate or permit age
 9 requirements which have a disproportionate impact on persons of
 10 any class otherwise protected by section 363.03, subdivision 1
 11 or 5.

12 (8) (9) It is not an unfair employment practice for an
 13 employer, employment agency, or labor organization:

14 (1) to require or request a person to undergo physical
 15 examination, which may include a medical history, for the
 16 purpose of determining the person's capability to perform
 17 available employment, provided

18 (a) that an offer of employment has been made on condition
 19 that the person meets the physical or mental requirements of the
 20 job, except that a law enforcement agency filling a peace
 21 officer position or part-time peace officer position may require
 22 or request an applicant to undergo psychological evaluation
 23 before a job offer is made provided that the psychological
 24 evaluation is for those job-related abilities set forth by the
 25 board of peace officer standards and training for psychological
 26 evaluations and is otherwise lawful;

27 (b) that the examination tests only for essential
 28 job-related abilities;

29 (c) that the examination except for examinations authorized
 30 under chapter 176 is required of all persons conditionally
 31 offered employment for the same position regardless of
 32 disability; and

33 (d) that the information obtained regarding the medical
 34 condition or history of the applicant is collected and
 35 maintained on separate forms and in separate medical files and
 36 is treated as a confidential medical record, except that

1 supervisors and managers may be informed regarding necessary
2 restrictions on the work or duties of the employee and necessary
3 accommodations; first aid safety personnel may be informed, when
4 appropriate, if the disability might require emergency
5 treatment; government officials investigating compliance with
6 this chapter must be provided relevant information on request;
7 and information may be released for purposes mandated by local,
8 state, or federal law; provided that the results of the
9 examination are used only in accordance with this chapter; or
10 (ii) with the consent of the employee, after employment has
11 commenced, to obtain additional medical information for the
12 purposes of assessing continuing ability to perform the job or
13 employee health insurance eligibility; for purposes mandated by
14 local, state, or federal law; for purposes of assessing the need
15 to reasonably accommodate an employee or obtaining information
16 to determine eligibility for the second injury fund under
17 chapter 176; or pursuant to sections 181.950 to 181.957; or
18 other legitimate business reason not otherwise prohibited by
19 law;
20 (iii) to administer preemployment tests, provided that the
21 tests (a) measure only essential job-related abilities, (b) are
22 required of all applicants for the same position regardless of
23 disability except for tests authorized under chapter 176, and
24 (c) accurately measure the applicant's aptitude, achievement
25 level, or whatever factors they purport to measure rather than
26 reflecting the applicant's impaired sensory, manual, or speaking
27 skills except when those skills are the factors that the tests
28 purport to measure; or
29 (iv) to limit receipt of benefits payable under a fringe
30 benefit plan for disabilities to that period of time which a
31 licensed physician reasonably determines a person is unable to
32 work; or
33 (v) to provide special safety considerations for pregnant
34 women involved in tasks which are potentially hazardous to the
35 health of the unborn child, as determined by medical criteria.
36 Information obtained under this section, regarding the

1 commissioner to the governor each year and to the legislature by
2 November 15 of each even-numbered year;
3 (13) accept gifts, bequests, grants or other payments
4 public and private to help finance the activities of the
5 department;
6 (14) create such local and statewide advisory committees as
7 will in the commissioner's judgment aid in effectuating the
8 purposes of the department of human rights;
9 (15) develop such programs as will aid in determining the
10 compliance throughout the state with the provisions of this
11 chapter, and in the furtherance of such duties, conduct research
12 and study discriminatory practices based upon race, color,
13 creed, religion, national origin, sex, age, disability, marital
14 status, status with regard to public assistance, familial
15 status, sexual orientation, or other factors and develop
16 accurate data on the nature and extent of discrimination and
17 other matters as they may affect housing, employment, public
18 accommodations, schools, and other areas of public life;
19 (16) develop and disseminate technical assistance to
20 persons subject to the provisions of this chapter, and to
21 agencies and officers of governmental and private agencies;
22 (17) provide staff services to such advisory committees as
23 may be created in aid of the functions of the department of
24 human rights;
25 (18) make grants in aid to the extent that appropriations
26 are made available for that purpose in aid of carrying out
27 duties and responsibilities; and
28 (19) cooperate and consult with the commissioner of labor
29 and industry regarding the investigation of violations of, and
30 resolution of complaints regarding section 363.03, subdivision 9.
31 In performing these duties, the commissioner shall give
32 priority to those duties in clauses (8), (9), and (10) and to
33 the duties in section 363.073.
34 Sec. 17. Minnesota Statutes 1992, section 363.11, is
35 amended to read:
36 363.11 [CONSTRUCTION.]

1 shall formulate policies to effectuate the purposes of this
2 chapter and shall:

3 (1) exercise leadership under the direction of the governor
4 in the development of human rights policies and programs, and
5 make recommendations to the governor and the legislature for
6 their consideration and implementation;

7 (2) establish and maintain a principal office in St. Paul,
8 and any other necessary branch offices at any location within
9 the state;

10 (3) meet and function at any place within the state;

11 (4) employ attorneys, clerks, and other employees and
12 agents as the commissioner may deem necessary and prescribe
13 their duties;

14 (5) to the extent permitted by federal law and regulation,
15 utilize the records of the department of jobs and training of
16 the state when necessary to effectuate the purposes of this
17 chapter;

18 (6) obtain upon request and utilize the services of all
19 state governmental departments and agencies;

20 (7) adopt suitable rules for effectuating the purposes of
21 this chapter;

22 (8) issue complaints, receive and investigate charges
23 alleging unfair discriminatory practices, and determine whether
24 or not probable cause exists for hearing;

25 (9) subpoena witnesses, administer oaths, take testimony,
26 and require the production for examination of any books or
27 papers relative to any matter under investigation or in
28 question;

29 (10) attempt, by means of education, conference,
30 conciliation, and persuasion to eliminate unfair discriminatory
31 practices as being contrary to the public policy of the state;

32 (11) develop and conduct programs of formal and informal
33 education designed to eliminate discrimination and intergroup
34 conflict by use of educational techniques and programs the
35 commissioner deems necessary;

36 (12) make a written report of the activities of the

1 medical condition or history of any employee, is subject to the
2 requirements of subclause (i), item (d).

3 Sec. 4. Minnesota Statutes 1992, section 363.02,
4 subdivision 2, is amended to read:

5 Subd. 2. [HOUSING.] (1) The provisions of section 363.03,
6 subdivision 2, shall not apply to:

7 (a) rooms in a temporary or permanent residence home run by
8 a nonprofit organization, if the discrimination is by sex; or

9 (b) the rental by a resident owner or occupier of a
10 one-family accommodation of a room or rooms in the accommodation
11 to another person or persons if the discrimination is by sex,
12 marital status, status with regard to public assistance, sexual
13 orientation, or disability. Except as provided elsewhere in
14 this chapter or other state or federal law, no person or group
15 of persons selling, renting, or leasing property is required to
16 modify the property in any way, or exercise a higher degree of
17 care for a person having a disability than for a person who does
18 not have a disability; nor shall this chapter be construed to
19 relieve any person or persons of any obligations generally
20 imposed on all persons regardless of any disability in a written
21 lease, rental agreement, or contract of purchase or sale, or to
22 forbid distinctions based on the inability to fulfill the terms
23 and conditions, including financial obligations of the lease,
24 agreement, or contract, or

25 (c) the rental by a resident owner of a unit in a dwelling
26 containing not more than two units, if the discrimination is on
27 the basis of sexual orientation.

28 (2) The provisions of section 363.03, subdivision 2,
29 prohibiting discrimination because of familial status shall not
30 be construed to defeat the applicability of any local, state, or
31 federal restrictions regarding the maximum number of occupants
32 permitted to occupy a dwelling unit and shall not apply to:

33 (a) any owner occupied building containing four or fewer
34 dwelling units; or

35 (b) housing for elderly persons. "Housing for elderly
36 persons" means housing:

1 (i) provided under any state or federal program that the
2 commissioner determines is specifically designed and operated to
3 assist elderly persons, as defined in the state or federal
4 program;

5 (ii) intended for, and solely occupied by, persons 62 years
6 of age or older; or

7 (iii) intended and operated for occupancy by at least one
8 person 55 years of age or older per unit, provided that:

9 (A) there are significant facilities and services
10 specifically designed to meet the physical or social needs of
11 older persons, or if the provision of these facilities and
12 services is not practicable, that the housing is necessary to
13 provide important housing opportunities for older persons;

14 (B) at least 80 percent of the units are occupied by at
15 least one person 55 years of age or older per unit; and

16 (C) there is publication of, and adherence to, policies and
17 procedures that demonstrate an intent by the owner or manager to
18 provide housing for persons 55 years of age or older.

19 Housing does not fail to meet the requirements for housing
20 for elderly persons by reason of persons residing in the housing
21 as of August 1, 1989, who do not meet the age requirements of
22 clauses (b)(ii) and (b)(iii) if new occupants of the housing
23 meet the age requirements of clause (b)(ii) or (b)(iii). In
24 addition, housing does not fail to meet the requirements by
25 reason of unoccupied units if unoccupied units are reserved for
26 occupancy by persons who meet the age requirements of clause
27 (b)(ii) or (b)(iii).

28 Sec. 5. Minnesota Statutes 1992, section 363.02,
29 subdivision 4, is amended to read:

30 Subd. 4. [PUBLIC ACCOMMODATIONS.] The provisions of
31 section 363.03, subdivision 3, relating to sex, shall not apply
32 to such facilities as restrooms, locker rooms, and other similar
33 places. The provisions of section 363.03, subdivision 3, do not
34 apply to employees or volunteers of a nonpublic service
35 organization whose primary function is providing occasional
36 services to minors, such as youth sports organizations, scouting

1 subdivision 8, is amended to read:

2 Subd. 8. [CREDIT; DISCRIMINATION.] It is an unfair
3 discriminatory practice:

4 (1) to discriminate in the extension of personal or
5 commercial credit to a person, or in the requirements for
6 obtaining credit, because of race, color, creed, religion,
7 disability, national origin, sex, sexual orientation, or marital
8 status; or

9 (2) for a credit card issuer to refuse to issue a credit
10 card to a woman under her current or former surname unless there
11 is an intent to defraud or mislead, except that a credit card
12 issuer may require that a woman requesting a card under a former
13 surname open a separate account in that name. A credit card
14 issuer may also require disclosure of any other names under
15 which the credit card applicant may have a credit history.

16 Sec. 15. Minnesota Statutes 1992, section 363.03,
17 subdivision 8a, is amended to read:

18 Subd. 8a. [BUSINESS DISCRIMINATION.] It is an unfair
19 discriminatory practice for a person engaged in a trade or
20 business or in the provision of a service:

21 (a) to refuse to do business with or provide a service to a
22 woman based on her use of her current or former surname; or

23 (b) to impose, as a condition of doing business with or
24 providing a service to a woman, that a woman use her current
25 surname rather than a former surname; or

26 (c) intentionally to refuse to do business with, to refuse
27 to contract with, or to discriminate in the basic terms,
28 conditions, or performance of the contract because of a person's
29 race, color, sex, sexual orientation, or disability, unless the
30 alleged refusal or discrimination is because of a legitimate
31 business purpose.

32 Nothing in this subdivision shall prohibit positive action
33 plans.

34 Sec. 16. Minnesota Statutes 1992, section 363.05,
35 subdivision 1, is amended to read:

36 Subdivision 1. [FORMULATION OF POLICIES.] The commissioner

1 origin, sex, age, marital status, status with regard to public
2 assistance, sexual orientation, or disability.

3 (3) To make or use a written or oral inquiry, or form of
4 application for admission that elicits or attempts to elicit
5 information, or to make or keep a record, concerning the race,
6 color, creed, religion, national origin, sex, age, marital
7 status, sexual orientation, or disability of a person seeking
8 admission, except as permitted by rules of the department.

9 Sec. 13. Minnesota Statutes 1992, section 363.03,
10 subdivision 7, is amended to read:

11 Subd. 7. [REPRISALS.] It is an unfair discriminatory
12 practice for any employer, labor organization, employment
13 agency, public accommodation, public service, educational
14 institution, or owner, lessor, lessee, sublessee, assignee or
15 managing agent of any real property, or any real estate broker,
16 real estate salesperson, or employee or agent thereof to
17 intentionally engage in any reprisal against any person because
18 that person:

19 (1) Opposed a practice forbidden under this chapter or has
20 filed a charge, testified, assisted, or participated in any
21 manner in an investigation, proceeding, or hearing under this
22 chapter; or

23 (2) Associated with a person or group of persons who are
24 disabled or who are of different race, color, creed,
25 religion, sexual orientation, or national origin.

26 A reprisal includes, but is not limited to, any form of
27 intimidation, retaliation, or harassment. It is a reprisal for
28 an employer to do any of the following with respect to an
29 individual because that individual has engaged in the activities
30 listed in clause (1) or (2): refuse to hire the individual;
31 depart from any customary employment practice; transfer or
32 assign the individual to a lesser position in terms of wages,
33 hours, job classification, job security, or other employment
34 status; or inform another employer that the individual has
35 engaged in the activities listed in clause (1) or (2).

36 Sec. 14. Minnesota Statutes 1992, section 363.03,

1 organizations, boys' or girls' clubs, programs providing
2 friends, counselors, or role models for minors, youth theater,
3 dance, music or artistic organizations, agricultural
4 organizations for minors, and other youth organizations, with
5 respect to qualifications based on sexual orientation.

6 Sec. 6. Minnesota Statutes 1992, section 363.02, is
7 amended by adding a subdivision to read:

8 Subd. 8. [RELIGIOUS ASSOCIATION.] Nothing in this chapter
9 prohibits any religious association, religious corporation, or
10 religious society that is not organized for private profit, or
11 any institution organized for educational purposes that is
12 operated, supervised, or controlled by a religious association,
13 religious corporation, or religious society that is not
14 organized for private profit, from:

15 (1) limiting admission to or giving preference to persons
16 of the same religion or denomination; or
17 (2) in matters relating to sexual orientation, taking any
18 action with respect to education, employment, housing and real
19 property, or use of facilities. This clause shall not apply to
20 secular business activities engaged in by the religious
21 association, religious corporation, or religious society, the
22 conduct of which is unrelated to the religious and educational
23 purposes for which it is organized.

24 Sec. 7. [363.021] [CONSTRUCTION OF LAW.]

25 Nothing in this chapter shall be construed to:

26 (1) mean the state of Minnesota condones homosexuality or
27 bisexuality or any equivalent lifestyle;

28 (2) authorize or permit the promotion of homosexuality or
29 bisexuality in education institutions or require the teaching in
30 education institutions of homosexuality or bisexuality as an
31 acceptable lifestyle;

32 (3) authorize or permit the use of numerical goals or
33 quotas, or other types of affirmative action programs, with
34 respect to homosexuality or bisexuality in the administration or
35 enforcement of the provisions of this chapter; or

36 (4) authorize the recognition of or the right of marriage

1 between persons of the same sex.

2 Sec. 8. Minnesota Statutes 1992, section 363.03,

3 subdivision 1, is amended to read:

4 Subdivision 1. [EMPLOYMENT.] Except when based on a bona
5 fide occupational qualification, it is an unfair employment
6 practice:

7 (1) For a labor organization, because of race, color,
8 creed, religion, national origin, sex, marital status, status
9 with regard to public assistance, disability, sexual
10 orientation, or age,

11 (a) to deny full and equal membership rights to a person
12 seeking membership or to a member;

13 (b) to expel a member from membership;

14 (c) to discriminate against a person seeking membership or
15 a member with respect to hiring, apprenticeship, tenure,
16 compensation, terms, upgrading, conditions, facilities, or
17 privileges of employment; or

18 (d) to fail to classify properly, or refer for employment
19 or otherwise to discriminate against a person or member.

20 (2) For an employer, because of race, color, creed,
21 religion, national origin, sex, marital status, status with
22 regard to public assistance, membership or activity in a local
23 commission, disability, sexual orientation, or age,

24 (a) to refuse to hire or to maintain a system of employment
25 which unreasonably excludes a person seeking employment; or

26 (b) to discharge an employee; or

27 (c) to discriminate against a person with respect to
28 hiring, tenure, compensation, terms, upgrading, conditions,
29 facilities, or privileges of employment.

30 (3) For an employment agency, because of race, color,
31 creed, religion, national origin, sex, marital status, status
32 with regard to public assistance, disability, sexual
33 orientation, or age,

34 (a) to refuse or fail to accept, register, classify
35 properly, or refer for employment or otherwise to discriminate
36 against a person; or

1 to and usable by individuals with disabilities, including
2 individuals who use wheelchairs.

3 If a public entity can demonstrate that the provision of
4 paratransit and other transportation services otherwise required
5 under this subdivision would impose an undue financial burden on
6 the public entity, the public entity is only required to provide
7 services to the extent that providing those services would not
8 impose such a burden.

9 Nothing in this subdivision may be construed to prevent a
10 public entity from providing paratransit services or other
11 special transportation services at a level greater than that
12 required by this subdivision, providing additional paratransit
13 services to those required under this subdivision or extending
14 those services to additional individuals not covered under this
15 subdivision.

16 Sec. 12. Minnesota Statutes 1992, section 363.03,
17 subdivision 5, is amended to read:

18 Subd. 5. [EDUCATIONAL INSTITUTION.] It is an unfair
19 discriminatory practice:

20 (1) To discriminate in any manner in the full utilization
21 of or benefit from any educational institution, or the services
22 rendered thereby to any person because of race, color, creed,
23 religion, national origin, sex, age, marital status, status with
24 regard to public assistance, sexual orientation, or disability,
25 or to fail to ensure physical and program access for disabled
26 persons. For purposes of this paragraph, program access
27 includes but is not limited to providing taped texts,
28 interpreters or other methods of making orally delivered
29 materials available, readers in libraries, adapted classroom
30 equipment, and similar auxiliary aids or services. Program
31 access does not include providing attendants, individually
32 prescribed devices, readers for personal use or study, or other
33 devices or services of a personal nature.

34 (2) To exclude, expel, or otherwise discriminate against a
35 person seeking admission as a student, or a person enrolled as a
36 student because of race, color, creed, religion, national

1 system to purchase or lease new, used, or remanufactured
 2 vehicles that are not readily accessible to and usable by
 3 individuals with disabilities, including individuals who use
 4 wheelchairs, unless the system, when viewed in its entirety,
 5 provides a level of service to such individuals equivalent to
 6 the level of service provided to individuals without
 7 disabilities who use the fixed route system or demand responsive
 8 system, or for a light or rapid rail public transportation
 9 system offering intercity or commuter rail services to purchase
 0 or lease new, used, or remanufactured railroad cars, including
 1 single- and bi-level dining cars, sleeping cars, coach cars,
 2 lounge cars, restroom cars, and food service cars, unless all
 3 the cars, to the maximum extent feasible, are readily accessible
 4 to and usable by individuals with disabilities, including
 5 individuals who use wheelchairs.

6 With respect to the remanufacture of a vehicle or railroad
 7 car which is to be used on a segment of a light or rapid rail
 8 system which is included on the state or national register of
 9 historic places, if making the vehicle readily accessible to and
 0 usable by individuals with disabilities would significantly
 1 alter the historic character of the vehicle, the public entity
 2 that operates the system only has to make, or purchase or lease
 3 a remanufactured vehicle with, those modifications that do not
 4 significantly alter the historic character of the vehicle.

5 (5) To construct a new facility or station to be used in
 6 the provision of public transportation services, including
 7 intercity and commuter light and rapid rail transportation,
 8 unless the facility or station is readily accessible to and
 9 usable by individuals with disabilities, including individuals
 0 who use wheelchairs, or for a facility or station currently used
 1 for the provision of public transportation services covered by
 2 this clause, to fail to make alterations necessary in order, to
 3 the maximum extent feasible, to make the altered portions of the
 4 facilities or stations, including restrooms, passenger platforms
 5 and waiting or ticketing areas, publicly owned concessions
 6 areas, and drinking fountains and public telephones, accessible

1 (b) to comply with a request from an employer for referral
 2 of applicants for employment if the request indicates directly
 3 or indirectly that the employer fails to comply with the
 4 provisions of this chapter.

5 (4) For an employer, employment agency, or labor
 6 organization, before a person is employed by an employer or
 7 admitted to membership in a labor organization, to

8 (a) require or request the person to furnish information
 9 that pertains to race, color, creed, religion, national origin,
 10 sex, marital status, status with regard to public assistance,
 11 disability, sexual orientation, or age; or, subject to section
 12 363.02, subdivision 1, to require or request a person to undergo
 13 physical examination; unless for the sole and exclusive purpose
 14 of national security, information pertaining to national origin
 15 is required by the United States, this state or a political
 16 subdivision or agency of the United States or this state, or for
 17 the sole and exclusive purpose of compliance with the public
 18 contracts act or any rule, regulation, or laws of the United
 19 States or of this state requiring the information or
 20 examination. A law enforcement agency may, after notifying an
 21 applicant for a peace officer or part-time peace officer
 22 position that the law enforcement agency is commencing the
 23 background investigation on the applicant, request the
 24 applicant's date of birth, gender, and race on a separate form
 25 for the sole and exclusive purpose of conducting a criminal
 26 history check, a driver's license check, and fingerprint
 27 criminal history inquiry. The form shall include a statement
 28 indicating why the data is being collected and what its limited
 29 use will be. No document which has date of birth, gender, or
 30 race information will be included in the information given to or
 31 available to any person who is involved in selecting the person
 32 or persons employed other than the background investigator. No
 33 person may act both as background investigator and be involved
 34 in the selection of an employee except that the background
 35 investigator's report about background may be used in that
 36 selection as long as no direct or indirect references are made

1 to the applicant's race, age, or gender; or
2 (b) seek and obtain for purposes of making a job decision,
3 information from any source that pertains to the person's race,
4 color, creed, religion, national origin, sex, marital status,
5 status with regard to public assistance, disability, sexual
6 orientation, or age, unless for the sole and exclusive purpose
7 of compliance with the public contracts act or any rule,
8 regulation, or laws of the United States or of this state
9 requiring the information; or

10 (c) cause to be printed or published a notice or
11 advertisement that relates to employment or membership and
12 discloses a preference, limitation, specification, or
13 discrimination based on race, color, creed, religion, national
14 origin, sex, marital status, status with regard to public
15 assistance, disability, sexual orientation, or age.

16 Any individual who is required to provide information that
17 is prohibited by this subdivision is an aggrieved party under
18 section 163.06.

19 (5) For an employer, an employment agency, or a labor
20 organization, with respect to all employment related purposes,
21 including receipt of benefits under fringe benefit programs, not
22 to treat women affected by pregnancy, childbirth, or
23 disabilities related to pregnancy or childbirth, the same as
24 other persons who are not so affected but who are similar in
25 their ability or inability to work, including a duty to make
26 reasonable accommodations as provided by paragraph (6).

27 (6) For an employer with a number of part-time or full-time
28 employees for each working day in each of 20 or more calendar
29 weeks in the current or preceding calendar year equal to or
30 greater than 25 effective July 1, 1992, and equal to or greater
31 than 15 effective July 1, 1994, an employment agency, or a labor
32 organization, not to make reasonable accommodation to the known
33 disability of a qualified disabled person or job applicant
34 unless the employer, agency, or organization can demonstrate
35 that the accommodation would impose an undue hardship on the
36 business, agency, or organization. "Reasonable accommodation"

1 disabled persons in a geographic area for which it provides
2 service to nondisabled persons if doing so will exclude a
3 sizable portion of the disabled ridership;
4 (b) during similar hours of operation;
5 (c) for comparable fares;
6 (d) with similar or no restrictions as to trip purpose; and
7 (e) with reasonable response time.

8 Public transit services must meet these five criteria for
9 the provision of transit services within three years of June 7,
10 1983.

11 (3) For a public entity that operates a fixed route system
12 to:

13 (a) purchase or lease a new bus or vehicle for use on the
14 system if the bus or vehicle is not readily accessible to and
15 usable by individuals with disabilities, including individuals
16 who use wheelchairs;

17 (b) purchase or lease a used bus or vehicle for use on its
18 system unless the entity makes a demonstrated good faith effort
19 to purchase or lease a used bus or vehicle for use on the system
20 that is accessible to and usable by individuals with
21 disabilities, including individuals who use wheelchairs; or

22 (c) purchase or lease remanufactured buses or vehicles, or
23 to remanufacture buses or vehicles for use on its system, if the
24 bus or vehicle has been remanufactured to extend its usable life
25 by five years or more, unless after the remanufacture, the bus
26 or vehicle is, to the maximum extent feasible, readily
27 accessible to and usable by persons with disabilities, including
28 individuals who use wheelchairs. If a public entity operates a
29 fixed route system, any segment of which is included on the
30 national or state register of historic places, and if making a
31 vehicle of historic character to be used solely on that segment
32 readily accessible to and usable by individuals with
33 disabilities would significantly alter the historic character of
34 the vehicle, the entity shall make whatever modifications are
35 possible while retaining the historic character of the vehicle.

36 (4) For a public entity operating a demand responsive

1 subdivision 4, is amended to read:

2 Subd. 4. [PUBLIC SERVICES.] It is an unfair discriminatory
3 practice:

4 (1) To discriminate against any person in the access to,
5 admission to, full utilization of or benefit from any public
6 service because of race, color, creed, religion, national
7 origin, disability, sex, sexual orientation, or status with
8 regard to public assistance or to fail to ensure physical and
9 program access for disabled persons unless the public service
10 can demonstrate that providing the access would impose an undue
11 hardship on its operation. In determining whether providing
12 physical and program access would impose an undue hardship,
13 factors to be considered include:

- 14 (a) the type and purpose of the public service's operation;
- 15 (b) the nature and cost of the needed accommodation;
- 16 (c) documented good faith efforts to explore less
17 restrictive or less expensive alternatives; and
- 18 (d) the extent of consultation with knowledgeable disabled
19 persons and organizations.

20 Physical and program access must be accomplished within six
21 months of June 7, 1983, except for needed architectural
22 modifications, which must be made within two years of June 7,
23 1983.

24 (2) For public transit services to discriminate in the
25 access to, full utilization of, or benefit from service because
26 of a person's disability. Public transit services may use any
27 of a variety of methods to provide transportation for disabled
28 people, provided that persons who are disabled are offered
29 transportation that, in relation to the transportation offered
30 nondisabled persons, is:

- 31 (a) in a similar geographic area of operation. To the
32 extent that the transportation provided disabled people is not
33 provided in the same geographic area of operation as that
34 provided nondisabled people, priority must be given to those
35 areas which contain the largest percent of disabled riders. A
36 public transit service may not fail to provide transportation to

1 means steps which must be taken to accommodate the known
2 physical or mental limitations of a qualified disabled person.
3 "Reasonable accommodation" may include but is not limited to,
4 nor does it necessarily require: (a) making facilities readily
5 accessible to and usable by disabled persons; and (b) job
6 restructuring, modified work schedules, reassignment to a vacant
7 position, acquisition or modification of equipment or devices,
8 and the provision of aides on a temporary or periodic basis.

9 In determining whether an accommodation would impose an
10 undue hardship on the operation of a business or organization,
11 factors to be considered include:

- 12 (a) the overall size of the business or organization with
13 respect to number of employees or members and the number and
14 type of facilities;
- 15 (b) the type of the operation, including the composition
16 and structure of the work force, and the number of employees at
17 the location where the employment would occur;
- 18 (c) the nature and cost of the needed accommodation;
- 19 (d) the reasonable ability to finance the accommodation at
20 each site of business; and

21 (e) documented good faith efforts to explore less
22 restrictive or less expensive alternatives, including
23 consultation with the disabled person or with knowledgeable
24 disabled persons or organizations.

25 A prospective employer need not pay for an accommodation
26 for a job applicant if it is available from an alternative
27 source without cost to the employer or applicant.

28 Sec. 9. Minnesota Statutes 1992, section 353.03,
29 subdivision 2, is amended to read:

30 Subd. 2. [REAL PROPERTY.] It is an unfair discriminatory
31 practice:

32 (1) For an owner, lessee, sublessee, assignee, or managing
33 agent of, or other person having the right to sell, rent, or
34 lease any real property, or any agent of any of these:

- 35 (a) to refuse to sell, rent, or lease or otherwise deny to
36 or withhold from any person or group of persons any real

1 property, race, color, creed, religion, national
2 origin, sex, marital status, status with regard to public
3 assistance, disability, sexual orientation, or familial status;
4 or

5 (b) to discriminate against any person or group of persons
6 because of race, color, creed, religion, national origin, sex,
7 marital status, status with regard to public assistance,
8 disability, sexual orientation, or familial status in the terms,
9 conditions or privileges of the sale, rental or lease of any
10 real property or in the furnishing of facilities or services in
11 connection therewith, except that nothing in this clause shall
12 be construed to prohibit the adoption of reasonable rules
13 intended to protect the safety of minors in their use of the
14 real property or any facilities or services furnished in
15 connection therewith; or

16 (c) in any transaction involving real property, to print,
17 circulate or post or cause to be printed, circulated, or posted
18 any advertisement or sign, or use any form of application for
19 the purchase, rental or lease of real property, or make any
20 record or inquiry in connection with the prospective purchase,
21 rental, or lease of real property which expresses, directly or
22 indirectly, any limitation, specification, or discrimination as
23 to race, color, creed, religion, national origin, sex, marital
24 status, status with regard to public assistance,
25 disability, sexual orientation, or familial status, or any
26 intent to make any such limitation, specification, or
27 discrimination except that nothing in this clause shall be
28 construed to prohibit the advertisement of a dwelling unit as
29 available to adults-only if the person placing the advertisement
30 reasonably believes that the provisions of this subdivision
31 prohibiting discrimination because of familial status do not
32 apply to the dwelling unit.

33 (2) For a real estate broker, real estate salesperson, or
34 employee, or agent thereof:

35 (a) to refuse to sell, rent, or lease or to offer for sale,
36 rental, or lease any real property to any person or group of

1 who use wheelchairs, equivalent to the level of service provided
2 to individuals without disabilities. It is an unfair
3 discriminatory practice for the entity to purchase or lease for
4 use on a demand responsive system a new, used, or remanufactured
5 vehicle with a seating capacity in excess of 16 passengers,
6 including the driver, that is not readily accessible to and
7 usable by individuals with disabilities, including individuals
8 who use wheelchairs, unless the entity can demonstrate that the
9 system, when viewed in its entirety, provides a level of service
10 to individuals with disabilities equivalent to that provided to
11 individuals without disabilities.

12 (f) It is an unfair discriminatory practice to construct a
13 new facility or station to be used in the provision of public
14 transportation services, unless the facilities or stations are
15 readily accessible to and usable by individuals with
16 disabilities, including individuals who use wheelchairs. It is
17 an unfair discriminatory practice for a facility or station
18 currently used for the provision of public transportation
19 services defined in this subdivision to fail to make alterations
20 necessary in order, to the maximum extent feasible, to make the
21 altered portions of facilities or stations readily accessible to
22 and usable by individuals with disabilities, including
23 individuals who use wheelchairs. If the private entity is
24 undertaking an alteration that affects or could affect the
25 usability of or access to an area of the facility containing a
26 primary function, the entity shall make the alterations so that,
27 to the maximum extent feasible, the path of travel to the
28 altered area, and the bathrooms, drinking fountains, and
29 telephones serving the altered area, are readily accessible to
30 and usable by individuals with disabilities if the alterations
31 to the path of travel or to the functions mentioned are not
32 disproportionate to the overall alterations in terms of cost and
33 scope. The entity raising this defense has the burden of proof,
34 and the department shall review these cases on a case-by-case
35 basis.

36 Sec. 11. Minnesota Statutes 1992, section 363.03,

1 provides a level of services to individuals with disabilities
2 equivalent to the level of service provided to the general
3 public;

4 (4) purchase or lease a new railroad passenger car that is
5 to be used to provide specified public transportation if the car
6 is not readily accessible to and usable by individuals with
7 disabilities, including individuals who use wheelchairs, or to
8 manufacture railroad passenger cars or purchase used cars that
9 have been remanufactured so as to extend their usable life by
10 ten years or more, unless the remanufactured car, to the maximum
11 extent feasible, is made readily accessible to and usable by
12 individuals with disabilities, including individuals who use
13 wheelchairs, except that compliance with this clause is not
14 required to the extent that compliance would significantly alter
15 the historic or antiquated character of historic or antiquated
16 railroad passenger cars or rail stations served exclusively by
17 those cars;

18 (5) purchase or lease a new, used, or remanufactured
19 vehicle with a seating capacity in excess of 16 passengers,
20 including the driver, for use on a fixed route public
21 transportation system, that is not readily accessible to and
22 usable by individuals with disabilities, including individuals
23 who use wheelchairs. If a private entity that operates a fixed
24 route public transportation system purchases or leases a new,
25 used, or remanufactured vehicle with a seating capacity of 16
26 passengers or fewer, including the driver, for use on the system
27 which is not readily accessible to and usable by individuals
28 with disabilities, it is an unfair discriminatory practice for
29 the entity to fail to operate the system so that, when viewed in
30 its entirety, the system ensures a level of service to
31 individuals with disabilities, including individuals who use
32 wheelchairs, equivalent to the level of service provided to
33 individuals without disabilities; or

34 (6) to fail to operate a demand responsive system so that,
35 when viewed in its entirety, the system ensures a level of
36 service to individuals with disabilities, including individuals

1 persons or to negotiate for the sale, rental, or lease of any
2 real property to any person or group of persons because of race,
3 color, creed, religion, national origin, sex, marital status,
4 status with regard to public assistance, disability, sexual
5 orientation, or familial status or represent that real property
6 is not available for inspection, sale, rental, or lease when in
7 fact it is so available, or otherwise deny or withhold any real
8 property or any facilities of real property to or from any
9 person or group of persons because of race, color, creed,
10 religion, national origin, sex, marital status, status with
11 regard to public assistance, disability, sexual orientation, or
12 familial status; or

13 (b) to discriminate against any person because of race,
14 color, creed, religion, national origin, sex, marital status,
15 status with regard to public assistance, disability, sexual
16 orientation, or familial status in the terms, conditions or
17 privileges of the sale, rental or lease of real property or in
18 the furnishing of facilities or services in connection
19 therewith; or

20 (c) to print, circulate, or post or cause to be printed,
21 circulated, or posted any advertisement or sign, or use any form
22 of application for the purchase, rental, or lease of any real
23 property or make any record or inquiry in connection with the
24 prospective purchase, rental or lease of any real property,
25 which expresses directly or indirectly, any limitation,
26 specification or discrimination as to race, color, creed,
27 religion, national origin, sex, marital status, status with
28 regard to public assistance, disability, sexual orientation, or
29 familial status or any intent to make any such limitation,
30 specification, or discrimination except that nothing in this
31 clause shall be construed to prohibit the advertisement of a
32 dwelling unit as available to adults-only if the person placing
33 the advertisement reasonably believes that the provisions of
34 this subdivision prohibiting discrimination because of familial
35 status do not apply to the dwelling unit.

36 (3) For a person, bank, banking organization, mortgage

1 company, insurance company, or other financial institution or
2 lender to whom application is made for financial assistance for
3 the purchase, lease, acquisition, construction, rehabilitation,
4 repair or maintenance of any real property or any agent or
5 employee thereof;

6 (a) to discriminate against any person or group of persons
7 because of race, color, creed, religion, national origin, sex,
8 marital status, status with regard to public assistance,
9 disability, sexual orientation, or familial status of the person
10 or group of persons or of the prospective occupants or tenants
11 of the real property in the granting, withholding, extending,
12 modifying or renewing, or in the rates, terms, conditions, or
13 privileges of the financial assistance or in the extension of
14 services in connection therewith; or

15 (b) to use any form of application for the financial
16 assistance or make any record or inquiry in connection with
17 applications for the financial assistance which expresses,
18 directly or indirectly, any limitation, specification, or
19 discrimination as to race, color, creed, religion, national
20 origin, sex, marital status, status with regard to public
21 assistance, disability, sexual orientation, or familial status
22 or any intent to make any such limitation, specification, or
23 discrimination; or

24 (c) to discriminate against any person or group of persons
25 who desire to purchase, lease, acquire, construct, rehabilitate,
26 repair, or maintain real property in a specific urban or rural
27 area or any part thereof solely because of the social, economic,
28 or environmental conditions of the area in the granting,
29 withholding, extending, modifying, or renewing, or in the rates,
30 terms, conditions, or privileges of the financial assistance or
31 in the extension of services in connection therewith.

32 (4) For any real estate broker or real estate salesperson,
33 for the purpose of inducing a real property transaction from
34 which the person, the person's firm, or any of its members may
35 benefit financially, to represent that a change has occurred or
36 will or may occur in the composition with respect to race,

1 are readily achievable.

2 (d) Nothing in this chapter requires an entity to permit an
3 individual to participate in and benefit from the goods,
4 services, facilities, privileges, advantages, and accommodations
5 of the entity if the individual poses a direct threat to the
6 health or safety of others. "Direct threat" means a significant
7 risk to the health or safety of others that cannot be eliminated
8 by a modification of policies, practices, or procedures or by
9 the provision of auxiliary aids or services.

10 (e) No individual may be discriminated against on the basis
11 of disability in the full and equal enjoyment of specified
12 public transportation services provided by a private entity that
13 is primarily engaged in the business of transporting people and
14 whose operations affect commerce. For purposes of this
15 paragraph, it is an unfair discriminatory practice for a private
16 entity providing public transportation to engage in one or more
17 of the following practices:

18 (1) imposition or application of eligibility criteria that
19 screen out, or tend to screen out, an individual with a
20 disability or a class of individuals with disabilities from
21 fully enjoying the specified public transportation services
22 provided by the entity, unless the criteria can be shown to be
23 necessary for the provision of the services being offered;

24 (2) failure to make reasonable modifications, provide
25 auxiliary aids and services, and remove barriers, consistent
26 with section 363.03, subdivision 3, paragraph (c);

27 (3) the purchase or lease of a new vehicle, other than an
28 automobile or van with a seating capacity of fewer than eight
29 passengers, including the driver, or an over-the-road bus, that
30 is to be used to provide specified public transportation that is
31 not readily accessible to and usable by individuals with
32 disabilities, including individuals who use wheelchairs, except
33 that a new vehicle need not be readily accessible to and usable
34 by individuals with disabilities if the vehicle is to be used
35 solely in a demand responsive system and if the private entity
36 can demonstrate that the system, when viewed in its entirety,

1 (1) the imposition or application of eligibility criteria
2 that screen out or tend to screen out an individual with a
3 disability or any class of individuals with disabilities from
4 fully and equally enjoying any goods, services, facilities,
5 privileges, advantages, or accommodations, unless the criteria
6 can be shown to be necessary for the provision of the goods,
7 services, facilities, privileges, advantages, or accommodations;

(2) failure to make reasonable modifications in policies,
practices, or procedures when the modifications are necessary to
afford the goods, services, facilities, privileges, advantages,
or accommodations to individuals with disabilities, unless the
entity can demonstrate that making the modifications would
fundamentally alter the nature of the goods, services,
facilities, privileges, advantages, or accommodations;

(3) failure to take all necessary steps to ensure that no
individual with a disability is excluded, denied services,
segregated, or otherwise treated differently than other
individuals because of the absence of auxiliary aids and
services, unless the entity can demonstrate that taking the
steps would fundamentally alter the nature of the goods,
services, facilities, privileges, advantages, or accommodations
being offered and would result in an undue burden;

(4) failure to remove architectural barriers, and
communication barriers that are structural in nature, in
existing facilities, and transportation barriers in existing
vehicles used by an establishment for transporting individuals,
not including barriers that can only be removed through the
retrofitting of vehicles by the installation of hydraulic or
other lifts, if the removal is readily achievable; and

(5) if an entity can demonstrate that the removal of a
barrier under clause (4) is not readily achievable or cannot be
considered a reasonable accommodation, a failure to make the
goods, services, facilities, privileges, advantages, or
accommodations available through alternative means if the means

regard to public assistance, sexual orientation, or disability
of the owners or occupants in the block, neighborhood, or area
in which the real property is located, and to represent,
directly or indirectly, that this change will or may result in
undesirable consequences in the block, neighborhood, or area in
which the real property is located, including but not limited to
the lowering of property values, an increase in criminal or
antisocial behavior, or a decline in the quality of schools or
other public facilities.

(5) For a person to deny a totally or partially blind,
physically handicapped, or deaf person with a service animal
full and equal access to real property provided for in this
section. The person may not be required to pay extra
compensation for the service animal but is liable for damage
done to the premises by the service animal.

(6) For a person to coerce, intimidate, threaten, or
interfere with a person in the exercise or enjoyment of, or on
account of that person having exercised or enjoyed, or on
account of that person having aided or encouraged a third person
in the exercise or enjoyment of, any right granted or protected
by this subdivision.

Notwithstanding the provisions of any law, ordinance, or
home rule charter to the contrary, no person shall be deemed to
have committed an unfair discriminatory practice based upon age
if the unfair discriminatory practice alleged is attempted or
accomplished for the purpose of obtaining or maintaining one of
the exemptions provided for a dwelling unit provided for in
section 363.02, subdivision 2.

Sec. 10. Minnesota Statutes 1997, section 363.03,
subdivision 3, is amended to read:

Subd. 3. [PUBLIC ACCOMMODATIONS.] (a) It is an unfair
discriminatory practice:

(1) to deny any person the full and equal enjoyment of the
goods, services, facilities, privileges, advantages, and
accommodations of a place of public accommodation because of

1 race, color, creed, religion, disability, national
2 origin, sexual orientation, or sex, or for a taxicab company to
3 discriminate in the access to, full utilization of, or benefit
4 from service because of a person's disability; or

5 (2) for a place of public accommodation not to make
6 reasonable accommodation to the known physical, sensory, or
7 mental disability of a disabled person. In determining whether
8 an accommodation is reasonable, the factors to be considered may
9 include:

10 (i) the frequency and predictability with which members of
11 the public will be served by the accommodation at that location;

12 (ii) the size of the business or organization at that
13 location with respect to physical size, annual gross revenues,
14 and the number of employees;

15 (iii) the extent to which disabled persons will be further
16 served from the accommodation;

17 (iv) the type of operation;

18 (v) the nature and amount of both direct costs and
19 legitimate indirect costs of making the accommodation and the
20 reasonableness for that location to finance the accommodation;
21 and

22 (vi) the extent to which any persons may be adversely
23 affected by the accommodation.

24 State or local building codes control where applicable.
25 Violations of state or local building codes are not violations
26 of this chapter and must be enforced under normal building code
27 procedures.

28 (b) This paragraph lists general prohibitions against
29 discrimination on the basis of disability. For purposes of this
30 paragraph "individual" or "class of individuals" refers to the
31 clients or customers of the covered public accommodation that
32 enter into the contractual, licensing, or other arrangement.

33 (1) It is discriminatory to:

34 (i) subject an individual or class of individuals on the
35 basis of a disability of that individual or class, directly or
36 through contractual, licensing, or other arrangements, to a

1 denial of the opportunity of the individual or class to
2 participate in or benefit from the goods, services, facilities,
3 privileges, advantages, or accommodations of an entity;

4 (ii) afford an individual or class of individuals on the
5 basis of the disability of that individual or class, directly or
6 through contractual, licensing, or other arrangements, with the
7 opportunity to participate in or benefit from the goods,
8 services, facilities, privileges, advantages, or accommodations
9 that are not equal to those afforded to other individuals; and

10 (iii) provide an individual or class of individuals, on the
11 basis of a disability of that individual or class, directly or
12 through contractual, licensing, or other arrangements, with
13 goods, services, facilities, privileges, advantages, or
14 accommodations that are different or separate from those
15 provided to other individuals, unless the action is necessary to
16 provide the individual or class of individuals with goods,
17 services, facilities, privileges, advantages, or accommodations,
18 or other opportunities that are as effective as those provided
19 to others.

20 (2) Goods, services, facilities, privileges, advantages,
21 and accommodations must be afforded to an individual with a
22 disability in the most integrated setting appropriate to the
23 needs of the individual.

24 (3) Notwithstanding the existence of separate or different
25 programs or activities provided in accordance with this section,
26 the individual with a disability may not be denied the
27 opportunity to participate in the programs or activities that
28 are not separate or different.

29 (4) An individual or entity may not, directly or through
30 contractual or other arrangements, use standards or criteria and
31 methods of administration:

32 (i) that have the effect of discriminating on the basis of
33 disability; or

34 (ii) that perpetuate the discrimination of others who are
35 subject to common administrative control.

36 (c) This paragraph lists specific prohibitions against

①
MAR 7 1995

Helen Cheek
Metropolitan Human Rights Commission
1120 SW 5th
Suite 516
Portland, Oregon 97204

From:

re: Metropolitan Human Rights Commission hearings into transsexual experiences of discrimination in housing, employment and public accommodations.

Dear Helen:

I understand the reason for this hearing is to presents facts to help MHRC make a recommendation to the Portland City Council whether or not to include transsexuals and transvestites into the city charter along with sexual orientation.

I am a male to female transgendered person who lives 90% of the time in the female gender. My sexual orientation is heterosexual, and the gender preference I choose to live 90% percent of the time is female. I guess most people would call me a cross dresser. Some may think of me as a transvestite. We do not like the term transvestite because it brings to mind too many negative images, (i.e., Norman Bates in Psycho; the psychiatrist, Michael Cain in dressed to Kill, etc.).

When it was proposed to include transsexuals and transvestites into the city charter, I had many reservations. First of all, the group that requested this inclusion does not represent me no matter what they say. Second, I object to the term transvestite. Third, the city charter is becoming too cluttered with the inclusions of these terms. Who will be the next group to approach the city council for inclusion in the

charter, one eyed peg leg bicycle riders that are discriminated against for not riding fast enough in the bike lane?

In my opinion, a person goes through the process of gender reassignment for one reason, to become the physical sex of one's preference, i.e., a male becomes physically female because they want to live their life as a woman full time. They have all the necessary paper work changed (driver's license, charge cards, birth certificates, etc.) to prove that they are women. So, what's the problem? Why do they need inclusion in the charter when it already states no discrimination due to sex? Their sex is now female (or male for the female to male transsexuals).

If there is a problem, it with those who are living full time as female, consider themselves transsexual and have not yet had the gender reassignment surgery for one reason or another. They do not have the money or they cannot be accepted as transsexual by an approved counselor or psychiatrist. Also, even though they dress as women and try to act as women, they still come across as men in dresses. If this person has an attitude, then I can understand why they may be discriminated against. In many cases, they may be perceived to be homosexual. Inserting transsexual into the city charter in the no-discrimination clause would give them legal cause to sue, but that will not stop the initial response of discrimination and would add more frivolous lawsuits to the justice system.

I have lived for the last 15 years in the female guise and never have been discriminated against, maybe snickered at a few times, but never denied any services or goods. I have traveled to many places by car, train, airplane, MAX trains to many cities, and by foot. I have shopped and tried on female clothes, dined in the best of restaurants, stayed in the best of hotels and never once been refused any service. I am passable most of the time as a female, but when I am "read," (being recognized as a man) I have always been treated as a female, because that is the image and attitude I project. After all, true femininity is an illusion at best.

If there is to be a change in the city charter, it should agree with the partnership agreement signed by the Portland Police Bureau and the Sexual Minorities Community. It states that for the purposes of that agreement, sexual minorities shall be defined as one who has a sexual orientation and a gender preference. That means that a person can be a gay man (sexual orientation) and have a male preference as to how he wants to be perceived in public. It also means that a person may have a

sexual orientation as a heterosexual man, but live in the female gender. It also means a person can be transsexual, pre-operative or post operative, be heterosexual or homosexual (sexual orientation) and live in the gender of their preference.

The transsexual activists have pounded on the Right to Privacy to change the name of the Lucille Hart Dinner to the Alan Hart Dinner because the activists claim that Lucille born a woman was a transsexual wanting to be a man. Some think that Lucille was really a lesbian, it has never been proven either way. So to satisfy all concerned, RTP has now said they will change the name, but have not yet decided on a new name for the dinner. They should call it the Dr. Hart Dinner because Lucille/Alan was a doctor.

Sincerely;

MAR 19 1996

Metropolitan Human Rights Commission
Room 516
1120 SW Fifth Ave.
Portland, Or. 97204

To Whom it May Concern:
Re: Portland Civil Rights Ordinance

I am a transgendered person (male to female), retired, and living seventy to ninety percent of my life in my chosen gender.

I have been living in Portland for eleven years, and during that time have not experienced any specific instances of bias or discrimination personally. I am a member of the Northwest Gender Alliance, and during the fifteen years of my membership have become aware of incidents that have taken place involving others, because of their gender presentation.

One of the common mis-perceptions regarding cross-gender behavior is that the individual is gay, and because of that is deserving of biased treatment. It is because of this attitude that many cross-gendered people are fearful for their safety, and as a result of that fear do not feel free to express a side of their personalities that is an integral part of who they are. This is so regardless of whether the individual is heterosexual or homosexual.

To live in a constrained, restrictive manner, fearful of discovery, fearful of bias and bigotry, is not acceptable, and should not be tolerated in our society. I perceive the right to live freely, in the gender role I choose, to be at the very heart of my basic freedom as a citizen, and if that freedom is threatened, through acts or through fear, then I believe it is incumbent on society to guarantee my security, through legislation or ordinance. However, I do not believe it is necessary to spell out every defineable difference to be protected. In the matter of the Ordinance under question, I believe the following might be an acceptable solution:

To discriminate against any person because of their actual or perceived sexual orientation or gender identity, or because of activities associated with their actual or perceived sexual orientation or gender identity, or because of expressions of these orientations or identities, is a violation of such persons civil rights and basic freedoms, and is a violation under this ordinance.

In the above discussion, I have used the terms crossgendered and crossdressing to include all forms of trans behavior. It should be noted that there are many terms used which deal



with the cver all-condition, including the following:
fetishist,transvestite, crossdresser, drag queen, female
impersonator, pre-op transexual, post-op transexual,
transgenderist, transexual. It is my belief that the entire
community could best be served by avoiding the use of these
specific terms, and dealing instead with the more general and
inclusive terms of sexual orientation and/or gender identity,
which would cover everyone, and not, by elimination of any
specific term, exclude anyone.

Sincerely,

MAR 19 1996

03-18-96 11:09 pm 002 of 005

3

TO: Ms. Helen Cheek, Director
Metropolitan Human Relations Commission
1120 S.W. Fifth Avenue, Room 516
Portland, Oregon 97204-1989,

and,

The City Council, Portland, Oregon

FROM:

RE: Discrimination Against Transsexuals in City Government

As a response to your investigation concerning the discrimination against transsexuals in city government via Civil Service, I want to submit the following statement.

I no longer bother to apply for positions through Civil Service procedure with either the City of Portland nor with any other public agency based on the treatment I have received in the interview and hiring process.

The last time I applied for a position with the City of Portland was four or five years ago. I had taken and passed the examination for "Secretary-Clerk I" and had subsequently been called in for an interview for a position. As I entered the room, a man and a woman were present. The woman's jaw fell agape, and her eyes appeared ready to pop out of her head. The man conducted the interview in the main, with the woman asking only two or three questions at most. I did not get the job nor was I called in again to interview for further openings. Needless to say, I was very much upset by her behavior which undoubtedly affected my responses during the course of that interview.

Some months later at a function, the "Annual Community Dinner", an event sponsored by "Dignity/Portland" (a religious support group for gays, lesbians, their families, friends, and supporters), I encountered a man during a chat. He was the man who had interviewed me for the City Civil Service position. During this chat, I had the opportunity to comment on the woman's rude behavior and was told that some people just are not aware of the differences in people on a first-hand basis and are not adept at dealing with them.

I am not "Miss America" in a skirt and blouse. I am neither completely nor effectively able to pass totally as a woman. It is not only my larger size nor my facial construction, in and of themselves, but rather the total over-all image that I present. There are peculiarities or irregularities about my image and appearance that lead most people to "know" that I am a man-in-a-dress and not a "real" woman. As people used to say, "Sorry about that!"

All of this is based on perceived differences and has little or nothing to do with my skills.

abilities, experiences, or competencies as they relate to the job. It has nothing to do with my demeanor. It has nothing to do with how well or how poorly or how appropriately I dress. It has nothing to do with my attitude. It has nothing to do with my presentation of my self, nor with my hair, nor with my make up, nor with my size. It has everything to do with *social desirability*. It has everything to do with perceived extrinsics, external characteristics, which may not relate to one's internal characteristics. For example, some felons wear business suits. Some transients were successful business people. And so on.

What is does deal with is the façade that I project and whether or not that façade conforms to what other people think about it and its conformity to the perceived norm.

While it is illegal to discriminate on the basis of race, ethnicity, religion, age, etc., why is it apparently legal to discriminate on the basis of social desirability? What is so terrible about gender dysphoria/transsexuality? It is a recognized condition by the American Medical Association, and one can become informed about it on the various talk shows. Although, to my knowledge, the cause or origin is as yet unknown, there are enough of us out there to justify some sort of recognition other than "entertainer". Race and ethnicity are a result of nature. Religion is generally a matter of nurture. Age is a function of physics and chemistry, namely, how many times the earth has rotated around the sun, and the inherent maturation qualities of the particular person involved. In years gone by, being a member of certain racial and/or ethnic groups was considered an unacceptable characteristic, heredity notwithstanding, as were one's religious beliefs and age. Why cannot we be entitled to the same protections and equality under the law as other people?

If, as in the case of most of us with gender dysphoria, we have gone through the expense and struggle of selecting and seeing the appropriate therapist, taking hormones by pill or by shot, purchasing an entirely new and totally different wardrobe (often with the smiles and smirks by the sales persons), learning how to act and speak appropriately, and establishing an absolutely different identity, why must we be subject to actions which would deprive us of all of our dignity and self-respect? Have we become suddenly become incompetent, or incapable, or unproductive, or non-functional as human beings? Must we be forced to travel the vocational or occupational highway hoping for the best but expecting the worst, but continually waiting for that unknowing straight person or sympathetic person or gay or lesbian person will recognize our competence and permit us to put our skills and abilities to work for them? Or, must we be permanently banished to the world of impersonation and entertainment or prostituting ourselves or finding ourselves a protector or lover or what-have-you in order to eat or to have permanent place to sleep with a roof over our heads?

I am submitting a copy of my resume for your examination and evaluation. Irrespective of my own skills and abilities, in my situation employment is extremely difficult to obtain. Discrimination is rampant. I have been:

- * Legally barred from availing myself of the services of the Oregon State Employment Service by action of the manager;
- * Told to try to find employment down at "Darcelle XV";

- * Stared and gawked at;
- * Told that I do not count because I am not "real";
- * Told that I am not very "pretty";
- * Propositioned and harassed by people seeking sexual favors;
- * Addressed as "Sir" in public situations; etc., etc., etc.

I have become accustomed, although not immune, to:

- * Sudden changes in facial expressions during an interview with a resulting deterioration in rapport;
- * A rejection letter in the mail on the day after the interview;
- * Oral and written statements that refer to a lack of positions or openings for a "person with my skills or abilities";
- * Whispers and/or pokes by employees to their co-workers as you enter the office prior to the interview;
- * Failure to respond to the process of the interview either by mail or telephone call; etc., etc., etc.

It is my, and I emphasize the "my", perception that most people do not take those of us who do not "pass" well seriously. Perhaps we are perceived as simply a cross-dresser or transvestite who is out on some kind of a lark for the day to get a "high" and then to go home to stimulate themselves. Perhaps we are a threat, as was once expressed to me, in that we would go through this socially undesirable, complicated, expensive, and time-consuming process just to get sexually near women, as in using the same rest rooms, or to seduce and lead into deviation unwitting heterosexual males or husbands. I believe that, in some cases, we would get the job except that it might be a negative reaction against the person who did the hiring.

It is an established fact that the City of Portland hires gays, lesbians, and bisexuals without regard to their sexual orientation. And I personally know to two transsexuals (whose identity will not be revealed in order to protect their privacy) who at one time worked for the City of Portland. Whether or not they now continue in their duties I do not know, since I have not seen them for several years. To the best of my knowledge, they were competent and capable in their jobs.

Frankly, I am tired, even exhausted, from being treated like a third-class citizen because I appear significantly different as a person from the majority of people against whom I must compete in the job market. The City of Portland takes its share of the taxes I pay, the

parking meters that I use, the various fees that I pay for one thing or another, but does it give me the same opportunity as the next person, based on my skills and abilities, to work for them? The city will go out of its way to assist in the employment of physically challenged people. Why does it not at least extend a helping hand to those of us who are in a socially challenged position? Is being a gender dysphoric/transsexual person any worse than being a gay or lesbian or bisexual person? Or belonging to any racial or ethnic or religious or age group?

Why cannot we be entitled to the same protection, the same treatment, and the same equality under the law as others? If we are able to conduct ourselves in the standard, accepted behavioral norm that other employees must abide by, why should we not be given the same chance as they have. I know of many talented and skilled people within my community who would contribute greatly to the city if given the chance.

Yet, at the same time, there should be conditions or limitations imposed. I am not in favor of hiring anyone who would try to get a job on the basis of being gender dysphoric. Such conditions should include:

- * Being under the care of a qualified therapist for at least six months to one year;
- * Openly adopting and living in one's chosen role for at least six months;
- * Having legally changed one's name (or in the process thereof);
- * Being a candidate for, if not presently employing, hormone therapy; and,
- * A possible limitations on the number of times that a person may change roles back and forth on the job, in consultation with the person's therapist.

I thank you and appreciate your attention to and consideration of this document.

Sincerely,

APP 2 5 2003

Members the Committee, Ladies and Gentlemen,

My name is Danni and I am the President of the North West Gender Alliance.

The Northwest Gender Alliance (NWGA) has been providing support and assistance to crossdressers and transsexuals for over 16 years. Its roots can be traced back to October 1962 when a group of individuals began meeting in downtown Portland to explore their common interests in gender expression. Over the years our hot line support and membership has reached hundreds of individuals who have expressed interest or confusion related to gender identity. We have also provided support to the spouses, family members and loved ones of these individuals.

Through the years there have been reports of incidents which could be considered as discrimination. There are more incidents which would most likely not be classified as discrimination but are clearly harassment and generate fear and concern within the gender community.

The discrimination ordinance should be revised.

Quite simply those who express gender differences and transsexuals are not covered in the current ordinance.

Unfortunately the ordinance cannot be as simple as "you cannot discriminate against any person". Our legal system seems to require listing explicit groups to protect.

There is some confusion about the gender community and this ordinance as it is currently written. Some people suggest the gender community is already covered since sexual orientation is already part of the ordinance. Others suggest that since discrimination based on sex is covered then protection is provided. This confusion is partly due to the confusion between the terms sex, gender and sexual orientation.

Over 95% of the membership of NWGA identifies their sexual orientation to be heterosexual, therefore discrimination based upon sexual orientation does not apply. The protection based upon sex is unclear but it is doubtful that a successful case could be made.

Over the last several years the approach by some of the organizations representing the transgendered community in Portland and other Oregon communities has been to reach out and educate the public about the transgendered community. We show how we are a part of a whole community. Many of the members of the transgendered community are very respected citizens with professional positions and are looked to as models of the ideal family. In NWGA there are many members who have been married for over 25 years and hold valued positions in their professional fields. We help the public see how the community benefits by embracing diversity, and the transgendered community is just another segment which adds dimension and richness to everyone's life. We show how other cultures have accepted transgendered people for the unique

insight that they gain from getting in touch with both the masculine and feminine sides of their personality. We provide those in the general public the opportunity to discuss their doubts and concerns. Our goal is to establish a dialog which helps everyone understand those who are different are not to be outcast and shunned but embraced for the difference and valued for the richness they add to the community.

I characterize this as helping build into the fabric of the society the ideals and values which benefit all the diversity communities; race, religion, socio-economic position, national origin, sex, gender, military veteran, mental or physical abilities, however a person seeks to identify their unique view of our society.

Inclusion in the ordinance does more than include a group within the protected classes. It makes a statement that embraces the diversity of the gender community and recognizes the contribution these individuals make to our community.

With all the attention given by the media, movies and advertising it is the correct time to insure that those individuals who do not wish to be exploited or harassed have the legal right to express displeasure with unwanted harassment and seek redress for wrongful treatment.

Thank You.

A handwritten signature in cursive script, appearing to read "Danni".

Danni (President Northwest Gender Alliance)



PEACE CORPS
OF THE UNITED STATES

(3)

*Form completed
11-19-93
done 11-22*

July 29, 1993

[REDACTED]

Dear ~~Ms.~~ Kotula:

*I WAS NOT asking to
be referred to as a male!*

As you know, your medical clearance has been temporarily rescinded by the Medical Services Division because of questions raised at the Stateside Training session in San Francisco.

Although the question of "suitability" for Thailand played a role in your not going to that country, i.e. problems with dress and possibly gender specific language before clearing you for another Peace Corps country, we will require a psychological evaluation directed specifically towards gender identity issues. I have enclosed a form which we are asking you to have a licensed counselor complete.

As I indicated in San Francisco, I will be glad to have you call if you have questions regarding the above. I hope this can all be resolved quickly and you will be able to pursue your desire to become a Peace Corps Volunteer.

Sincerely,

Medical Services

PEACE CORPS

December 15, 1993

Dear

We deeply appreciate your willingness to serve your country as a Peace Corps Volunteer. The Peace Corps depends upon and is greatly encouraged by the support it receives from concerned Americans like yourself. *All my medical records had already been reviewed and qualified!*

We have now completed our review of your medical records, and I regret to inform you that we cannot qualify you for Peace Corps service due to due to your current gender transition process. *I was not transitioning at* While we accept that this particular condition may pose no serious *that* risks to your health here in this country, we cannot offer similar *time!* assurances regarding an overseas assignment. Because of our concern for your well-being, we cannot consider your application at this time.

I regret that we are unable to offer an assignment to all those who wish to serve in the Peace Corps. We appreciate your interest, however, and we hope you will continue to work for our common goal of a more peaceful world.

???

Sincerely, //

Medical Services

If, after the completion of your gender transition process and, following two years of successfully living in your new identity, you are still interested in Peace Corps service, we will reconsider your medical clearance for this issue.

*Who would decide when my transition is complete?
Undoubtedly they would only consider me "Complete" once
I had undergone all available Surgeries which would cost
\$100,000+. No insurance Company would help pay for this.
This "offer" is no offer at all.*

APR 17 1986

6

Helen Cheek
Metropolitan Human Rights Commission
1120 SW 5th
Suite 516
Portland, Oregon 97204

From:

re: Metropolitan Human Rights Commission hearings into transsexual experiences of discrimination in housing, employment and public accommodations.

Dear Helen:

After sitting through the first hearing into transsexual experiences of discrimination in housing, employment and public accommodations, I have come to the following conclusions:

1. The discrimination described by those who gave testimony at the first hearing who experienced discrimination in housing cannot be rectified by the city council for the whole state. The state, or even the federal government is where those discriminated against in housing should take their case.
2. The discrimination experienced in employment cannot be resolved by the city council. This cause should be taken to the Bureau of Labor and Industry. I do not know why those testifying are having trouble in their employment. I know of several pre-op and post-op transsexuals who are working and are not having a problem with their employment.
3. I personally have never been refused any public accommodation, whether it be in lodging or eating or whatever.
4. The so called problems those testifying had in regards to their health insurance should be taken up with their insurance company's. Most policies will not accommodate re-assignment surgery because they consider it cosmetic,

elective surgery. The transsexual community who desire insurance company's, or states, to perform the surgery, claim that they have a mental disorder, therefore someone should pay for the counseling, surgery and all the necessary care and medication. Bunk! This is not a mental disorder. Even the psychiatric manual, DSM-4 does not classify this condition as a mental disorder. It took a saner group of people (International Foundation of Gender Education) much time and money to get this mental disorder removed from the manual, and rightly so. I also know of several people who are working and saving their money so they can have this elective surgery. This is the way it should be. I, as a taxpayer, do not want to pay for this type of surgery, nor do I want my insurance premiums to increase to pay for this type of condition.

I know this will be a very difficult decision for The Metropolitan Human Rights Commission to resolve. My opinion is that we are already protected by the City Council Charter under the sexual preference clause. This, in my opinion, covers everyone because everyone has a sexual orientation.

What is really needed is more outreach and education for the public and private sectors of society. That is one of the tasks that I am involved in almost every day. I talk to school classes, private organizations, volunteer time for LCP (Lesbian Community Project), AVP (Anti-Violence Project) VfHR (Veterans for Human Rights), the Sexual Minority Roundtable, the Sexual Minority Crises Response Team and volunteer time with the Frank Dixon election for State Senate Campaign. Wherever and whenever I can, I educate.

Homophobia is everywhere. Most of society think that a man who wears a dress, or who wants sexual re-assignment surgery, must be homosexual. When homophobia is eliminated, it will be a much better world.

Regards

7

APR 15 1993

Metropolitan Human Rights Commission
Room 516
1120 S.W. Fifth Ave.
Portland, Or. 97204

To Whom it May Concern:

Portland Civil Rights Ordinance

The following information is presented on behalf of the members of the Northwest Gender Alliance, at the direction of the Board of Directors of the Northwest Gender Alliance (NWGA).

The NWGA is a social and support organization for all those who identify as being crossdressers, including but not limited to transvestites, fetishists, drag queens, female impersonators, she-males, transgenderists, transexuals, and for those interested in and/or associated with any of the above, such as family members, fellow workers or associates. This all has to do with gender identity, or perceptions of gender identity, and is understood and believed by us to be a separate issue from the issues of sexual orientation, even though we understand the mis-perceptions that exist in the minds of many, that identify gender identity and sexual orientation as the same thing.

Our organization is approximately sixteen years old, formed by individuals to support each other, and through them, going back to 1962 in the Portland area. Most of our members are or have been married or in heterosexual relationships, and have considered themselves heterosexual in their sexual preference, in spite of the seeming anomaly of their desire/need to present themselves in the female gender. We also have or have had members who identified themselves as bi-sexual or homosexual. Sexual orientation is not an aid or a barrier to membership. Our interest is gender identity issues.

It is not, or should not be difficult to see that this anomaly can cause a considerable degree of stress to the individual, as well as to others in society who may find themselves aware of the situation. It is for this reason that we desire to express our interest in the Portland Civil Rights Ordinance. There have been relatively few instances,

of which we are aware, of bigotry or bias expressed toward our members, but there have been some, and to those involved these instances have been very troubling. There also exists the specter of family disapproval, job loss, or social ostracism because of common misperceptions of the condition. For these reasons, we believe, if there is going to be an effective ordinance aimed at protecting the civil rights of the so-called sexual minorities, it should be very largely inclusive, not exclusive, and the terms used should be general, rather than specific; a term unknown today may be the operative term of tomorrow, thereby rendering ineffective the spirit of an ordinance, because of the specificity of the terms used in the ordinance.

We believe the Ordinance should consider it a violation to discriminate against any person because of their actual or perceived sexual orientation or gender identity, or because of activities or expressions of these orientations or identities. We believe the present Ordinance excludes persons who are expressing a gender identity different from their biological sex, and therefore puts these persons at risk of discrimination and subject to acts of bias or bigotry.

NWGA by no means represents all the differently gender identified persons in the area, but our membership has varied from the beginning low of a dozen or so in 1980, to a high of 130 plus in 1994. Membership as of March, early in our 1996 year is already at fifty, with renewals being received regularly, as well as applications from prospective new members. We publish a monthly newsletter, and operate a telephone information/hot line. Our area of influence covers all of Oregon, as well as representing members from northern California, southern Washington, Idaho and a few from other states throughout the nation, as well as some members from Canada. We have been involved in supporting the formation of other groups, several of which are functioning in the Willamette Valley, with varying memberships in addition to our own.

We will be pleased to give any additional information or attempt to answer any questions the commission may have.

Sincerely,

Danni Rosen, Pres.

Danni Rosen
Cheryl V. Pres.

Cheryl
Riesa Morehouse, P.R.

Riesa Morehouse
Northwest Gender Alliance
PO Box 4928
Portland, Or. 97208
503 646-2802

APR 25 1966

8

Thurs. April 25th

The last opportunity I had to speak before the commission I mentioned a complaint I filed with the Bureau of Labor and Industries against my employer for discriminatory practices.

I gave documentation as to the lengthy procedure necessary to get the bureau to take the complaint.

It was only when the bureau recognized they were dealing with someone fully capable of defending himself against their attempts at victimization ~~by accepting the complaint~~ did they admit, by accepting the complaint, that they had no legal grounds to refuse it.

Once a complaint is filed the bureau is required to do an investigation to determine the legitimacy of the complaint. I received a letter from a

who is a senior investigator for the bureau, asking for an in-depth interview on the facts of the discrimination complaint. ~~He had suggested a time for the interview which was inconvenient so I planned to~~ We agreed to conduct the interview April 2nd at 4:30. The interview was carried out as planned.

We spoke for an hour. Half way through the interview, ~~he~~ told me that my employer had received a copy of the complaint that the bureau sent them and had responded. He specifically told me what their responses were to my allegations.

NOTE: Seems to be a missing page after "were to my allegat..."

8

APR 25 1983

and their statements had only supported my claims. There was no denial of their wrongdoing.

I then asked, what their next procedure was. He told me he would make a recommendation to his manager and she would decide if the case warranted further investigation or whether it should be dropped for lack of cause or for failure to meet the divisions criteria.

I then asked if he knew what his recommendation would be. He then told me that it was clear to him that I was being discriminated against but that he would recommend dropping the case because he decided that as a transsexual I am not covered under the American Disabilities Act.

Needless to say, I was furious! Obviously, the entire interview I was subjected to was a farce. He didn't care what the facts were in the case, he had decided in advance what his recommendation would be!

Oregon Statute on Disabilities covers transsexuals and takes precedence over the ADA. It was responsibility to review the facts of the case and not to re-interpret the law.

In effect, the Bureau of Labor & Industries has set me up for further ridicule from my employer. It seems evident that their intent was to leave me in a more vulnerable situation than I was in originally. What fun my employer will have when they receive a notice from B.O.L.I. saying they have dropped the investigation because transsexuals aren't a pro-

APR 25 1986

tested class!

What other explanation could there be other than that transsexuals are being targeted by the Bureau of Labor and Industries for further discrimination.

If we aren't covered by state statute or the A.D.A, the bureau has the responsibility to say why and to cite the authority from which they draw their conclusion. They haven't been able to do this. And if we aren't covered, why did they accept the complaint as lawful in order to refuse it as unlawful?

Furthermore, if we aren't included why did I receive a letter from a private attorney anxiously requesting to represent me on a contingency basis? Attorneys generally don't go after cases they expect to lose! He learned of my case by reviewing complaints filed with the bureau, since they are a matter of public record.

The fact that I have a solid, documented case of discrimination, a private attorney, and a union puts me in a better stance than many most transsexuals.

Even so, I am fighting for a job with frequent lay offs, a high degree of danger, and no benefits because I refuse to contact all my previous employers to tell them that I am transsexual and living as a male.

If I don't and use them as references, they will

(B)

refer to me as "she" and any potential employer would discover my status. I don't want to subject myself to this so I am essentially a 40 year old man without a work history. I live month to month worrying about what I may have to sell next in order to avoid living on the streets. ~~I didn't choose to be a transsexual and I don't recommend it~~ since my employer uses me as little as they can get away with. I didn't choose to be a transsexual and I don't recommend it.

9

April 18, 1996

Portland Metropolitan Human Rights Commission
1120 Southwest 5th
Portland, Oregon 97201

Dear Commission members:

The purpose of this letter is to offer further testimony to be entered into the record of the public hearings in support of adding transsexual inclusive language to Portland's civil rights ordinance. At last month's initial hearing on this subject no opposition was heard from the radical right; In fact the Oregon Citizens Alliance has publicly stated that it will not oppose transsexual inclusion. Surprisingly, the only opposition heard was from but 2 members of the gay, lesbian, bi, and trans community (GLBT). The first, a member of Parents, Family, and Friends of Lesbians and Gays (PFLAG) felt that transsexuals were already protected. I wish that were the case, but Portland's enforcement agency, the Oregon Bureau of Labor and Industry has concluded that we are not. In the Wienke case Wisconsin, interpreting an identical law, concluded that it did not include transsexuals in its protection. And the authors of the original Minneapolis' ordinance, on which Portland's and every other civil rights law including sexual orientation is based, knew full well that it was not transsexual inclusive. The second opponent argued that education rather than laws is the best way to fight discrimination. I heartily agree that education is most important. The passage of transsexual inclusive wording 20 years ago by Minneapolis and 3 years ago by our Minnesota state legislature had a profound educational effect. As a result there has been a high degree of compliance with the law and relatively few discrimination complaints filed. For those few intransigents for whom education is ineffective, the force of law is required to assure compliance.

The fears expressed in Portland are similar to those expressed in Minneapolis 20 years ago when we passed our law. We faced much more vehement opposition from within the GLBT community. As we gained actual experience with the law those fears were proven unwarranted. When we lobbied this law through the Minnesota legislature 3 years ago we did so as a united community; PFLAG in fact supported our law and now supports transsexual inclusion in the federal Employment Non Discrimination Act. Looking back on our Minneapolis and Minnesota experience, 20 years later the concerns raised by these 2 opponents have dissipated. I suspect they will in Portland too, and highly recommend this measure's passage into law.

Sincerely yours,

cc: Portland City Commissioners

10

**PHOENIX
RISING
FOUNDATION**

April 25, 1996

Metropolitan Human Rights Commission
1120 SW 5th Ave, R. 516
Portland, OR 97204

Dear Commission Members,

I have served as Executive Director of Phoenix Rising Foundation for two years, and was the Executive Director of another gay, lesbian, bisexual transsexual and transgender agency in Berkeley, California for four years. This is the primary basis of my knowledge about the transsexual and transgender communities.

I began knowing nothing and was admittedly bewildered by the range of issues and individual modes of expression of the issues that I encountered. But as a professional called upon to develop and provide services to this unique population, I am sure of the following: Transsexual/transgender persons are discriminated against in housing and employment; they are denied medical services which are life or death needs to them; they are significantly underserved in the human services system; they are disproportionately victims of hate crimes and they are socially ostracized.

I base my opinion on conversations with trans persons, feedback from therapists who work with them, reading, and simply listening to "mainstream" commentary on the subject.

On my way to this hearing, for instance, I happened to tune in to the Tom Lykus Show on my car radio. The subject being discussed was whether or not a transsexual has a responsibility to tell someone who is flirting with them that they "used to be a man" or woman, as the case may be. The discussion was appalling. Even mere physical contact--or the thought of it-- with a transsexual was described by the vast majority of callers (who happened to be men) as "disgusting;" "thought of it makes me queazy;" "I would vomit later if I found out I had unknowingly kissed a transsexual," and so on.

Obviously, transphobia is alive and well in America.

Gay and lesbian agencies have not been exempt from discrimination against transsexual/transgender persons. Inclusionary language has gradually and slowly been adopted. Phoenix Rising has provided counseling services to trans clients for many years, yet just recently adopted an inclusive mission statement, which is as follows:

Mental Health Services to Sexual Minority Communities

620 SW FIFTH AVE., SUITE 710 ■ PORTLAND, OREGON 97204 ■ 503/223-8299 FAX 503/223-1861

"To promote the common interests and well-being of lesbian, gay, bisexual, transsexual and transgender people through mental health, education, and other support services"

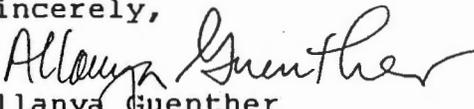
At a recent gathering of national gay and lesbian agency leaders which I attended, this gradual move towards inclusion was hotly debated, with some agencies still expressing the belief that it is inappropriate for gay and lesbian agencies to serve trans people. This shows me how far we still have to go to understand and respond appropriately to the issues involved.

I am very impressed by the ability and commitment of the trans community to articulate the issues for themselves, so have not repeated what has already been said so well. It is up to the rest of us to listen, consider our responsibilities in regards to these issues, and to take what action we can.

I urge the Metropolitan Human Services Commission to take the first step and use inclusionary language in the Portland Civil Rights Ordinance. Without being specifically named, the trans community is effectively kept invisible and the crimes committed against them leave no trail.

Thank you for holding these hearings, and for the opportunity to share my thoughts with you.

Sincerely,


Allanya Guenther
Executive Director



3.25-95

17

GEORGE V. EIGHMEY
STATE REPRESENTATIVE
DISTRICT 14
MULTNOMAH COUNTY
HOUSE OF REPRESENTATIVES

COMMITTEES:

Human Development Services — 1993
Asset Forfeiture — 1993-94
PERS Task Force — 1993-94
Commerce — 1993-94
Ways & Means — 1995
Subcommittee on Public Safety
Children & Families — 1995

March 25, 1996

Portland City Council
Council Chambers

Dear Mayor, Commissioners:

I am writing to you today to lend my support to those who wish to add "transsexual" individuals to the City of Portland's anti-discrimination ordinances.

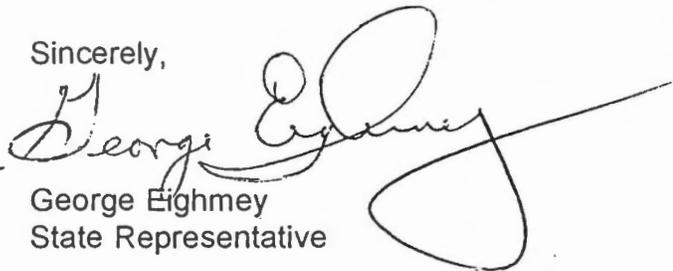
The city anti-discrimination ordinances are not about types of people or types of opinions, lifestyles, or life choices. The anti-discrimination ordinances are about fairness, justice, and equity. They are about the right of ALL individuals to live in a peaceful society and to enjoy all of the rights and privileges of citizenship.

As a long-time advocate for equality, I have seen Portland make great strides to prevent those who would separate and categorize our citizens from doing so. Portland's anti-discrimination policy is already a model other cities follow.

Adding "transsexual" to the city anti-discrimination ordinances acknowledges that transsexual individuals deserve and need the protections granted to all other citizens. It will continue this city's tradition of welcoming all people, regardless of their differences.

I ask again that you include the term "transsexual" in the anti-discrimination ordinances, and I thank you for your attention to this issue.

Sincerely,



George Eighmey
State Representative

4-22-96

APR 25

Dear Sirs,

Before you decide if transsexuals and cross dressers should be included in being given the status of protected people in city ordinances, ask yourself one question.

Would you have a problem if one walked into a ladies room while your wife or mother was in it. Would it bother you if a cross dresser wearing ladies clothing would dress or undress at a locker next to you or your son.

I think it would bother most people to see this. This is exactly what you would wind up dealing with if you go around giving these ~~behaviors~~ behaviors special protection.

Please, lets keep private behaviors private.

Signed,

A citizen with a wife, mother,
and children.

My name is

I am a Community Mental Health Practitioner, public speaker and educator in Health and Sexuality.

My purpose for being here this evening is to state from my own position as a post-operative Transsexual, a gender minority, and as a resident of the greater Portland area for the past thirty years, that I see no reasonable reason for changing the present (Statue) as it is stated.

It has been my experience as a Transsexual that it is far more productive to educate others and eradicate biases and prejudices than to in act special policies, statues, or laws which may eventually produce a backlash more detrimental to me as person and my pursuit as a social being.

I further state as a post surgical recovery provider for , Div. of plastic and re constructive Surgery since 1991, and as a public speaker dealing specifically with gender, sexuality and transsexualism since 1985 that the overriding issues confronting Transsexuals, both (F) to (M) and (M) to (F) regardless of their community of origin, is not one of discrimination but rather one of reaching that androgynous balance that most males and females reach in conventional ways such that they will blend , too be less noticed, and thus achieve normalcy as men and women.

It is my opinion that what is at issue for the transsexual is not discrimination but rather methods of communication and dialog that will produce understanding, acceptance and harmony, a process which will remove the myths, stereo typing, and false scripts that bind us all. What I am referring to is healthy communication which will help each party understand and take ownership for their own personal prejudices and biases regarding gender and sexuality.

(I thank the commission for this opportunity to speak .)

APR 18 1996

13

April 18, 1996

Metropolitan Human Rights Commission
1120 S.W. Fifth Avenue, Room 16
Portland, Oregon 97204

To Whom It May Concern:

I am writing per the article in today's *Oregonian* regarding the proposal to add transsexuals and transvestites to the city's anti-discrimination law. I believe it is unwise to place these people into the same category as Gay men and Lesbians. That has been a stereotype of long-standing duration which the city should not reinforce. If they are to be protected, it should be in a separate category.

Sincerely,

BARRY M. MALETZKY, M.D., P.C.
PSYCHIATRIST
8332 S.E. 13TH AVE.
PORTLAND, OREGON 97202
PHONE: 503-238-5580
FAX: 503-238-0210

March 29, 1996

Metropolitan Human Rights Commission
1120 SW Fifth Avenue, Room 516
Portland, OR 97204

Dear Sirs:

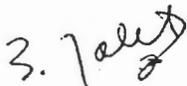
I understand that hearings are upcoming regarding discrimination against transsexuals in the Portland area.

Transsexualism is an illness recognized by the American Psychiatric Association and by the medical profession in general. The most recent evidence indicates that it is a condition in which an individual is born with the body of one gender but the brain of the other. For example, a male to female transsexual is born with a male body but a female brain.

An individual afflicted with transsexualism is striving to live in the brain's gender, rather than the body's, a difficult task sometimes aided by psychotherapy, hormones and gender reassignment surgery. That individual's quest to live in the proper gender is not an expression of whim or choice, but a biologic fact which should not, in my opinion, be used to discriminate against those afflicted.

Please let me know if I can provide detailed scientific documentation for these opinions.

Sincerely,



Barry M. Maletzky, M.D.
Professor of Clinical Psychiatry
Oregon Health Sciences University
Director, The Sexual Abuse Clinic
Editor-in-Chief, *Sexual Abuse: A Journal of Research and Treatment*

BMM/mr

14

Metropolitan Human
Rights Commission
Portland Bldg.
Portland, OR 97201

Dear Metropolitan Human Rights Commission:

I am requesting to speak at the April 25, 1996 fact-finding hearings on discrimination against transsexuals.

Although not myself transsexual, I have witnessed discrimination against transsexuals -- and have, myself, been discriminated against because I was in the company of a transsexual.

If permitted to speak at the April 25 hearing I will recount having been ejected from the January 10, 1994 meeting of the _____ because I spoke in favor of that organization ending its policy of excluding transsexuals. I will also recount being refused service at a Portland restaurant.

I have co-facilitated _____ transsexual peer-support group since its inception in January of 1995 -- and while professional ethics requires I maintain client confidentiality, I assure you that the level of discrimination faced by Portland's transsexuals is horrific.

I hope to hear from the Commission regarding the April 25 meeting.
Thank you.

Sincerely,

APR 27

13

METROPOLITAN HUMAN RIGHTS COMMISSION
1120 S.W. 5th, Suite 516
Portland, Oregon 97204

Dear commissioners:

I urge you to support adding transsexual and transgendered people to the City of Portland's anti-discrimination ordinance. This protection is extremely important in the areas of housing and employment, as my own situation makes clear.

1. Employment.

I am an honorably-discharged, Vietnam-era veteran and have a B.A. Since moving to Portland 7 years ago, I have had only one full-time, "permanent" job, for about a year and a half, until laid off when the operation where I worked was discontinued. I have subsisted mostly on telemarketing work, because I thought appearance would matter little and my former experience canvassing for nonprofits might help. The only telemarketing jobs I could not get were the two that I applied for as female. One company that continually advertises for workers with physical disabilities and substance abuse histories, when I called and asked if they hired transsexuals, said, "We don't hire anyone like that!" and hung up on me.

My last job was conducting interviews for an out-of-state company. I was a contract, leased employee. I was paid by a temporary agency, also out of state. I began at \$7.50 per hour, after more than 18 months of unemployment. After producing work at the highest rate of any employee of the company nationwide, I got a raise to \$8.50. There was no chance for advancement, I never knew how much or when I would work from one week to another, and the only benefits were minimal insurance and a 401K that I couldn't afford.

Even so, for me the worst problem was that I had to work as a male. The people I interviewed were occasionally emotionally disturbed and were frequently suspicious when first contacted. Their cooperation was strictly voluntary, and they would refuse for any or no reason. Since I had to produce interviews I felt that I had to look as ordinary as possible. This precluded working as my female, and made the real life test impossible. (Transsexuals are must live full time in their true gender for a year to be considered for sex reassignment surgery. This "real life test" is a required by the Benjamin Standards, the treatment protocol accepted by surgeons and mental health professionals.)

It was like having to work in disguise all the time. Unable to get a different job, I gave up on my transition. This resulted in a depression so deep I couldn't perform my work and lost that job. I am still unemployed after a year and a half, and have nearly exhausted my savings and credit cards.

Without inclusion in the ordinance, I have a dilemma in job-hunting. If I apply as female, admitting to be a TS, I can legally be rejected out of hand with no compunction for no other reason. I am completely at the employer's mercy.

But if I apply as male and then come out, there are a great many other problems, First, all of the preceding applies. I can easily be fired for some pretext like "not fitting into the corporate culture." Second, it's very difficult for people who have come to

know someone as male to change and start relating to her as female. Third, it requires deception, since I know I'm a TS when I apply. This detracts from my performance, and, when known, can lead to resentment by managers and colleagues who feel betrayed. Fourth, knowledge of all this is very inhibiting, so one never makes-the transition to one's true gender. This is what happened to me.

At my one full-time Oregon job, I meant to come out after my probationary period. But this was an "at-will" employer, and workers were frequently fired with widely varying procedures and often no clue as to why. I knew the operation would close soon, and so I lay low to make sure that I would at least be eligible for unemployment. I made it, but the high stress resulted in a worker's compensation claim for carpal tunnel syndrome.

A pre-operative male-to-female transsexual acquaintance of mine told me she was hired at a very large telemarketing company "as a woman." But at one of their locations, she had to use the men's bathroom, while a male employee stood outside to keep other men from using it. At the other location, she had to leave the building and cross the street to use a gas station's restroom. Then the company even deducted time spent going to the bathroom from her wages. She has since found another telemarketing job, which pays better. A happy ending, except that she holds multiple degrees and held responsible management jobs, prior to her transition,

This is the pattern among middle-aged male-to-female TSs. Many have responsible, at least middle-income jobs before their transitions. They almost invariably lose their jobs and find poor replacements, usually outside their field, after long, difficult struggles. People in high-technology fields seem to do best, but even their lot is often a loss of responsibility and advancement opportunity.

Lacking high-level job skills or experience, and having a history of short-term and temporary jobs, I am consigned to entry-level jobs at best. There isn't much below that to which I can fall, so I dread risking what little I can get.

2. Housing

I share a house with low rent in an older Portland neighborhood. Although I was dressed female when I first met my housemates, I was still working as male. One housemate handled all contact with the landowner, who was elderly and in poor health, so I never met her until the contact person moved out and I took over responsibility for the rent and bills. From then until now, I have not felt that I could afford the risk of letting the landowner know about my condition. I have no lease, no job and no one to take me in. The city housing office brochure lists no-reason evictions as possible evidence, but without inclusion under the ordinance I could still easily end up homeless, depending on the whims or social opinions of my landlady, or of a neighbor.

Since I first moved in, one neighbor has refused to acknowledge my existence, even when dressed male. He has stood three feet from me on a sidewalk and in a store and stared right past me. When I have occasionally parked near where his children and those of another neighbor play basketball, they catch stray balls next to me getting into or out of my car, but won't speak to me. This is the case even

though I am rarely out of house dressed female. What if this neighbor takes offense and complains to my landlady? She is very attuned to keeping on neighbors' good side. Once again, I could easily end up homeless because of the prejudices of one or two people, because I am not covered by the ordinance. I fear even to apply for food stamps, for fear that the agency would contact my landlady and she might evict me if she knew I was out of work.

Thus, the combination of social prejudice and exclusion from legal protection have had the effect of forcing me to choose between enforced closeting and risking my ability to survive, or trying to choose. But transsexualism is a mental condition, not a lifestyle choice. Without legal protection, my "choice" is between exclusion from necessities such as employment and shelter by either discrimination or a crippling emotional disease.

All for a psychological oddity that I never asked for. It's not enough that I'll never have a family, a lover, anybody to be there for me as I age, assuming I don't die early, ugly death as a result of being homeless. Furthermore, my condition costs the State of Oregon now and could easily cost more. I am on the Oregon Health Plan, (although my hormone supplements are not covered.) I am eligible for food stamps but have avoided getting them so far. I have over \$20,000 in credit card debt, no life insurance and no relatives in Oregon. In the event of my death before paying off, the state is responsible for my debts. Furthermore, I have a bachelor's degree earned at several public institutions over 18 years, from 1970 to 1988. This is a net economic loss to taxpayers as long as I am unemployed or underemployed.

It is very important to include protection for transvestites. While transsexuals, drag queens, and other gender dysphoric people form distinct groups within the sexual minority community, those inclined to discriminate against us know little and care less about these distinctions. If transvestites are excluded, anyone accused of discriminating against a transsexual could use the defense that they thought the victim was a transvestite. Even judges might find it hard to distinguish between a pre-operative transsexual and a transvestite, since the difference is psychological and invisible. Therefore, failure to protect transvestites would still allow discrimination to impede the "real life test," a necessary therapeutic procedure.

The pursuit of happiness, the fullest possible expression of humanity, has been recognized as a basic human right for over 200 years. Preventing unjust denial of this right to citizens is the purpose of anti-discrimination laws. The council wisely saw fit to protect gay and lesbian people by prohibiting discrimination in housing, employment and access to public accommodation. Yet I believe that as a transsexual, I have even greater need of such protection than the gay and lesbian community. Male-to-female transsexuals' situation is more analogous to racial minorities because we tend to stand out, some by our large size and nearly all because of our voice. Easily identified, we are easy targets for harassment and discrimination. Please recommend our inclusion in the non-discrimination ordinance, and help us and make our contribution to society as first-class citizens. Thank you.

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05-01-96 P02:4

05-0

April 29, 1996

Metropolitan Human Rights
Commission
1120 SW Fifth Ave., Rm. 516
Portland, OR 97204-1989

RE: April 25, 1996 hearing on discrimination against transsexuals
and transvestites

Dear Metropolitan Human Rights Commission:

I am writing to offer clarification regarding the testimony
offered at the April 25, 1996 Commission hearing offered by
of

referred repeatedly to transvestites being refused the
use of women's restrooms while dressed in female attire, and apparently
considered such refusal to be evidence of discrimination.

I wish to assure the Commission that the inclusion of transsexuals
and transvestites to the City of Portland Title 23 prohibition of
discrimination will have no effect whatsoever as regards continued
segregation of the sexes in the use of public restroom facilities.

Currently the Department of Motor Vehicles provides for changing
the state personal identification card and driver's license as regards
"sex" upon the written diagnosis of an individual's transsexualism.
Transvestites such as _____ are not provided such diagnosis, nor are
they allowed by the DMV to change the sex listed upon their identification
card or driver's license without such written diagnosis of transsexualism,
and inclusion of transsexuals and transvestites to the city's prohibition
of discrimination will not in any way alter the current situation
regarding the use of restroom facilities.

Thank you for your time and consideration in this matter.

Sincerely,

APR 30 1996
17

4/26/96

Metropolitan Human Rights Commission,
1120 SW 5-th, Suite 516,
Portland, OR 97204

Dear commissioners,

Inasmuch as you are currently in the process of re-examining and updating Portland's non-discrimination ordinance I would like to briefly address one aspect of your efforts which I believe deserves special attention.

Having lived in Portland for many years now, I have come to know a very diverse and progressive city--a city which has, through conscientious policies of tolerance and civic pride--become the envy of many throughout the country. However, there are many persons in our great city who still suffer discrimination. One such person is a friend of mine--an individual whom I have come to respect as an excellent, highly educated citizen, and who struggles to survive and contribute as much as possible to the community. This person is a transsexual.

For several years I have witnessed my friend search relentlessly for a job in which she could reveal her true identity, thus preserving her dignity and financial stability. She has not been able to accomplish this and has, in fact, lived in constant fear of eviction from her non-leased, rented room. Furthermore, in addition to the medical issues surrounding sex-change, my friend has experienced other health problems that appear related to high stress--and with limited access to health insurance. She has had to live in fear of everything from harassment to ridicule on almost a daily basis.

I make no attempt to rationalize transsexualism. I simply believe that we owe it to our fellow citizens to enable them to live at least a tolerable life if not a celebrated one. As Portland's Human Rights Commission I believe you have a unique responsibility and challenge to examine the corners of our local community where institutionalized discrimination still exists. We need not render life unbearable for people no matter how unusual their identity or life-style may seem. Let Portland take the lead in this policy as it has in so many others.

Thank you for your consideration.

Sincerely,

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06-06-96 AG7:28

June 4, 1996

Metropolitan Human Rights
Commission
1120 S.W. Fifth Ave., Rm. 516
Portland, OR 97204-1989

Attn: Helen Cheek

Dear Ms. Cheek and the Metropolitan Human Rights Commission:

I am writing to recount several additional instances of discrimination I have experienced within the City of Portland owing to my transsexualism.

1. Discrimination in Housing

On November 28, 1993 I telephoned an advertisement for an apartment and made an appointment to view the unit for rent.

owner and manager of the apartment building at
, expressed surprise that I provided him a female name, stating my voice sounded masculine.

I attended the appointment with a friend, who was showing the apartment to another woman when we arrived. asked my friend: "Is he with you?" encouraged the other woman to rent the apartment and when she indicated she wasn't interested, encouraged her to view other properties.

After this prospective tenant left I expressed interest in renting the unit but was told didn't have any applications with him and that I'd have to pick one up the next day. When I telephoned the next day claimed to have rented the unit to the woman who had viewed it and left while I was in the apartment. When I inquired about other rental property available through declined to provide me any information.

June 4, 1996

2. Discrimination in Employment

On April 16, 1996 I filed a complaint of unlawful discrimination on the part of my employer.

OR

with the Bureau of Labor and Industries. On April 23, 1996, [redacted] informed me by telephone that my case was to be closed on the basis that transsexualism is excluded from the Americans with Disabilities Act.

[redacted] with BOLI's Civil Rights Division, related the same information in [redacted] April 26, 1996 letter to me.

On May 29, 1996 (last week) I was terminated from my position of one year by [redacted].

[redacted] I was terminated with no warning. In the very brief interview in which I was informed I was terminated I was told by [redacted] that it was clear that I was "unhappy here".

[redacted] cited "tension" in the office was causing the firm to lose employees "and we can't have that -- I'm sure you understand".

On May 30, 1996, the day after my termination, I attempted to file a complaint alleging retaliation for filing a complaint of discrimination. I am still awaiting word from BOLI.

3. Discrimination in Public Accommodations

As related above, the Bureau of Labor and Industries refused to investigate my complaint of discrimination by my employer. In [redacted] April 26, 1996 letter to me, [redacted] wrote: "I refer you to federal regulation 1630.3 Exceptions to the definitions of "Disability" and "Qualified Individual with a Disability. '(d) Disability does not include: (1) Tranvestism, transsexualism...' "

June 4, 1996

added in . . . letter that "(t)he Bureau follows the ADA in it's decision to not include transsexualism as a disability."

The Bureau's decision to follow the ADA in not accepting complaints of discrimination on the basis of disability when filed by individuals citing the mental disorder of transsexualism is a violation of both ORS 659.400 and ORS 659.425 and Code of Federal Regulations 1630.1.

cited CFR 1630.3 to justify the Bureau's refusal to accept my complaint of discrimination. CFR 1630.1(b), however, states "The ADA does not preempt any Federal law, or any State or local law, that grants to individuals with disabilities protection greater than or equivalent to that provided by the ADA."

Neither Oregon Revised Statute 659 nor Oregon Administrative Rules Chapter 839, Division 6 provide for the exclusion of any physical or mental condition. According to ORS 659.425, "For the purpose of ORS 659.400 to 659.460, it is an unlawful employment practice for any employer to refuse to hire, employ or promote, to bar or discharge from employment or to discriminate in compensation or in terms, conditions or privileges of employment" because of physical or mental impairment. ORS 659.400 defines "Disabled person" to include those person who have "a physical or mental impairment that substantially limits major life activities only as a result of the attitude of others toward such impairment".

Given that the Bureau of Labor and Industries itself feels free to ignore both Oregon law and the Code of Federal Regulations 1630 it is no wonder that discrimination against transsexuals in housing, employment and public accommodation is the norm in Portland. I urge the Metropolitan Human Rights Commission and Portland City

June 4, 1996

Council to follow the example of the United States Supreme Court in condemning discrimination levied at sexual minorities. Every day that passes without such prohibition is another day transsexuals are at the mercy of bigotry and prejudice, and another day that the reputation of Portland as a city which will not tolerate discrimination is undermined.

Thank you for your time and consideration in this matter. Should you have any questions, please feel free to contact me.

Sincerely,

19

June 18, 1996

Metropolitan Human Rights Commission
1120 SW 5th Street
Suite 516
Portland, OR 97204

06-20-96

Re: Additional Coverage of Transgendered People

Dear Commission Members:

I am writing to urge you to include transsexuals and transgendered people in Portland's human rights ordinances. Now that the Supreme Court has ruled that no class of citizens can be singled out for discriminatory practices, it is more important than ever to make it clear that all classes of citizens are entitled to equal protection from discrimination under the law.

Living in one of the handful of cities in America where it is illegal to discriminate against people like me has made a big difference in my life. I work as a legal temporary secretary for a temporary agency. I go to a different job every week. Regardless of whether a firm is liberal or conservative, when people learn I'm transsexual, it is accompanied by a shock, followed by smiles to show their tolerance. But above those smiles are eyes of scorn. As a transsexual woman I regularly encounter snide remarks, tones of pity, or people shaking their heads in dismay. It's then that I'm grateful for the anti-discrimination laws of San Francisco. Because of these laws, this is all that can be done to me. Without them, those snide remarks could easily become something much worse. People would be quite free to deny me the right to earn a living, to use women's restrooms, even from appearing in society.

I urge you to include transsexual and transgendered people in Portland's human rights ordinance, so that they can enjoy the same freedom from fear and have the opportunity to live life on their own terms, which is all anyone ever asks.

Sincerely yours,

Publisher and Editor

20

To: The Metropolitan Human Rights Commission

CC: Vera Katz, Mayor of Portland

From:

06-20-96 A11

Date: June 18, 1996

Re: Inclusion of Transgendered People in Human Rights Protections

To the Commissioners:

I am offering this written testimony to support the brief opportunity which I had to speak before a public hearing which you held to gather information about the status of transgendered people's human rights within Portland. I am appealing to you to consider this as my personal experience, and as representative of common problems within our community.

I live and work in Portland. I hope that within this community, there is a bright future for me and my family, due to the awareness here of what it takes to make a humane society for every citizen. Protections by public policy have been extended to almost every minority and culture within this city, either by the state, federal, or city governments, or in response to the community's awareness and compassion.

There is one group here who are still singled out as pariahs, and systematically denied protection from discrimination, not because they have caused harm or disruption, but for being who they are; these are transgendered people. We are without recourse when prejudice forces us from our jobs, our homes, our families, our lives. We are treated as untouchables, as unspeakable. Who will protect us?

I can speak from personal experience about being a transexual. I am a computer professional who has seen her livelihood wither away, and seen my family threatened with poverty, and have gone to governmental agencies to seek protection from institutional harassment and discrimination on the job. As soon as I utter the dreaded T-word, those who might be able to help seek to distance themselves from me as quickly as they can. They tell me they can not help me, they will not help me, they are expressly forbidden to help me; go away!

Because oppressive factions in our federal government have commanded the human rights agenda to specifically exclude transexual people from protection, and because there is no clear will in this state to oppose discrimination, we are left without effective recourse when our human rights are denied.

Everyone seems content to wink and turn away, anxious only to cover their bureaucratic asses. Maybe if they just ignore us, they hope, we will go hide, or die, and solve the embarrassment which our oppression creates for them. This strategy of

June 18, 1996

obstinate denial is aided by the special risks which transgendered people put themselves if they dare to publicly demand their rights.

I have documented my status by the most reputable of medical professionals, have honestly and openly informed all concerned, and assumed that my human rights were intact. What this has gotten me is systematic denial from my employer of fair treatment, and nowhere to go to get help. Without protection, I am at the mercy of whomever wants to discriminate against me. The more informed my employer, has become about the latitude of their options to discriminate against me with impunity, the bolder their abuse has become.

I am denied medical coverage, legal protection, labor protection, and any other reasonable considerations of my transexual status. Until this changes, I and my whole family will be easy prey for whomever wants to discriminate against us. I can be dismissed for no reason from any job, denied employment, harassed and threatened, and no one in government will lift a finger.

I would beg you to change this, to offer specific protection for transexual and transgendered people in the city of Portland, because it is the compassionate thing to do. I would ask you for compassion for me and for my family, because it is the noble and wise thing to do. But, I have had enough of the hideous cruelty, and the convenient ignorance that turns a deaf ear to my suffering, to my family's plight, and to the many others who have suffered TOO LONG so that brutish cowardice can go unchallenged; I DEMAND that you protect us!

This society, this city, is not worthy of anyone's respect if it cannot take a simple stand for decency against the elements of hatred and fear who hold us hostage. HUMAN RIGHTS ARE NOT A POLITICAL FAVOR! THEY ARE NOT OPTIONAL!

What's it like to suffer for something you can't change, in a hypocritical society that puffs itself up about rights, and takes your courage and hope, and throws it out the door? Talk to us. Listen to us, we will tell you. Then, speak for us, so that this crime of silence will not continue.

Thank You...

06-20-96 A10:2

21

June 20, 1996

Metropolitan Human Rights Commission
1120 SW 5th Ave #516
Portland OR 97204

Re: Transsexual discrimination

I am a pre-op transsexual who has taken female hormones over a year. My legal name is still Y But I prefer and mostly use my female name - X.

However, due to traumatic events in my life, I came close to a suicide attempt. I was referred to HOSPITAL for evaluation.

When I checked in to HOSPITAL, I listed the name of X as an A.K.A. (also known as). The nurse who first saw me called me X. Then the social worker and doctor called me X.

However - when I was admitted to the fifth floor Psych Ward - I wasn't called X anymore. I was called Y against my wishes.

June 20, 1996

Page two

When I expressed a preference for the name X — that was not done. I was told it was "doctor's orders" to call me Y "DOCTOR" orders.

I was instructed to discuss with DOCTOR my name preference.

I did just that. I talked to DOCTOR. I expressed my wish to be called X. I told him I always use that name and it makes me more comfortable. I explained that I was a pre-op transsexual (which it turns out he already knew).

DOCTOR however continued to deny my request. I asked him for a reason. The only thing another staff member told me was that it gave me a consistent name. But DOCTOR refused to give me a good answer.

DOCTOR's attitude towards transsexuals was rather cold. He made the statement that "transsexuals shouldn't live off the system" or words to that effect. His reference was directed at transsexuals who are on welfare or social security.

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Page three

When I continued insisting to be called " X " -
he finally offered a "compromise". The staff would
call me by my initials "X.X." - short for X
I declined. However **DOCTOR** abruptly
ended our conversation at this point and said again
I'd be called "X.X.". And that was that.

It was immediately evident to me that the decision to
call me " Y " - then later "X.X." by **DOCTOR**
who in turn instructed the staff to do likewise was
judgmental! I still look more like a man than a
woman. So **DOCTOR** rationalized that I shouldn't
be called by a feminine name like X

So from that point on, I was called "X.X." - a
name I previously had never been called before!
My name was written on the bulletin board as
"X.X.". Everyone kept calling me X.X. This was
incredibly distressful and intimidating. X.X. is
not my name. It's **DOCTOR**'s concoction!!!!

June 20, 1996

Page four

Numerous times when a staff member addressed me as "X.X." I protested it. I explained that it wasn't my name. But I was told "Well - you need to talk to **DOCTOR** about that".

"No. I've tried that. It appears to be time to go over **DOCTOR's** head!".

Two separate traumatic events occurred involving being called "X.X.". Both were from my therapist my last day there. She was a tall, slender, blonde-haired woman. If I'm not mistaken, her name was Theresa.

The first event was in a classroom with myself and two other patients. One of the other patients saw the name of "X.X." on the chalkboard. He made the remark "X.X.? Who's X.X.?". Then Theresa pointed at me and said "X.X.". This was so humiliating that I sat expressionless and didn't acknowledge it. However - I was so intimidated that I was afraid to speak up for myself.

June 20, 1996

Page five

The second event involved a phone call. Theresa approached me and said "X.X. - you have a phone call from your mom". I was so hurt that I didn't want to talk to her at the time. So Theresa told my mom I didn't want to talk.

Each time I was called XX - or saw my name on a bulletin board as such I was devastated! I cannot begin to describe how awful it felt to be called this over and over! It hurt as bad as any derogatory term I can imagine.

In my last day there, I ate very little. I felt awful. I tuned out everybody and everything around me for the most part.

I felt like my identity was erased! I can't choose my own name. DOCTOR gets to decide what my name is. Since DOCTOR thinks X is too feminine a name for me, he wouldn't allow anyone to call me that !!!!!

June 20, 1996

Page six

Without question, this was the worst, most traumatic time in my life. I've never been so hurt, embarrassed, humiliated, intimidated, and belittled in all my life!

My pain from this is immeasurable. I'm so angry I still can't believe this happened. **BUT IT DID!**

And yet - this was the Psych Ward at HOSPITAL.
Supposedly this should be a place to help people who attempt suicide get their heads together.

The staff knew I was transsexual. They even gave me my daily dosage of 4 - 1.25 mg "Ogen" pills (female hormones). As I said, I've already been on hormones for over a year.

I directed this complaint to Z in Quality Management at HOSPITAL. I met her in person and discussed this matter with her yesterday in person.

June 20, 1996

Page seven

When talking to her, I cried and sobbed several times. I couldn't hold my emotions in talking to her.

I hope z will pursue checking into this.

But DOCTOR is just one person. There are many others like him. Without laws to protect transsexuals, people can treat us any way they wish. And we'll be left defenseless - with no legal recourse.

Thank you

**Note: To maintain confidentiality, the following substitutions have been made in the text of the letter:*

Writer's Legal Name Y
Writer's Chosen Name X
Name of Hospital Hospital
Doctor's Name Doctor
Chosen Name Initials X.X.
(used in address as explained in the letter)
Name of Hospital Staff Member Z

DEFINITIONS AND TERMS

Because certain words and expressions used in this report may not be clear to all readers, we offer the following definitions provided by the American Educational Gender Information Service (AEGIS).

Transsexuals are extremely unhappy in the gender to which they are assigned and change their gender roles and bodies in order to live as members of the 'other' sex. Modern medical technology (synthesized sex hormones, electrolysis, plastic surgery) makes this much easier than it was in the past. About 50 % of transsexuals are male to female (MTF) and 50 % are female-to-male (FTM).

Transgenderists live as members of the other sex, but without the extreme need or desire to modify their bodies shown by transsexuals. Some live as members of the other sex, while others stake out "third gender" status. Transgenderists may take hormones, but do not have genital sex reassignment surgery.

Cross Dressers wear the clothing of the other sex on occasion, but do not desire to change their sex. They dress for personal reasons, which can range from a need to express their feminine or masculine side to a way to express themselves erotically.

Drag Kings and Drag Queens present larger than life images of men and women, exaggerating sexual stereotypes for entertainment or self-gratification.

**Bureau of Labor and
Industries' Discrimination
Against
Transsexuals**

Including Corroborating
Documentation

Written by

Margaret Deirdre O'Hartigan

March 25, 1996

TRANSSEXUALS AND DISCRIMINATION

The very state agency charged with enforcing state law prohibiting discrimination on the basis of disability has itself discriminated against individuals solely on the basis of those individuals' disabilities. In refusing to accept complaints of discrimination reported by transsexuals, the State of Oregon Bureau of Labor and Industries has acted in a capricious and arbitrary manner -- and in doing so has violated both Oregon Revised Statute and Portland City Ordinance.

BACKGROUND INFORMATION

Discrimination on the basis of disability was prohibited in 1973 by Oregon Revised Statute and prohibited by the Portland City Council with the passage of a civil rights ordinance in 1991. The State of Oregon Bureau of Labor and Industries is charged, under ORS 659.404, 659.045 and 659.435 as well as Portland City Code 23.01.080(A), with enforcement of ORS 659 and PCC 23.01 as they pertain to the prohibition of discrimination on the basis of disability.

According to Oregon law pertaining to the civil rights of disabled persons as regards employment, "Disabled person" is inclusive of "a physical or mental impairment that substantially limits major life activities only as a result of the attitude of others toward such impairment". (ORS 659.400(2)(c)(A)).

OAR 839-06-240(2) provides further clarification in this regard: "Conditions which are mutable only upon long-term treatment, and which either do not impair the individual's ability to perform the work involved...or with reasonable accommodation would not impair the

individual's ability to perform the work involved...may not form the basis for rejection of the individual for a position. Obesity is an example of such an impairment." (Citations excluded).

Nowhere within either ORS 659 nor OAR 839 are physical or mental impairments cited by specific diagnosis, nor is authority granted to the Bureau of Labor and Industries to either include nor exclude specific diagnoses.

Transsexualism per se was generally recognized by the American Psychiatric Association as a specific mental disorder upon inclusion in the APA's Diagnostic and Statistical Manual of Mental Disorders in the 1980 Third Edition, and given the numerical code of 302.5. Transsexualism was retained in the 1987 Third Edition-Revised, and Gender Identity Disorder was added in the 1994 DSM IV as 302.85.

A PATTERN OF DISCRIMINATION

The Bureau of Labor and Industries has for years consistently informed transsexuals seeking to file complaints of discrimination "that there are no bases for the Civil Rights Division to accept a formal complaint of discrimination." The Bureau of Labor and Industries does not cite any statutory authority empowering it to distinguish between mental and physical impairments for which it accepts complaints of discrimination when it refuses to accept transsexuals' complaints of discrimination. Nor does the Bureau cite any statutory authority empowering it to demand specific inclusion of a medical diagnosis as the basis for accepting or rejecting complaints of discrimination on the basis of disability. Written requests that the Bureau of Labor and Industries cite the

specific authority on which it bases its determination that transsexualism is not included within the meaning of disability as defined by ORS 659 have been ignored.

The fact is that for the Bureau of Labor and Industries to refuse to accept a complaint of discrimination based upon the failure of either ORS 659 or Portland City ordinance to specifically designate the specific mental disorders of transsexualism and/or gender identity disorder is to hold these specific medical diagnoses to a standard different than that required for every disability and physical or mental impairment for which complaints of discrimination are accepted.

BRIEF SUCCESS

On January 10th of this year I requested the Portland City Council to direct this Commission to hold hearings investigating discrimination experienced by Portland transsexuals. Within days of making my request I was approached by a transsexual recounting one of the most blatant examples of job discrimination I have encountered. Yet when this individual telephoned the Bureau seeking to file a complaint of discrimination, the response was what transsexuals have heard from BOLI for decades -- "No."

Refusing to accept "No" for an answer, this individual and I drafted a complaint and mailed it to BOLI -- and as I expected, BOLI rejected it, writing in a letter dated January 26, 1996 that "(t)here are no bases for the Civil Rights Division to accept a formal complaint of discrimination. Oregon Civil Rights Law does not cover the issues you have raised. The Portland City Ordinance does not designate transsexuals as a protected class."

We then contested BOLI's decision, citing ORS 659.400(2)(c)(B), and referred BOLI to the American Psychiatric Association's DSM III, DSM III-R and DSM IV, which recognize transsexualism and gender identity disorder as mental disorders.

We also requested BOLI cite the specific authority on which it based its rejection of the complaint.

The Bureau of Labor and Industries' response was to send a completed complaint for notorization and acceptance. BOLI still has not responded to the request it cite the specific authority by which it initially denied the written complaint -- but the reason is obvious: Such authority doesn't exist. What are they going to say? "Oops?"

A SECOND COMPLAINT

On February 27, 1996 -- exactly one week after sending the completed complaint for notorization and acceptance -- BOLI refused a second written complaint of discrimination reported by another transsexual -- myself. Having apparently learned from the previous, accepted claim, BOLI's rejection letter to me did not claim transsexuals are not recognized as a protected class; the rejection letter merely stated that "Oregon Civil Rights law does not cover the issues you have raised."

Unlike the prior claim alleging discrimination in the form of an employer refusing to hire an individual, my complaint alleges my employer has discriminated against me in "compensation or in terms, conditions or privileges of employment" -- a violation of ORS 659.425. The health insurance my employer provides its employees has excluded, and continues to exclude, "(s)ervices or supplies related to trans-

sexualism" and "(s)ervices and supplies to diagnose, rule out or treat gender identity disorders (including sex change procedures)".

Because I am a post-operative transsexual, I have the same need for estrogen treatment as any other woman diagnosed with hypoestrogenism -- and if denied such treatment, I will experience the same ill-effects my female co-workers similarly diagnosed will experience if denied that same treatment: increased risk of osteoporosis, stroke and heart attack, hot flashes, etc. The health insurance my employer provides covers treatment for my female co-workers' hypoestrogenism, yet denies me the same treatment owing to my additional diagnosis of transsexualism.

ORS 659.425(b) forbids as an unlawful employment practice the discrimination by an employer in compensation or in terms, conditions or privileges of employment because "(a)n individual has a record of a physical or mental impairment". BOLI's assertion in its letter to me dated February 27, 1996 that "Oregon Civil Rights law does not cover the issues you have raised" is thus as clearly in error as the Bureau's previous claim on January 26, 1996 that "(t)he Oregon Civil Rights Division does not have jurisdiction because the Portland City Ordinance does not designate transsexuals as a protected class." Similarly to the claim cited previously, I have contested BOLI's rejection of my claim in a letter dated March 14, 1996, and am awaiting a reply.

PROSPECTS FOR THE FUTURE

Given BOLI's demonstrable record of falsely claiming transsexuals are not protected by either Oregon Civil Rights law or Portland City Ordinance, what are the prospects of transsexuals receiving

equal protection under law after the Metropolitan Human Rights Commission hearings are concluded and the bright light of public scrutiny ceases to illuminate BOLI's malfeasance? Will we witness the dismissal of the accepted complaint of discrimination on a technicality? Will my complaint be rejected once more? Will we once again be informed by BOLI that, in effect, "No transsexuals need apply?"

Portland transsexuals have been denied equal protection under law for all these years not because we are excluded from the law but because the state agency responsible for enforcing that law has taken it upon itself to treat us differently than it does every other individual with a physical and mental disability. As you listen to the testimony offered tonight and on April 25, reflect upon the fact that many of the individuals reporting discrimination have been doubly discriminated against -- once in housing, employment or public accommodations, and once by the Bureau of Labor and Industries. Ask yourselves what is to be done when those whose duty is to uphold the law hold themselves to be above the law, violating the letter and spirit of the very law they are charged to enforce.

RECOMMENDATIONS

I request the Metropolitan Human Rights Commission investigate the Bureau of Labor and Industries' arbitrary and capricious refusal to accept complaints of discrimination reported to the Bureau by transsexuals, and that this investigation include, but not be limited to, the following:

1. The Commission is requested to solicit from BOLI any and all

evidence on which the Bureau has in the past based its opinion that "(t)he Oregon Civil Rights Division does not have jurisdiction because the Portland City Ordinance does not designate transsexuals as a protected class", such evidence to consist of statutory authority, administrative rules, Bureau policy and directives, and internal memoranda.

2. The Commission is asked to request the attendance and testimony at the April 25 hearing of Bureau officials and employees instituting and/or enforcing BOLI's refusal to accept for investigation complaints of discrimination reported by transsexuals; such individuals to include, but not be limited to:

a. The senior officer of the Portland office of BOLI;

b. The BOLI employees responsible for the January 26, 1996 and February 27, 1996 letters denying acceptance of the January 20, 1996 and February 15, 1996 written allegations of discrimination reported by transsexuals;

c. Any and all additional individuals whose testimony is considered germane to this investigation by the Commission and/or the Bureau of Labor and Industries.

3. The Commission is requested to recommend the City Attorney adopt, pursuant to Portland City Code 23.01.090, rules, procedures and forms to assist in monitoring complaints of noncompliance on the part of BOLI in relation to ORS 659.

4. The Commission is requested to urge the investigation of malfeasance on the part of officials and employees of BOLI pertaining to the Bureau's violation of ORS 659 in rejecting complaints of discrimination reported by transsexuals.

5. The Commission is requested to recommend to the Portland City

Council the formation of a Portland Human Rights Department, the goal of which will be to enforce Portland City Code 23.01 prohibitions regarding discrimination based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation or source of income.

6. And lastly, the Commission is requested to take an active role in monitoring the investigation resulting from the notarized complaint of discrimination received by the Bureau of Labor and Industries March 11, 1996, in order to ascertain the Bureau's compliance with ORS 659.

[REDACTED]
January 20, 1996

Oregon Bureau of Labor & Industries
800 NE Oregon St., #32
Portland, Oregon 97232

Dear sirs:

This letter conforms to the Oregon Bureau of Labor and Industries
Civil Rights Division Complaint Questionnaire.

COMPLAINANT INFO MATION

This section for office use

Name [REDACTED]

Street Address [REDACTED]

City/State/Zip [REDACTED]

County Multnomah

Home Phone (503) [REDACTED] Daytime Phone ()

Date of Birth (mm/dd/yy) [REDACTED]

Social Security # [REDACTED]

I am: Male Female My race is [REDACTED] My national

origin is U.S.

Contact information. Name, address and phone number of a
person who does not live with you but will know how to
contact you.

Name [REDACTED]

Address [REDACTED]

City/State/Zip [REDACTED]

Phone Number (503) [REDACTED]

RESPONDENT INFORMATION

Company Name [REDACTED]

Street Address [REDACTED]

City/State/Zip [REDACTED]

Phone Number (503) [REDACTED] County Multnomah

Staff _____

Date Drafted _____

Contract/juris/basis branch

First Contact _____

First DOD _____

SX: M F

RC: A B I O W

NO: E M H O

RP type _____

County _____

SIC _____ Size _____

Source: PA B C U

Continuing: Y N

Comm. M P W O

Contract: DP AG EE

Basis _____

Issues _____

OSHA: 1st, SIC, Source

January 26, 1996

BUREAU
OF LABOR
AND INDUSTRIES

Dear Claimant:

The Bureau of Labor and Industries, Civil Rights Division, has received your discrimination questionnaire. We have reviewed the questionnaire and find that there are no bases for the Civil Rights Division to accept a formal complaint of discrimination.



Jack Roberts
Commissioner

I have checked a reason or reasons below regarding why we are unable to accept a complaint:

- Oregon Civil Rights law does not cover the issues you have raised.
- The allegation is untimely and beyond the 365 day statute of limitations provided by law to be timely.
- The employer does not have enough employees to accept a complaint under Oregon law.
- The allegation is untimely and beyond the 30 day statute of limitation provided under Oregon law regarding OSHA complaints.
- The Oregon Civil Rights Division does not have jurisdiction over federal employees. Please contact the EEO Officer at the local branch of the federal agency for assistance regarding their complaint process.
- The Oregon Civil Rights Division does not have jurisdiction regarding familial status or source of income in employment outside the Portland city limits.
- The discrimination did not occur within a municipality that recognizes sexual orientation as a protected class.
- Other The Oregon Civil Rights Division does not have jurisdiction because the Portland City Ordinance does not designate transsexuals as a protected class.

If you have any questions regarding this letter, please call me in the Portland office at 731-4075 x441 for further assistance.

PORTLAND
800 NE Oregon St. # 32
Portland, OR 97232
(503) 731-4200
FAX (503) 731-4069

EUGENE
165 E 7th Street, Suite 220
Eugene, OR 97401
(503) 686-7623
FAX (503) 686-7980

PENDLETON
200 Hailey Ave., Suite 308
Pendleton, OR 97801
(503) 276-7884
FAX (503) 276-2950

BEND
1250 NE 3rd, Suite B105
Bend, OR 97701
(503) 388-6330
FAX (503) 388-6273

MEDFORD
700 E Main, Suite 105
Medford, OR 97504
(503) 776-6270
FAX (503) 776-6284

SALEM
3865 Wolverine St. NE: E-1
Salem, OR 97310
(503) 373-1417
FAX (503) 373-

COOS BAY
320 Central Ave., Suite 510
Coos Bay, OR 97331
(503) 269-4375
FAX (503) 267-3194

AN EQUAL OPPORTUNITY EMPLOYER

[REDACTED]

February 6, 1996

Oregon Bureau of Labor & Industries
Civil Rights Division
800 NE Oregon St., #32
Portland, Oregon 97232

I am contesting the Bureau of Labor & Industries, Civil Rights Division's refusal to accept my formal complaint of discrimination.

In your January 26, 1996 rejection of my January 20, 1996 complaint, you stated "Oregon Civil Rights law does not cover the issues you have raised" and elaborated that "(t)he Oregon Civil Rights Division does not have jurisdiction because the Portland City Ordinance does not designate transsexuals as a protected class."

While it is true that Title 23.01.030A does not include either transsexualism or gender identity disorder within the definition of "Sexual Orientation", this rejection is nonetheless not in compliance with 23.01.050, which prohibits discrimination in employment "on the basis of an individual's... disability".

According to 23.01.030C, with the exception of "Sexual Orientation" and "Source of Income", "(a)ll other terms used in this ordinance are to be defined as in Oregon Revised Statutes Chapter 659." Thus, "disability" as used through Chapter 23.01 is defined, in accordance with ORS 659.400(2)(c)(B), to be inclusive of the meaning: "a physical or mental impairment that substantially limits life activities only as a result of the attitude of others toward such impairment". Neither ORS 659 nor Title 23.01 designate specific diagnoses as being included or excluded within the purview of the law, nor does Oregon Administrative Rules Chapter 839, Division 3.

Both the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders Third Edition (1980) and Third Edition-Revised (1987)

February 5, 1996

specifically included "Transsexualism" as 302.5, while the most recent edition (DSM IV) lists "Gender Identity Disorder" as 302.85.

Given that "Transsexualism" and "Gender Identity Disorder" are held by the American Psychiatric Association to be mental disorders, and given that nowhere within either ORS 659, OAR 839 nor Title 23.01 are either disorders specifically excluded from the definition of "disability" and "physical or mental impairment", I fail to perceive by what authority the Bureau of Labor and Industries effects to state lack of jurisdiction merely because the Portland City Ordinance, Oregon Revised Statutes and Oregon Administrative Rules do not specifically designate transsexuals as a protected class.

To refuse to accept a complaint of discrimination based upon the failure of ORS 659 and Title 23.01 to specifically designate this specific mental disorder which is generally recognized as such by the American Psychiatric Association, is to hold this specific medical diagnosis to a standard different than that applied to every other disability and physical or mental impairment for which complaints of discrimination are accepted.

I am therefore requesting the Bureau of Labor & Industries, Civil Rights Division to review its refusal to accept my January 20, 1996 complaint of discrimination. I am further requesting the Division cite the specific authority by which it ruled in its January 26, 1996 letter to me that neither Oregon Civil Rights law nor Portland City Ordinance provides jurisdiction to accept a formal complaint of discrimination based upon my medical diagnosis with transsexualism and/or gender identity disorder.


Date

February 6, 1996

February 20, 1996

BUREAU
OF LABOR
AND INDUSTRIES



Jack Roberts
Commissioner

Dear Complainant:

We are enclosing your complaint of discrimination and other relevant material. You must have your signature on the charge of discrimination properly notarized and until we are in receipt of your signed and notarized complaint, it is not legally filed with our Division.

It is important that you know there are time limits within which your complaint must be filed. The law requires that the State complaint be filed within one year of the alleged discriminatory act and the Equal Employment Opportunity Commission complaint within 300 days (preferably 240 days) of the alleged discriminatory act.

To ensure that your complaint is duly filed and our records are accurate, we urge you to return it, signed and notarized, as soon as possible. Your anticipated cooperation in this matter is appreciated.

If there are any corrections or additions you think necessary, please do not write on the charge. Please give Civil Rights Intake a call at 731-4075 if you have any questions regarding the charge and how it is written. Please tell the receptionist you are calling about a charge you have been sent to sign.

Sincerely,

INTAKE OFFICE
CIVIL RIGHTS DIVISION

Enclosure

PORTLAND
800 NE Oregon St., # 32
Portland, OR 97232
(503) 731-4205
FAX (503) 731-4209

EUGENE
165 E 7th Street, Suite 220
Eugene, OR 97401
(541) 686-7623
FAX (541) 686-7980

PENDLETON
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Pendleton, OR 97801
(541) 276-7884
FAX (541) 276-2950

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Bend, OR 97701
(541) 388-6330
FAX (541) 388-6273

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700 E Main, Suite 105
Medford, OR 97504
(541) 776-6270
FAX (541) 776-6284

SALEM
3865 Wolverine St. NE; E-1
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(503) 378-2224
FAX (503) 378-7636

COOS BAY
320 Central Ave., Suite 510
Coos Bay, OR 97420
(541) 269-4575
FAX (541) 267-3194

AN EQUAL OPPORTUNITY EMPLOYER



BUREAU OF LABOR AND INDUSTRIES
Jack Roberts, Commissioner

Civil Rights Division Complaint of Unlawful Practice

COMPLAINANT:

Case #:

Attorney:

Phone #:

Phone #:

RESPONDENT:

Phone #:

Headquarters:

Contact: Personnel

County: MLT

of Employees: 100+

Phone #:

ORS 659.425

being first duly sworn, do depose and say as follows:

Allegations: I allege unlawful employment discrimination on the basis of my disability (gender identity disorder/transsexualism) in that Respondent has treated me differently, laid me off/terminated me on/about and since denied me rehire.

1) In about was hired by Respondent.

2) [Redacted]

3) [Redacted]

4) [Redacted]

CRD 121-483

Continued on reverse side

PORTLAND
800 NE Oregon St. # 32
Portland, Oregon 97232

SALEM
3865 Wolverine Ave. NE; E-1
Salem, Oregon 97316

EUGENE
165 E 7th Street, Suite 220
Eugene, Oregon 97401

MEDFORD
700 E Main, Suite 105
Medford, Oregon 97504

COOS BAY
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Coos Bay, Oregon 97420

BEND
1250 NE 3rd, Suite B105
Bend, Oregon 97701

PENDLETON
PO Box 730
Pendleton, Oregon 97801

APR 25 1996

**EXISTING STATUTORY
PROTECTION FOR
TRANSSEXUALS
AND
TRANSVESTITES**

**with
Recommended Language
Amending
City of Portland
Title 23**

by

Margaret Deirdre O'Hartigan

April 25, 1996

EXISTING STATUTORY PROTECTION FOR TRANSSEXUALS AND TRANSVESTITES

Language prohibiting discrimination on the basis of an individual's transsexualism or transvestism was first adopted in the United States in 1974, when the Minneapolis Civil Rights Ordinance was amended to include individuals "having or projecting a self-image not associated with one's biological maleness or one's biological femaleness." (Title 7, Ch. 139).

Several other cities have followed the example set by Minneapolis in prohibiting discrimination against trans people.

In the 1980s the City of Seattle specifically included transsexuals and transvestites per se, in Chapter 14.08.020(EE)'s definition of "sexual orientation". "Sexual orientation means actual or perceived male or female heterosexuality, bisexuality, homosexuality, transsexuality, or transvestism and includes a person's attitudes, preferences, beliefs and practices pertaining thereto."

On December 30, 1994, San Francisco Mayor Frank Jordan approved Ordinance 433-94 amending the City and County of San Francisco Administrative Code to "prohibit discrimination based on gender identity in employment, public accommodations, and housing." "Gender identity" was defined to mean "a person's various individual attributes as they are understood to be masculine and/or feminine."

And in 1992 the Minnesota Civil Rights Act was amended to prohibit discrimination on the basis of sexual orientation, which was defined to mean "having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being

perceived as having a self-image or identity not traditional associated with one's biological maleness or femaleness."

(Section 363.01, Subdivision 23.

ANALYSIS OF EXISTING STATUTORY PROTECTION FOR TRANS PEOPLE

As John Money, Ph.D., Professor of Medical Psychology and Pediatrics Emeritus, Johns Hopkins University and Hospital wrote in the Foreward to Dr. Gerald Ramsey's book, Transsexuals: "The term 'transsexualism,'...signifies both a diagnosis and, even more importantly, a method of rehabilitation for an otherwise untreatable condition." Seattle city ordinance inclusion of "transsexuality" and "transvestism" clearly prohibits discrimination against individuals diagnosed or perceived to be transsexual, as well as prohibits discrimination against individuals wearing clothing of the "opposite sex", or cross-dressing ("tranvestism" is simply Latin for "cross-dressing"). As the ordinance pertains to transsexuals, legal protection is extended to both pre-operative and post-operative transsexuals, that is, transsexuals awaiting sex-reassignment surgery as well as transsexuals who have undergone a "sex-change".

The Minnesota state statute, and the Minneapolis city ordinance upon which it is based, is less concise. While "having or projecting a self-image not associated with one's biological maleness or one's biological femaleness" clearly pertains to both transvestites and pre-operative transsexuals in that both categories of individuals wear clothing not associated with biological sex, the situation of post-operative transsexuals is less clear. An individual who has undergone sex-reassignment and subsequently wears clothing consistent

with the reassigned sex cannot not be said to project "a self-image not associated with one's biological" sex. It is only the legislative intent and legislative history of House of Representatives File No. 585 which provides legal protection to post-operative transsexuals under Minnesota Title 7, Chapter 139.

San Francisco's Administrative Code Section 12 prohibition of discrimination on the basis of "gender identity" is even more problematical, in that every human being has a gender identity, that is, a self-perception of the self as, for example, male or female. "Gender identity disorder", as defined by the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, is "a strong and persistent cross-gender identification, which is the desire to be, or the insistence that one is, of the other sex". Thus, a transvestite who knows himself to be a male and does not desire or insist he is the other sex, does not suffer from gender identity disorder. Likewise, a post-operative transsexual, having attained conformity between gender identity and biological sex, is similarly not gender dysphoric. No court decision has yet been held under San Francisco's prohibition of discrimination on the basis of gender identity in a case involving a post-operative transsexual, so it remains to be seen whether a court will interpret this relatively recent amendment to that city's administrative code to provide protection in such an instance. Nevertheless, the history and intent of the San Francisco Board of Supervisors should provide adequate documentation that protection was the express goal.

EXISTING CITY OF PORTLAND TITLE 23 IN COMPARISON TO OTHER CITIES

The City of Portland added a new title, Chapter 23, by Ordinance No. 164709, on October 3, 1991, pertaining to civil rights. With the exception of "Sexual Orientation" and "Source of Income", "(a)ll other terms used in this chapter are to be defined as in Oregon Revised Statutes Chapter 659.

"Sexual Orientation" is defined by Portland Chapter 23.01.030(A) to mean "actual or supposed male or female homosexuality, heterosexuality or bisexuality."

San Francisco Administrative Code defines "sexual orientation" to mean "the choice of human adult sexual partner according to gender", while Minneapolis' Title 7 defines "affectional preference" as "an emotional or physical attachment". Neither San Francisco nor Minneapolis specifically cite "homosexuality", "heterosexuality" or "bisexuality" per se. In this regard, Portland's Chapter 23 most closely resembles Seattle Chapter 14.08.020(EE) in that both cities specify "male or female" "heterosexuality", "bisexuality" or "homosexuality" in prohibiting discrimination on the basis of sexual orientation.

RECOMMENDATION

Amending Chapter 23 to prohibit discrimination on the basis of an individual's transsexualism or transvestism should be done through the provision of language best suited to effect that stated goal as well as to withstand interpretation subsequent to court challenge. Therefore, it is recommended that Portland Title 23.01.030(A) be amended to include within the definition of "Sexual Orientation": "actual or supposed male or female homosexuality, heterosexuality, ~~or~~ bisexuality, transsexuality or transvestism."

METROPOLITAN HUMAN RIGHTS COMMISSION
1120 SW Fifth Avenue, Rm. 516
Portland, Oregon 97204-1989

October 15, 1996

Commissioner Gretchen Kafoury
City Of Portland
Portland, OR

Dear Commissioner Kafoury,

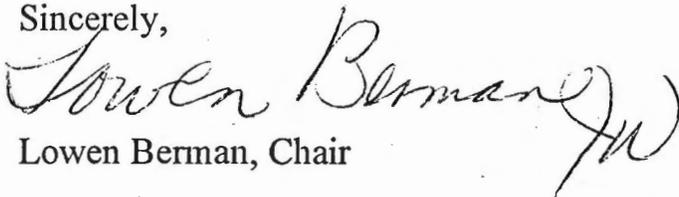
The Metropolitan Human Rights Commission has accepted the enclosed report and is forwarding it to you for consideration. Our mandate was to hold hearings to assess the level of discrimination in the City of Portland in employment, housing and public accommodation. This report is a result of those hearings.

On the basis of what we heard, we are convinced discrimination does exist. We discussed the findings and decided unanimously to "recommend that language be developed and adopted modifying the Portland Civil Rights ordinance to include protection against discrimination for transsexuals and other sexual minorities not currently covered."

We are passing this recommendation on to you in the hope that you will facilitate the bringing of an amended ordinance to City Council.

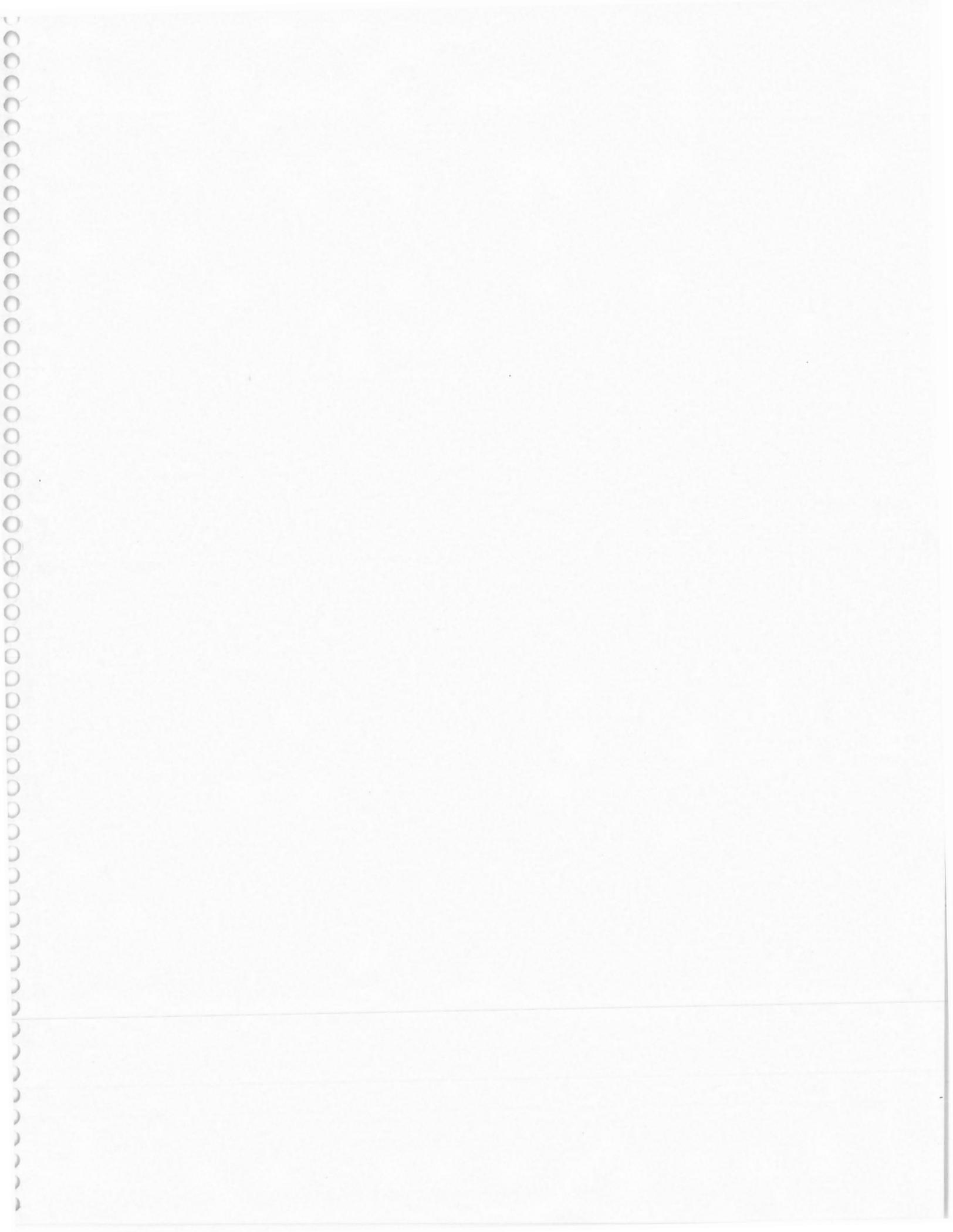
Thank you for your continued interest in human rights. We appreciate your support and the assistance of your staff.

Sincerely,


Lowen Berman, Chair

Enclosure:

Fact Finding Report: Discrimination Against Transsexuals in Portland



Gender Dysphoria

Keypoints

Gender Dysphoria Update. Beemer, B.R. *Journal of Psychosocial Nursing and Mental Health Services*, 1996; 34(4), 12-19.

- 1 Concepts of sexuality and gender identity are undergoing re-examination in society. Recent media attention has intensified interest in the area, although reliable information is sometimes lacking.
- 2 Gender dysphoria and its extreme form, transsexualism, frequently brings sufferers into contact with psychiatric, social, and mental health professionals, and surgical caregivers.
- 3 Treatment of these patients often represents a challenge on many levels. Some guidelines for this care are outlined.

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This article was published as a public service by the American Educational Gender Information Service, Inc. (AEGIS). Single reprints are available for \$2.00 at the address below. Please contact us for bulk discounts.

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anonymous FTP mindspring.com/users/aegis
<http://www.ren.org/rafil/AEGIS.html>

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AEGIS
American
Educational
Gender
Information
Service

AEGIS Offprint #1006

Mr. Beemer is a Psychiatric Ambulatory Care Nurse, and helps coordinate the Centre for Sexuality, Gender Identity, and Reproductive Health, Vancouver Hospital & Health Sciences Centre, Vancouver, Canada.

Gender Dysphoria Update

Blaine R. Beemer, BSc, RN

Gender identity is almost inseparable from basic identity, and a simple exercise proves this: Think about someone you knew a long time ago. You may not remember the color of his hair, or the sound of his voice, or his opinion. You quite understandably may not remember her name, and you may have trouble remembering her face, but you will never forget whether that person was male or female. It is no wonder, then, that variations in gender identity and role are such a source of fascination and conflict.

Social Constructions of Sexuality and Gender Identity

Perceptions of transsexualism in the public consciousness have been heightened during the past few decades. Prominent cases such as that of Christine Jorgensen's 1953 "sex change" surgery remain salient to the public (some of our clinic clients state that hearing her story was one of the most significant events in their lives). Daytime talk shows (arguably one of the most significant new public education sources of the past two decades) demonstrate an almost inexhaustible appetite for portraying and discussing the sexually ambiguous. A spate of movies, articles in mainstream magazines, and the popularity of sexually ambiguous entertainers and fashion models confirm a societal fascination with the subject.

Transsexualism is by no means a new phenomenon, even if the opportu-

nity for surgical and hormonal intervention is. In fact, the concept of a male-female identity within the same individual is one of the persistent themes of human culture. Carl Jung's concept of the *anima* and the *animus* is just one of the most recent manifestations of an idea stretching back to the ancient Greeks and their notion of a half-male, half-female god (goddess?), Hermaphroditus.

Our understanding of transsexualism is complicated by a certain degree of confusion and ambivalence about sexuality. In broad terms, sexuality can be seen as having four essential components:

Genetic identity is the chromosomal gender of the individual.

Gender identity is the self-perception of one's core as being male, female, or in-between — "I am male/female."

Gender role is the whole list of expectations about behaviors, occupations, interests, values, emotional reactions, and cognitive approach that each culture customarily expects of individuals on the basis of what gender they seem to be.

Sexual orientation has to do with the gender of those toward whom one is romantically or sexually attracted.

Life might be simpler if people adopted one equation, such as, "I am genetically female; I feel female inside; I do female things; I am attracted to males." But, because all of these components of sexuality can be independent, the result is a 4x4 interaction that generates 16 distinct possibilities of sexual identity (Friend, 1987).

Gender role in North American society is in a state of incredible flux, and the resultant uncertainty has spawned an intense effort to get to the root of the differences between the sexes. Books such as Deborah Tannen's *You Just Don't Understand* (1990) contrast typical "male and female" styles of communications. Moir and Jessel's *Brain Sex* speculates on anatomical differences that lead to gender-specific styles. Both of these works, and others like them, have found eager audiences. Yet, there is a huge crossover in human behavior.

As women take up masculine sports like boxing and (albeit very slowly) take over leadership positions in major corporations and in national politics, and as increasing numbers of men gravitate toward the role of housekeeper and child-rearer, demanding a balance between career and relationships, it becomes clear that biology is only one factor determining a person's gender role. Despite this immense plasticity in human behavior, most people hunger for a world that provides them with a simple dichotomy. "Given that our social context is based on clear differences between the sexes, any person who challenges this dichotomy is seen as problematic" (Friend, 1987).

The Biology of Sexual Identity

The biological causes of gender dysphoria and transsexualism remain elusive. Adult endocrine levels are almost always normal in transsexuals,

although it is possible that some hormonal "wash" occurred at a critical time of embryonic development, which sensitized the brain cells in an as-yet immeasurable way. Recent research has concentrated on some extremely small preoptic nuclei in the hypothalamus (Gorski, 1995), but the results have been hard to replicate and harder to interpret. One interesting finding is that a high proportion of individuals who are male-to-female transsexuals (MTFs) are left-handed (Watson, 1991). The significance of this finding with regards to gender role, gender identity, sexual orientation, and brain hemispheric dominance, however, is not understood.

Sexual orientation is another source from which people habitually derive their identity. Superficially, it would seem simple enough: Because heterosexual mating leads to procreation, it is not a huge logical jump to contend that the purpose of mating is procreation — thus defining heterosexual unions as the norm. But, just as people do not eat simply to satisfy their hunger, or talk only convey information, people do not engage in sex just to reproduce.

People can be heterosexual, homosexual, bisexual, or asexual — and all this irrespective of what anatomical equipment they possess, what gender role they live, or what gender they feel like on the inside.

Society has a strong investment in seeing gender within rigid categories, rather than as a continuum, despite the phenomenon, stretching back to the beginning of time, of biological intersex conditions. While people may be males or females, they can also be true hermaphrodites (an ovary, a testis, and both genders' genitalia), "merms" (male pseudohermaphrodites), or "ferms" (female pseudohermaphrodites). Based on this reality, geneticist Anne Fausto-Sterling (1993) argues that "sex is a vast, infinitely malleable continuum that defies the constraints of even five categories." Yet this mundane reality is almost unspoken of in our culture (and surgically "corrected" right after birth if discovered).

At least two social consequences flow from this strategy that prevent gen-

eral awareness of intersex conditions. First, society develops an inaccurate, binary conception of gender. Second, the recognition of the coexistence of male and female in the same individual is split off from mainstream culture, and relegated to the realm of poetic symbolism or pornography.

Medical Definition of Gender Identity Disorder

It is little surprise, then, that a tumult is created when an individual, apparently unambiguously one gender, comes to the conclusion that he or she is "trapped in a body of the wrong sex." In medical terms this distress is called "gender dysphoria," or a "gender identity disorder," which the Diagnostic and Statistical Manual of Mental Disorders, 4th. Ed. (American Psychiatric Association, 1994) describes as:

A. A strong and persistent cross-gender identification (not merely a desire for any perceived cultural advantage of being the other sex).

B. Persistent discomfort with his or her sex or sense of inappropriateness in the gender role of that sex.

C. The disturbance is not concurrent with a physical intersex condition.

D. The disturbance causes clinically significant distress or impairment in social, occupational, or other important areas of functioning.

The most intense of the gender identity disorders is known as transsexualism, and like gender role and sexual identity, represents a continuum of experience. Although they are genetically and hormonally unremarkable males or females, high-intensity transsexuals generally show a life-long identification with the opposite gender.

An anatomically female transsexual, for instance, typically shuns frilly girl accoutrements for boys' wear; prefers GI Joe to Barbie; prefers playing baseball with the boys to baking with Mom; and will only play house if she can be the dad, or the husband or brother. Many

transsexuals actually assumed in childhood, that they are the opposite sex, and that puberty will magically lead to the secondary sexual characteristics they so admire in the preferred gender. For the anatomical females, the onset of menstruation and breast growth comes as a huge disappointment and cruel confirmation of the biological truth.

For males, the situation is similar but the markers are opposite. Young transsexual males shun rough-and-tumble play, dress up in their mother's or sister's clothes, and may obsessively fantasize that they are a princess or mermaid. They gravitate to girls' games, such as skipping rope and playing house, insisting on taking a female role. Somehow, they decide that it is more proper to sit rather than stand to urinate. They prefer the company of females, and become distraught when beard growth and a deeper voice destroy the fragile image they hold of themselves as a girl.

Society usually applies some ready-made social identities to young transsexuals, but these labels rarely fit with comfort, and usually are at variance with the transsexual's self-concept. Young transsexual females may enjoy being called "tomboy," but males frequently are called "sissy" (or at best, "sensitive"). Both groups take it as a compliment when other people mistake them for the preferred gender.

In an interesting corollary, transsexuals who are attracted erotically to members of their own biological sex do not consider themselves homosexual; therefore, the term "gay" or "lesbian" can be perceived as an insult. Nor are transsexuals comfortable with being labeled as transvestites, as their motivation in dressing as the other gender is role-identity congruency, not eroticism.

Although there is some discussion as to whether transsexualism should be considered a disorder at all (rather than an alternate lifestyle, like homosexuality), there is little disagreement that the condition causes profound suffering. Transsexuals routinely experience violent assaults on the streets. Substance abuse is a frequent consequence of this condition. Interpersonal relationships often are problematic, and a romantic life may be almost impossible. Family

Moreover, many transsexual patients have no desire to act as a spokesperson or educational resource. They want to get fixed up and resume their lives, just like most other patients. A genuinely curious caregiver might do better to contact a specialized clinic with a gender program, and survey the literature on transsexualism rather than engage the patient at length on the subject.

One of the greatest sources of friction between caregivers and transsexual patients is the use of names and personal pronouns. Power struggles develop over whether staff should or will use the patient's chosen name and chosen pronoun of "he" or "she." This can be avoided by simply asking the patient what is preferred. Except in cases of psychosis, caregivers have a responsibility to acknowledge the self-chosen identity of their clients. Not to do so is, at the least, very bad manners.

Transsexual patients are involved in a developmental process in fully adapting to their new gender identity and as such experience the same travails and rough spots other people do when growing up. However, the urge to speed through gender transition often produces impatience that strains the emotional resources of the patient. As in the life of anyone experiencing adolescence, there will be times when boundaries are mutable and behavior is inconsistent. Add to this the effect of high-dose hormones, and it is obvious that to expect nothing but emotional equanimity from the patient is unrealistic.

Caregivers need to empathize with the growing pains of their patient. Consistent, nonjudgmental behavior on the part of the caregiver helps sustain a milieu that is comfortable for the transsexual patient and others temporarily sharing his or her environment.

Proactive Interventions

A number of proactive interventions are very desirable on the part of the caregiver. Counseling on a wide variety of subjects can be appreciated by the patient. Exercise and nutritional counseling is invaluable for both patient groups: for MTFs to counteract the

weight gain, hyperlipidemia, and osteoporosis associated with their treatment; for FTMs to develop muscle mass and thus better fit into their gender role, and to respond positively to the extra energy often experienced from the testosterone.

Supporting the patients through a stop-smoking program may be a health-saving intervention, in light of the well-established link between smoking, high doses of estrogen, and disease. Though sexual activity often is nil for transsexuals, safe sex information is still a must. Monitoring and appropriate specialist referral for concurrent psychological problems such as anxiety disorders and depression (especially postsurgical depression) is an important aspect of patient care.

Encouraging contact with an experienced social worker to help brave the administrative obstacles to official name change and gender change, and to provide some counseling on family and spousal issues, is another effective intervention. Employment counseling, either to help maintain the patient in their current situation during transition or to prepare them for entry into a more gender-congruent career likely will be beneficial. Putting the patient in touch with reputable self-help and peer counseling groups may be appreciated. Providing a referral to an alcohol or drug-abuse treatment agency could turn out to be one of the most important interventions of all.

Conclusions

Patients with gender identity disorder, especially in its extreme form of transsexualism, are faced with a variety of impediments to living in a healthy, integrated manner. Some of these arise from the disorder itself. Many arise from our society's simplistic and conflicted attitudes toward gender role, gender identity, and sexual orientation. Working with these patients poses a challenge for health care providers from any discipline. This challenge can be overcome with knowledge and a sophisticated, mature approach to care that provides practical information, avoids power struggles, and emphasizes letting the patient take the lead in care decisions.

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alienation is commonplace. Young males especially experience severe peer isolation and bullying as a result of their feminine ways and lack of appetite for customary male pursuits.

The severe social and psychological consequences of gender dysphoria have led to attempts to "treat" effeminate behavior in young boys, largely through behavior modification techniques. In these behavior change programs, adult family members reward typically "masculine" pursuits with praise and gifts, and criticize typically "feminine" behavior. However, effects have been very mixed, and no long-term studies exist to confirm the success of these programs, irrespective of their ethical basis. Regardless of how these feminine boys act initially, almost all will spontaneously grow up to be typically heterosexual adults (Blanchard & Steiner, 1990).

Incidence

Some cultures, notably some aboriginal and Eastern European societies, accommodate gender role and gender identity variations without considering them pathological; therefore, comparing incidence across cultures is not reliable. In those societies that developed a contemporary postindustrial world view, male-to-female (MTF) transsexuals were once thought to outnumber their female-to-male (FTM) counterparts by a vast margin. Clinicians now speculate that incidence may be equal, with case finding responsible for the statistical differences. Fewer anatomical females show up for treatment at gender clinics, but this may suggest that it is easier for women to be immersed in a masculine lifestyle and self-image than it is for anatomical males to live as women. Generally, FTMs seek counseling less often, and suffer fewer other psychiatric disorders than their male counterparts, so their condition likely is identified less frequently.

Course of Gender Dysphoria

It is common for transsexuals, especially males, to fight their discordant internal voice by diving headlong into

pursuits typical of their birth gender. Frequently, males will join the military or other high-risk profession, and one study (Hoenig, Kenna, & Youd, 1970) observed that transsexuals likely enlist at a higher than average rate than the general population. It is not uncommon for male-to-female transsexuals to marry, either through parental or self-imposed pressures. Males are more likely than females to have children, and may delay their reassignment to the female role until the children are grown.

One immensely problematic area for many transsexuals is employment. Despite higher than average educational levels, transsexuals have difficulty finding and holding jobs (Burnham & Diewold, 1993). Again, an MTF who retrains for a more typically "female" occupation usually experiences a significant drop in income in the new career, and the resulting dissatisfaction is a persistent factor in those expressing postsurgical regret (Blanchard & Steiner, 1990). FTMs seem to be in a better position, as they often move into more masculine occupations if they have not found them already. Many report that the testosterone injections give them more energy and increased assertiveness, which is beneficial for working in more responsible positions and asking for promotions and raises.

Social Experimentation

Significant social problems are encountered during actual gender transition, when masculine and feminine features may compete for attention, and patients, sometimes clumsily, experiment with a broader range of cross-gender role behaviors. Added to this is the psychic effect of cross-gender hormones. Patients sometimes exaggerate the preferred gender's behavior. For instance, MTFs may become quite moody or histrionic, and ultrafeminine in their dress and deportment.

FTMs may begin to date females aggressively for the first time, and sometimes have some rather politically incorrect opinions about how to conduct themselves in this regard. (The author asked an FTM patient what it meant to be "the man" in a heterosexual relation-

ship. The answer seemed self-evident to the patient, who replied, "You know, make all the decisions for them [his girlfriends]. When they do anything they have to ask me first. And pay for dinner all the time. I don't like *that* part but that's what you do.")

Traumatic Transition for Family

The transition period tends to be just as traumatic for family members, particularly parents and spouses. Parents develop expectations about having grandchildren that frequently are dashed by their adult child's declaration of transsexual status. Spouses often make incredible psychological and lifestyle accommodations to their mate's gender dysphoria (referring to their mate with a different name, accepting cross-dressing in sexual relations, etc.), but the gross changes brought about by hormones can be a signal of the end of their relationship.

Both parents and spouses of gender dysphoric patients may express hostility toward the medical profession for legitimizing their loved one's behavior, and for aiding and abetting the physical changes that may prove impossible for the family constellation to bear.

Hormonal Treatment

Once hormonal treatment begins, changes can occur within a few weeks. The most common first signs are amenorrhea and lowering of voice pitch in FTMs, and development of tender breasts in MTFs. Some changes, such as beard growth (or its cessation) can take more than half a decade to manifest fully (Gooren & Asscheman, 1992). Patients frequently are impatient to experience faster and more profound changes, and believe increased hormone doses are the answer. However, individuals differ in their target tissue sensitivity to hormones, and also are constrained by genetic inheritance.

Vancouver Hospital's Centre for Sexuality, Gender Identity, and Reproductive Health employs a relatively consistent drug protocol for treating transsexualism. MTFs usually are started on an androgen blocker, customarily

the diuretic spironolactone, 200 mg to 400 mg per day. Spironolactone (or, less commonly, cyproterone) can bring about some feminization: reduction in facial and body hair, redistribution of body weight (many MTFs *want* their thighs to fill out), and some breast growth, without the major side effects of estrogen (Prior, 1989).

Many patients report a calming effect and reduction of gender dysphoria just on spironolactone; this could be due to a combination of a flattening of libido as well as the psychologically soothing effect of tangibly beginning the process of gender transition. Antiandrogens also reduce morning and spontaneous erections, which patients welcome, because the erections remind them of their maleness.

For those appropriate for continuing feminization, the Centre prescribes conjugated estrogens such as Premarin 0.625 mg daily, with a 3- to 6-day break each month. In some patients at high risk for coagulopathies and migraines, estrogen patches have been prescribed successfully.

In addition, clients routinely receive the progestin medroxyprogesterone acetate (Provera), 10 mg to 50 mg daily. Apart from its effect as an antiandrogen, medroxyprogesterone has been shown to promote bone formation, and may counter the bone loss that might occur with the blockade of male hormones (Prior et al., 1994). It also seems to aid in nipple maturation. Postsurgical regimes are similar, but there is sometimes less need for an androgen blocker in the absence of testicular testosterone (the adrenals continue to produce some testosterone).

The standard treatment for the FTM group is testosterone cypionate, 150 mg to 300 mg IM, every 2 to 4 weeks. This generally produces all of the masculinization required, and the effects are profound. Over the course of a few months and years, patients experience to various degrees a permanent deepening of the voice and thickening of the jaw, plus hormonally sustained increases in muscle mass, and growth of body and facial hair. Male pattern baldness is common. Most report an increase in libido as a result of the higher serum testosterone (which sometimes places quite a strain on their love relation-

ships). Within one to two years, most FTMs pass unobtrusively as males in everyday society.

The Surgical "Sex Change"

Sexual reassignment surgery (SRS) has had a variable reputation in North American medical circles. Facilities performing this surgery increased in the 1960s and 1970s until the publication of Meyer & Reter's report in 1979, which concluded that SRS "confers no objective advantage in terms of social rehabilitation." Although this paper was vigorously criticized, Johns Hopkins Hospital in Baltimore phased out their transsexual surgery service shortly after, and the whole specialty was viewed with great reservation for some time, especially by the public. A flurry of studies were subsequently published on postsurgical outcomes that reaffirmed the value of surgery in carefully selected cases; surveys continue to confirm the improved social adjustment of transsexuals after surgery (Mate-Cole, Freshci, & Robin, 1990).

Sex Reassignment Surgery (MTF)

Despite the popular misconception that genital "sex change" surgery is available almost on demand, most clinics involved in approving individuals for surgery in North America and Europe adhere to the Harry Benjamin International Gender Dysphoria Association's "Standards of Care," first published in 1979 and last revised in

Even in large tertiary care hospitals, the admission of a transsexual patient often is a catalyst for a huge amount of discussion — most of it peripheral to the care of the patient. Transsexuals almost invariably generate an intense curiosity in staff that borders on the voyeuristic. Animated discussions ensue as staff struggle with the question of whether the patient is "really" male or "really" female. This morbid curiosity and resultant gossip frequently involves all members of the hospital staff: direct caregivers, support staff, building trades, security.

1990. These standards stipulate that two clinicians, at least one of whom is educated to the doctoral level and the other at least to a master's level, and both with experience and specialized ongoing training in assessment and treatment of a broad range of sexual disorders, must recom-

mend hormonal treatment and surgery. The endorsement for SRS must follow at least two years of documented gender dysphoria, and at least one year during which the patient lives immersed in the role of the preferred gender. The Standards of Care also specify the use of certain laboratory tests prior to surgery and provision of access to after-care as well.

For MTFs, there are two slightly different surgical options, although both involve bilateral orchidectomy. The first method, known as the penile inversion technique, consists of resecting the penis to create a hollow tube separate from the urethra; creating a perineal cavity; inserting the inside-out penile skin into the cavity to create a neovagina; and using the scrotal skin to create the labial folds.

The second method requires the use of part of the rectosigmoid colon to create a neovagina. The later method has the advantage of creating a vaginal surface with secreting mucosa, but the surgery involves entry into the abdomen, so is significantly more radical. Both methods usually produce an excellent cosmetic result (some SRS surgeons claim to be able to fool a gynecologist, although the author could not locate such a gynecologist). Both methods, especially the former, usually require insertion of a temporary postsurgical stent, and then several months of twice-daily progressive dilatation at home by the patient.

A range of cosmetic surgical and nonsurgical techniques are sometimes employed. These include breast aug-

mentation, rhinoplasty, tracheal "shaving" (surgical cartilage reduction to reduce the size of the Adam's apple), and rarely, "laryngeal web" surgery to increase the habitual pitch of the voice. Frequently, hundreds of hours of uncomfortable and expensive electro-

sis must be endured to remove unwanted facial and body hair permanently.

All of these surgical interventions can produce complications. Although the MTF's motivation for creation of a neovagina is almost always more role-related than erotic, most hope for a patent vagina. One of the most common problems is strictures of the vaginal orifice, or loss of length of the neovagina. This complication is not uncommonly due to lack of regular dilatation (pain while dilating can be sharp, and patients are understandably tentative in testing the new organ). Rectovaginal fistulae, devastating to the patient, are often extremely difficult to remedy. Problems with vaginal and urinary tract infections, and misdirection of the urinary stream due to granulation tissue, are an all-too-frequent reality for these patients as well.

Sex Reassignment Surgery (FTM)

Female-to-male surgery can be even more involved. Bilateral mastectomy and bilateral oophorectomy are standard surgical interventions, and many patients stop there. A few wish to go through with construction of a neophallus. This is a complicated procedure involving many stages (and there are several variations in surgical technique). Usually, construction of a neophallus involves the harvesting of a full-thickness skin graft, either from the upper forearm, thigh, or abdomen, or from the lower forearm after several months' insertion of a tissue expander. The urethra is lengthened, sometimes through the use of endothelial tissue from other parts of the body; the skin graft then is wrapped several times around this neourethra. The scrotum often is fashioned from labial tissue, and testicles simulated by synthetic implants.

Generally, the result is adequate cosmetically, and allows the patient to urinate standing up, a central desire for almost all FTMs. Since the neopenis does not contain erectile tissue, intercourse remains problematic: rigidity has been created by autologous transplants of cartilage, implants of bone or a permanent prosthesis, or use of removable

external devices. All of these methods have shown mixed results (Hage, Bloem, & Bouman, 1993). As in any grafting procedure, graft failure and necrosis are a definite possibility; even the tissue expander can cause complications. Phalloplasty still remains a complicated, expensive, and largely experimental procedure. Nonetheless, many patients maintain that braving the many complications was worthwhile, for the social confidence, for the ability to urinate while standing, and for the capacity to engage in intercourse.

Care of the Transsexual Patient

Several issues arise when treating transsexual patients. Some of these are specifically medical, some are administrative, and some are psychosocial. If clinicians take it as a commitment to provide holistic care, it is important to be sensitive to all of the impediments to that care, whether they arise from the medical condition, the prevailing social milieu, the temporary state of the patient, or the clinician's own assumptions about sexuality.

Transsexual patients are true medical patients receiving treatment for transsexualism, and as such may experience various complications of their treatment that can have an impact on concurrent care. "Baseline" laboratory results for hormonally treated transsexuals will likely be somewhat awry, with MTFs on hormones usually experiencing a slight drop in hemoglobin and a rise in glycosylated hemoglobin and prolactin. There is often an undesirable HDL/LDL ratio and a rise in total cholesterol in FTMs; lipid changes in MTFs generally are positive, but conjugated estrogens occasionally produce high total triglycerides. Also, care must be taken to consider whether female or male norms were employed by the laboratory, and if those norms are applicable to the patient at that particular time.

Accompanying Medical Conditions

MTFs are on significant doses of medications, sometimes augmented by unprescribed supplies. This puts them

at increased risk for breast cancer, coagulopathies such as deep vein thrombosis or pulmonary embolism, and osteoporosis. Thus, it may be desirable to hold the estrogens for 3 to 4 weeks prior to any serious surgery and take special precautions when this has not been done. Extra care should be taken when lifting, transferring, and ambulating transsexual patients, particularly the more aged, due to their potential for low bone density.

MTFs frequently take spironolactone, which is potassium sparing; these patients must be warned against unprescribed potassium supplementation. FTMs can experience obesity and severe acne, so these problems may need to be addressed. Male pattern baldness, although endured by this group with remarkable cheerfulness, is a frequent occurrence that may distress the patient. Also, as substance abuse is not an uncommon problem for either patient group, thorough substance-abuse history-taking and reasonable monitoring for withdrawal symptoms makes sense.

Staff-Transsexual Patient Interaction

Even in large tertiary care hospitals, the admission of a transsexual patient often is a catalyst for a huge amount of discussion — most of it peripheral to the care of the patient. Transsexuals almost invariably generate an intense curiosity in staff that borders on the voyeuristic. Animated discussions ensue as staff struggle with the question of whether the patient is "really" male or "really" female. This morbid curiosity and resultant gossip frequently involves all members of the hospital staff: direct caregivers, support staff, building trades, security.

Staff sometimes ask incredibly personal questions of these patients, often in a well-meaning but misguided attempt to educate themselves. The patient, sometimes with good cause, can experience these questions as a criticism, or as an attempt to repudiate their identity. Neither motivation is in the interest of the patient. All staff must be vigilant to prevent personal curiosity from overstepping clinical information gathering.