

# Transgender Equality

A HANDBOOK FOR ACTIVISTS  
AND POLICYMAKERS

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and Shannon Minter

Introduction by Jamison Green

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Center for  
Lesbian  
Rights

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Gay and  
Lesbian  
Task  
Force

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# Preface

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**BY SEAN CAHILL**

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Every person has a gender. When the expression of those genders is caught in rigid social scripts, people get hurt. Gender expression is historically and culturally contingent. It shifts across borders and decades: witness the sensation evoked by Marlene Dietrich's wearing of pants in several 1930s films, and the nonchalance with which heterosexual police officers don kilts to play the bagpipes in St. Patrick's Day Parades across the US. But for children growing up in a conformist society, gender roles can be oppressive. Gender orthodoxy hurts the teenaged heterosexual boy who is afraid to show emotion for fear of being "unmanly." It hurts the girl who is called a "tomboy" or "dyke" for simply being herself. It hurts both boys and girls who are told that certain extracurricular activities (e.g. ballet, karate and other contact sports, learning a musical instrument) and professional career choices are off limits because they are not gender appropriate, or are for "faggots" and "dykes." It hurts lesbians, gay men, bisexuals and heterosexuals who do not conform to stereotypes of macho men and "feminine" women. And most of all, it hurts transgender people—who are regularly denied employment, fired from their jobs, denied housing and public accommodations at hotels and restaurants, even harassed, beaten or murdered because of hatred of their gender nonconformity. On average one transgender person is murdered in the United States each month; 60% of all transgender people have been victimized by hate violence. This is outrageous, and unacceptable in a civil society.

The Policy Institute of the National Gay and Lesbian Task Force is honored to publish this handbook to provide activists and policymakers with the tools they need to pass transgender-inclusive non-discrimination and anti-violence legislation. Written by three of the gay, lesbian, bisexual and transgender movement's brightest transgender scholar-activists, *Transgender Equality* is an invaluable resource guide, providing an introduction to transgender issues, model language for legislation, talking points, responses to frequently asked questions, and a comprehensive resource listing and bibliography. We trust it will strengthen efforts to legislate equality for transgender people at the local, state and national level.

Across the country transgender activists—and gay, lesbian, bisexual and straight allies—are fighting back against violence and discrimination. Since 1975, when Minneapolis adopted the first transgender non-discrimination language, an inspiring movement for equality and liberation has won non-discrimination provisions in 26 municipalities and one state. Grassroots activists have taken the case for equal protection under the law to America’s heartland, and they have won. Nine and a half million Americans, or 3.8% of the population, now live in a jurisdiction with a non-discrimination law inclusive of transgender people, and the sky has not fallen. Instead, because of such laws the country has moved a little bit closer to its promise of equal treatment and equal opportunity for all.

This flurry of activity has been driven by many brave and visionary activists, several of whom are profiled in this publication. The success of their efforts in cities and towns across the US proves that even moderate and conservative legislators unfamiliar with transgender issues will respond to reasoned arguments and education about the realities transgender people face. This is especially true when gay, lesbian, bisexual and transgender advocates present a united front and work together in a coordinated strategy.

Unfortunately, however, this is often not the case. Some gay, lesbian, and bisexual (GLB) activists fear that including gender identity will defeat a sexual orientation non-discrimination bill. As Paisley Currah and Shannon Minter demonstrate herein, this need not be the case. If advocacy groups commit to education, and to creating an awareness of the importance of gender to ending homophobia, we can see these issues as interwoven with gay, lesbian, and bisexual equality. But we should take a lesson from the recent history of the GLB movement and the support we received from our allies in the civil rights community on the issue of hate violence. In New York and other states, leaders of African American, Jewish, and other civil rights organizations have refused to accept hate crimes bills which don’t include sexual orientation, even as they have been assured that the bills would pass were sexual orientation language excised from the bill. Despite years of frustration, heterosexual civil rights leaders stood on principle, saying “we insist that laws include gay people because that’s the right thing to do.” GLB activists should emulate such solidarity with the transgender members of our community, and insist that non-discrimination bills and hate crimes laws include gender identity.

In 1997 the National Gay and Lesbian Task Force became the first national gay and lesbian organization to amend its mission statement to include bisexual and transgendered people; a year later it became the first national GLBT organization to bring a transgendered person onto its board of directors. In 1999 NGLTF called for the inclusion of gender identity along with sexual orientation in a federal non-discrimination bill. This year, we deepen our commitment to transgender equality and liberation by publishing this handbook for grassroots activists and policymakers. Discrimination and violence against transgender people must end. Read on to find out how you can help make that happen.



Sean Cahill

# Introduction

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## TO TRANSGENDER ISSUES

by Jamison Green

Transgendered people are individuals of any age or sex whose appearance, personal characteristics, or behaviors differ from stereotypes about how men and women are “supposed” to be. Transgendered people have existed in every culture, race, and class since the story of human life has been recorded. Only the term “transgender” and the medical technology available to transsexual people are new.

Over the past few years, many gay, lesbian and bisexual organizations have broadened the scope of their work to include the issues and concerns of transgendered people (hence the acronym GLBT for gay, lesbian, bisexual, and transgendered people).<sup>1</sup> This change reflects an acknowledgment that sexism and gender stereotyping have a powerful effect on the social and legal treatment of gay as well as transgendered people. It also reflects the growing strength and maturity of the GLBT civil rights movement, which has expanded its self-understanding to include heterosexual family members and friends, allies who have endured similar oppressions, and others who share a broader vision of human rights and social justice than a narrowly defined “gay identity politics” could hope to achieve.

In addition to providing up-to-date information on the current status of efforts to achieve basic legislative protections for transgendered people, the purpose of this publication is to promote greater understanding of transgender issues. To build an effective political movement and to win civil rights legislation with the broadest possible effect, we must all learn to be advocates for our entire community, including educating ourselves and being prepared to talk about experiences and issues that are not always our own. With that goal in mind, the following discussion is designed to provide a basic overview of transgender issues and of how they are connected to those of gay, lesbian and bisexual people.

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## DEFINING SOME COMMON TERMS: “GENDER,” “GENDER IDENTITY” AND “GENDER EXPRESSION”

### Gender v. Sex

In everyday language as well as in the law, the terms “gender” and “sex” are used interchangeably. However, it is often important to distinguish the two terms. Social scientists, for example, use the term “sex” to refer to a person’s biological or anatomical identity as male or female, while reserving the term “gender” for the collection of characteristics that are culturally associated with maleness or femaleness.

The specific characteristics that are socially defined as “masculine” or “feminine” vary across cultures and over time within any given culture. For example, for centuries, standard Greek military attire was a type of skirt. As another example, in many American cities, just a few decades ago, women were forbidden (often by statutory law) to wear trousers or pants. Often women who violated this gender norm were perceived as men, or were assumed to have a desire to be men, whereas those assumptions are seen as outdated now. Even today, social norms about gender vary significantly within different geographic regions, classes, and ethnic or racial groups. For example, social expectations concerning what counts as “appropriately” masculine or feminine attire in a small farming community in the Midwest may differ considerably from those in Los Angeles, New York City or other large cities.

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While these differences may sometimes simply reflect different cultural norms, they are also frequently used to perpetuate invidious racist stereotypes and practices. For example, the racist stereotype that black men are “hypermasculine” and therefore supposedly prone to violent and criminal behavior has contributed to pervasive discrimination against black men in the criminal justice system, from the use of “racial profiling” by law enforcement personnel to the disproportionate targeting of black men in prosecution and sentencing. In practice, stereotypes about gender are rarely independent of stereotypical assumptions about race and class.<sup>2</sup>

In addition, it is much more common than one might think for people to have gender characteristics that are stereotypically ascribed to the opposite sex. If one looks closely at a wide variety of people, it is easy to see varying degrees of “transgender” characteristics displayed by a large percentage of any given population. In fact, even if one looks closely at any given individual, it is always possible to find traits that might be characterized as “gender atypical.” What singles out many transgendered people is simply a preponderance of these characteristics, causing observers to doubt their perception of an individual’s gender or sex, which often leads them to question the person’s sexual orientation as well.

In short, both the variable definitions of “masculinity” and “femininity” within different cultures and the fact that all people have a mix of gendered traits indicate that the qualities we define as “masculine” or “feminine” are ultimately simply human. From this perspective, naming “transgender” people as a discrete group may be arbitrary and even misleading, insofar as it reinforces the mistaken view that transgender individuals are somehow fundamentally different than other people. From a political perspective,

however, it has been necessary to embrace the label “transgender” to foster a sense of solidarity among those who bear the brunt of discrimination against gender atypical people. Only by naming that discrimination can we hope to end it, and only by building a movement for transgender civil rights can we create a world in which the label “transgender” will no longer be needed.

## **Gender Identity and Gender Expression**

“Gender identity” refers to a person’s internal, deeply felt sense of being either male or female, or something other or in between. Because gender identity is internal and personally defined, it is not visible to others. In contrast, a person’s “gender expression” is external and socially perceived. Gender expression refers to all of the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, mannerisms, speech patterns and social interactions.

## **Transsexual People**

Most people experience their gender identity as correlating to, or in line with, their physical sex. That is, most people who are born with female bodies also have a female gender identity (i.e., an internal sense that “I am a woman”), and most people who are born with male bodies have a male gender identity (i.e., an internal sense that “I am a man.”). For a transsexual person, however, there is a conflict between one’s physical sex and one’s gender identity as a man or a woman. Female-to-male transsexual (FTM) people are born with female bodies, but have a predominantly male gender identity. Male-to-female transsexual (MTF) people are born with male bodies, but have a female gender identity. Many, but not all, transsexual people undergo medical treatment to change their physical sex through hormone therapy and sex reassignment surgeries.

Female-to-male transsexual people are rarely mentioned in contemporary discussions of transsexual lives, with the recent exception of Brandon Teena, whose brutal murder in Nebraska in 1993 garnered widespread media attention and was depicted in the 1999 movie *Boys Don’t Cry*. The contemporary culture is more familiar with male-to-female narratives like those of Jan Morris or Renee Richards, or with challenges to gender norms represented most publicly by author/performance artist Kate Bornstein. Despite the relative invisibility of FTMs, there are equal numbers of FTM and MTF transsexual people throughout the world.<sup>3</sup>

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## **WHAT DOES TRANSGENDER MEAN?**

The contemporary term “transgender” arose in the mid-1990s from the grassroots community of gender-different people. Unlike the term “transsexual,” it is not a medical or psychiatric diagnosis. In contemporary usage, transgender has become an “umbrella” term that is used to describe a wide range of identities and experiences, including but not limited to: pre-operative, post-operative, and non-operative transsexual people; male and female cross-dressers (sometimes referred to as “transvestites,” “drag queens” or “drag kings”); intersexed individuals; and men and women, regardless of sexual orientation, whose appearance or characteristics are perceived to be gender atypical. In its broadest sense, transgender encompasses anyone whose identity or behavior falls



outside of stereotypical gender norms. That includes people who do not self-identify as transgender, but who are perceived as such by others and thus are subject to the same social oppressions and physical violence as those who actually identify with any of these categories. Other current synonyms for transgender include “gender variant,” “gender different,” and “gender non-conforming.”<sup>4</sup>

Before the mid-1990s, the term “transgender” had a narrower and more specific meaning. As coined several decades ago by Dr. Virginia Prince, who has published numerous books and articles on the subject,<sup>5</sup> the term originally referred to biological men who are satisfied with their male genitalia, but who wish to be seen and to live in the world as women. In contrast to transsexual people, “transgender” persons (in the older, more narrow sense of the term) have come to terms with the contradiction between their bodies and their gender identities and are not troubled by that contradiction, so they have not shown up in doctors’ offices to be diagnosed and documented. Instead, they are more likely to show up in sociological or anthropological studies, or to be writing their own stories in the form of autobiographies, essays or books. As a group, their sexual orientation is predominantly heterosexual (based on genitalia), but there are also bisexual, asexual, and homosexual individuals. Sexual orientation or behavior is not the primary issue or primary motivation for transgendered people; rather, the issue is wishing to live and to be perceived as a gender that is different than one’s biological sex. This is, of course, an oversimplification because the relationship between gender identity and sexual desire is highly complex and individual.

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Historically, people who have female bodies but who live their lives as men have received less attention than their male-bodied counterparts. The world is much more familiar with stories of male-to-female gender crossing. Nonetheless, there are many women throughout history who have conformed to this definition of transgender, as well as many who do so today. These individuals are often referred to as “passing women,” of whom there are numerous historical examples such as Catalina de Erauso, a soldier in the Spanish army stationed in Chile and Peru in the early 1600s, and Dr. James Barry, a surgeon in the British army in the early 1800s.<sup>6</sup> In the US, the best-known contemporary example is Billy Tipton, the jazz musician who, to the surprise of his adopted children (then adults) and his ex-wife, was discovered on his death in 1989 to have a female body.<sup>7</sup> As in the case of male-bodied transgender persons, female-bodied transgender persons may be heterosexual, homosexual, bisexual or asexual. Sometimes, as in Tipton’s case, those who have female partners or wives consider themselves to be heterosexual, based on their gender identification rather than their female genitalia. In other cases, such as that of contemporary trans activist and author Leslie Feinberg, some who have female partners may identify as lesbian. And then there are those like Jack Bee Garland, who died in 1936, who preferred to live as a man in the company of men.<sup>8</sup> His biographer theorized that Garland was a gay-identified FTM (female-to-male) transsexual who would have availed himself of medical treatment had it been available.

Today, as the 21st century begins to unfold, the term “transgender” encompasses a much broader spectrum of experience. Many transsexual people have been willing to take on the label of transgender because it describes their experience before their change of sex, or in some way helps to describe their ongoing consciousness once they

have changed their sex, implying the broader social awareness they may have as a result of experiencing life from within two kinds of (perceived) bodies, though their gender identity may always have remained the same. Many gay, lesbian, and bisexual (GLB) people are taking on the transgender label because their gender presentation crosses arbitrary boundaries that they want to render less constraining, or because they recognize that loving a person of the same sex is in itself a challenge to dominant gender norms.

The expansiveness of the contemporary transgender movement is evident in other ways as well. There is a growing awareness of the ubiquity and diversity of transgender identities across the globe and within different communities in the US. As a wealth of historical research has shown, transgendered people have long been a part of many non-western cultures, from the Hijra of India to the “two spirited” peoples who, to varying degrees, were accepted within many Native American cultures prior to their contact with European colonists.<sup>9</sup> Within the US, GLBT scholars and activists have documented the experiences and contributions of transgendered people within African-American, Asian-American, Latino/a, Native American and other communities, both historically and in the present.<sup>10</sup>

Variety and diversity are the hallmarks of the contemporary transgender movement. There is no one way to be, and there is room for everyone to be who they are.

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## **WHAT ABOUT INTERSEXED PEOPLE?<sup>11</sup>**

Though many people believe that all infants are born clearly male or female, in fact Mother Nature is not so binary-minded. At least one in every 2,000 children is born with a sexual anatomy that mixes male and female characteristics in ways that make it difficult, even for an expert, to label them male or female. Although no one is ever born with two full sets of genitals, male and female, some intersexed infants may have ambiguous genitalia, such as a penis that is judged “too small” or a clitoris that is judged “too large.”

Parents concerned about their infant’s health and well-being are often frightened by this variation. Although genital ambiguity does not in itself represent a health problem, parents often fear that their children will be adversely affected by being different, or that somehow the child will grow up to be lesbian or gay.

Some intersexed people are born with genitals that look like most girls’ or boys’ genitals, but may have internal reproductive organs usually associated with the other sex. Others have bodies that do not spontaneously go through puberty, or that exhibit pubertal changes many years ahead of the usual schedule, or go through pubertal changes usually associated with the opposite sex, or experience some of the pubertal changes of both sexes. Conditions such as congenital absence of the vagina (1 in every 5000 female births) and hypospadias, in which the urethral opening does not occur at the tip of the penis (1 in every 200 male births) are also considered by many physicians to be intersexed conditions.<sup>12</sup>

Around the late 1950s, it became widespread practice to subject intersexed children to surgeries and hormone treatments intended to ensure that the child is viewed as clear-

ly female or clearly male. These procedures are not medically necessary; instead, they are designed to make the child's genitals look more "normal."<sup>13</sup> In recent years a growing number of people who were subjected to genital surgeries as infants and children have spoken out against these medical interventions as harmful, unethical, and based upon nothing more than social prejudice. Their voices have now begun to create dissent among the doctors who recommend and perform these surgical interventions.<sup>14</sup>

Medical practice has been based upon the idea that sexual ambiguity is shameful and must be surgically "disappeared." For that reason, doctors have been taught that they must not give intersexed children or adults accurate information about procedures, or about their medical history. Often intersexed people are able to adapt somewhat to their assigned gender, but sometimes this does not work out the way the doctors believe it will. Sometimes the person's gender turns out to be the opposite of their surgically assigned sex; in other cases, the person always feels "in between." Some intersexed people have a problematic relationship with their own genitalia, and struggle with doubts about their ability to relate intimately with other people because of surgically created sexual dysfunction. A sense of inadequacy created by years of disapproving medical attention to their bodies,<sup>15</sup> and a medical posture that sexual ambiguity is shameful and freakish can create severe problems with self-esteem. In some cases, intersexed people must undergo the same medical treatments as transsexual people and face the same social obstacles and prejudices.

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The view that there is a continuum of sexual development along which all individuals fall is parallel to the contemporary understanding that gender identity and sexual orientation also reside on a continuum. Contemporary theorists hold that every point on this continuum is a manifestation of human diversity—not a matter of "correct or incorrect" or "right or wrong," but just what happens in life. These views have been quickly gaining favor in the medical/psychological profession since the advent of an organized self-advocacy movement by intersexed people, led by the Intersex Society of North America.

Most intersexed conditions are not visible in the course of ordinary social interactions. Nonetheless, in addition to being stigmatized and in some cases physically damaged by inappropriate medical treatments, intersexed people are often discriminated against in employment and other areas if their intersexed identity becomes known. Like other transgendered people, intersexed people have mostly been excluded from any legal protection under existing anti-discrimination laws.

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## WHAT'S THE GLBT CONNECTION?

The struggle to establish civil rights protections for transgendered people cannot be separated from the struggle to win freedom and equality for gay, lesbian, and bisexual people.

- Many transgendered people are gay, lesbian, or bisexual.
- Many gay, lesbian, and bisexual people are also transgender.

- Trans people have always been present in the GLB community. Drag and butch/femme culture, as well as androgyny and gender-bending are hallmarks of transgender influence.
- Lesbian, gay and bisexual people frequently challenge gender boundaries in their social (in addition to sexual) behavior, and are often victims of hate crimes because of their gender presentation.

Despite these strong connections, there are also historically based reasons for misunderstanding and mistrust between gay and transgendered people. When homosexuality was first being defined and studied by Richard von Krafft-Ebing, Magnus Hirschfeld, and Havelock Ellis in the late 19th and early 20th century, many of the first identified homosexual people (then called “inverts”) were what we would now term transgendered individuals. These were visibly gender-variant people, many of whom expressed a strong identification with the “opposite sex” to the point of wishing (in some cases) that they could change their bodies to become members of the opposite sex. This led some physicians and researchers to believe that transgendered (and particularly transsexual) people were simply homophobic homosexuals. It also led some people to believe that doctors invented transsexualism as a cure for homosexuality.

It is important for GLBT activists to understand that a hundred years ago the only people labeled as homosexual or lesbian were those who exhibited transgender characteristics. There was no label for masculine men who had sex with other men or for feminine women who had sex with other women. The effort to move away from the term “invert” and to define homosexuality as same-sex love or sexual behavior, and the drive to accept gay and lesbian people as “normal,” contributed to the marginalization of trans people.

Beginning in the 1950s, the availability of hormone therapy and sex reassignment surgeries for transsexual people drove another wedge between gay and trans people. The doctors and other medical professionals who controlled access to treatment were deeply homophobic and often projected their homophobia onto their patients. To gain access to medical treatment, transsexual people had to censor their own experiences and beliefs and, in particular, had to renounce any similarity to or affiliation with lesbians and gay men. This coercive dynamic perpetuated many inaccurate stereotypes about trans people, including the widespread misconception (which is unfortunately shared by many GLB people) that transsexual people are homophobic and reactionary and have no political goals other than being accepted as “normal” heterosexuals. It has also perpetuated confusion about the relationship between sex, gender and sexual orientation.

In reality, whether a person is transsexual has no direct or predictable connection to his or her sexual orientation, as evidenced by the fact that transsexual people have the same diverse range of erotic experiences, desires and identifications as non-transsexual people. Although erotic desire and self-image are components of every person’s psyche and certainly constitute powerful drives motivating our behavior, there is no evidence that sexuality plays a direct or uniformly causative role in the development of all transgendered or transsexual people. Similarly, while some trans people would undoubtedly prefer to disappear into mainstream society without ever disclosing their transgender status, many are unable to do so because of prejudice and discrimination. Many others believe we should not have to hide who we are in order to lead safe and productive

lives. Ultimately, the fact that transgendered people have made a collective effort to find a political voice and to be reintegrated into GLB communities in the 1990s is the best evidence that they have larger social needs that must be met than those which can effectively be addressed by “passing for normal.”

One basic truth about trans people should be apparent by now. There is no one way to be “trans.” It is impossible to encompass an entire human being with any label. The only thing you can count on knowing about a person who is trans is that there’s a lot you don’t know. One of the great lessons of trans experience is the ability to let go of one’s preconceptions about other people. For me, the prefix trans is a signal to be ready for anything, to allow others to define themselves regardless of my own preferences in defining another’s appearance or characteristics.

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## **SEXISM AND GENDER STEREOTYPING: THE ROOTS OF ANTI-GLB AND ANTI-TRANSGENDER BIAS**

Like discrimination against transgendered people, discrimination against GLB people is rooted in sexism and gender stereotyping.

- There is a strong and consistent relationship between anti-GLB prejudice and a desire to maintain traditional concepts about appropriate gender roles.
- Anti-GLB bias is based on and perpetuates the same stereotypes and oppressive practices that have long been used to deny equal opportunities to women and to keep men and women in their “proper” roles.
- Men and women who are perceived to deviate from traditional gender expectations are routinely stigmatized as gay or lesbian regardless of their actual sexual orientation.

As described above, gender identity is a person’s internal sense of being male or female. Gender expression includes all of the external personal characteristics that are visible to others: appearance, clothing, mannerisms, and behaviors. Sexual orientation refers to whether a person is attracted to men, women or to both.

Everyone, of course, has a sex, a gender identity, a gender expression, and a sexual orientation. Just how all those factors are related, or what causes any given individual to have the particular mix of characteristics that defines his or her identity, is not yet known and may never be known. What is known, however, is that *there is no necessary connection between a person’s gender identity, gender expression and sexual orientation*. For example, a woman who would rather wear blue jeans than skirts is not necessarily a lesbian (or transsexual), just as a man who would rather wear feminine clothing than a suit and tie is not necessarily gay (or transsexual). In addition, the fact that a person is transsexual does not reveal or predict anything about his or her sexual orientation; some transsexual persons are lesbian, gay or bisexual, and others are heterosexual.<sup>16</sup>

In American society, however, a person’s gender expression is often mistakenly assumed to reveal that person’s sexual orientation. For example, men with feminine characteristics are often assumed to be gay, and women with masculine characteristics are often assumed to be lesbian. Transsexual people are often assumed to be lesbians or gay men

who cannot accept their sexual orientation and who therefore undergo sex reassignment in order to “hide” or “deny” their true natures. These stereotypes are not only unreliable and untrue, they are dangerous. By creating an atmosphere in which anyone whose gender identity or gender expression varies from the norm is at risk of being stigmatized, shunned, or even physically assaulted, they perpetuate discrimination and intolerance.

Educating legislators and policymakers about the damage inflicted by sexism and gender stereotyping is a critical component of winning basic civil rights protections for GLBT people. Almost every family includes some family members who have been hurt or suffered discrimination because their gender identity or gender expression is “different” from the norm in some way—for example, a brother or son who has been ridiculed as a “sissy,” a sister or mother who was discouraged from pursuing a traditionally “masculine” career, a daughter or grandchild who has been harassed because of gender stereotypes on the job. When legislators and policymakers have an opportunity to hear the facts about gender-based discrimination and to understand these facts on a human level, most will eventually be sympathetic to the need for enhanced legal protections.

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## WHAT ARE TRANSGENDER ISSUES?

Transgender issues have many areas of overlap with gay, lesbian and bisexual issues, but there are also certain issues that are unique to transgendered people. Legal and medical issues are especially critical for transsexual people.

### Personal Issues

Much like coming to terms with one’s identity as lesbian, gay or bisexual, coming to terms with one’s identity as a transgendered person often involves a tremendous inner struggle for self-acceptance. Personal issues include:

- Shame, fear, and internalized transphobia and homophobia
- Disclosure and coming out
- Adjusting, adapting, or not adapting to social pressure to conform
- Fear of relationships or loss of relationships
- Self-imposed limitations on expression or aspirations

### Policy Issues

Like many other minority groups, transgendered people are often unable to engage in everyday activities, such as renting an apartment or buying groceries, without confronting bias and discrimination or being targeted by violence or threats of violence. In contrast to most other minorities, however, trans people rarely have recourse to any legal protection against discrimination in employment, public accommodations or other areas. Social issues include:

- Access to social services such as homeless shelters, rape crisis centers, medical clinics
- Access to education
- Hate violence
- Fear of repercussion or reprisal in retaliation for exerting one's ordinary rights, such as speaking out in public
- Chronic unemployment or underemployment
- Abusive treatment by law enforcement personnel
- Public humiliation, derision, ridicule, marginalization and exclusion
- Denial of employment
- Denial of housing
- Denial of access to public accommodations such as shops, restaurants, and public transportation

Because it affects so many trans people, hate violence deserves special mention. Based on data from 1995 to 1999, the National Coalition of Anti-Violence Programs Annual Report on Anti-Lesbian, Gay, Bisexual, and Transgender Violence reported that although anti-transgender violence accounted for only about 2-4% of all reported incidents, those incidents accounted for approximately 20% of all reported anti-GLBT murders, and approximately 40% of the total incidents of police-initiated violence. Ninety-eight percent of the reported incidents involved male-to-female (MTF) transgendered people.<sup>17</sup> As these figures indicate, hate violence against transgendered people tends to be particularly violent and brutal, and is disproportionately (though by no means exclusively) directed at MTFs.<sup>18</sup> Despite the seriousness of this problem, transgendered people are excluded from any protection under the vast majority of state hate crimes statutes, and violent crimes against transgendered people are often neither investigated nor prosecuted.

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Although anti-transgender violence accounted for only about 2-4% of all reported hate violence incidents, those incidents accounted for approximately 20% of all reported anti-GLBT murders, and approximately 40% of the total incidents of police-initiated violence.

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## Legal Issues

Legal issues can be complex for people who change sex, as well as for those who are gender variant. Legal issues include:

- Legal status as a man or a woman
- Marriage
- Divorce
- Adoption and child custody
- Inheritance, wills and trusts
- Immigration status
- Employment discrimination
- Access to public and private health benefits

- Protection from hate violence
- Identity papers and records (name change, driver's license, birth certificate, passport, school transcripts, work history)

Because the ability to obtain or retain a job is generally a prerequisite for obtaining housing and health care and for being able to support oneself and one's family, employment-related discrimination is a particularly critical issue for transsexual people, who are currently unprotected against such discrimination in almost every state. When an employee discovers that he or she is transsexual and transitions (changes sex) on the job, employers often become very nervous and assume the worst, falling back upon a whole host of negative stereotypes and assumptions. There is a great deal of ignorance about the motivation and mental state of transsexual people. In the overwhelming majority of cases, transsexual people are competent and successful, providing they receive ordinary social support. Ostracism, ridicule, and other social barriers create situations in which anyone would fail. Not wanting to endure such treatment is why most transsexual people do not want their status known to others in the workplace. Increasingly, however, greater numbers of transsexual people are refusing to give up their careers and are transitioning openly on the job. As more transsexual employees are open about their identities and as more employers have an opportunity to see that being transsexual has no relevance to a person's job performance, there is more hope for securing basic civil rights protections for transgender employees than ever before. In the meantime, however, disclosing one's transgender identity or transitioning on the job still results in automatic and often permanent unemployment for far too many transsexual people.

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As more employers have an opportunity to see that being transsexual has no relevance to a person's job performance, there is more hope for securing basic civil rights protections for transgender employees than ever before.

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## Medical Issues

Along with being able to find or keep a job, access to health care is undoubtedly one of the most critical issues for transgendered people, due to the extreme degree of discrimination against trans people in our health care system. Although some individual medical professionals have been advocates for trans people, the heroic efforts of individual providers are unfortunately outweighed by the pervasiveness of mistreatment and denial of treatment within the health care system as a whole. Medical issues include:

- Denial of medical treatment
- Ridicule and mistreatment by providers
- Inability to obtain ongoing, routine medical care
- Inability to obtain or pay for hormone therapy and sex reassignment surgeries
- Exclusion of transition-related services under Medicaid, Medicare, and private health insurance plans

Transgendered people routinely experience discrimination and barriers to obtaining medical services from hospitals, clinics, and private practitioners. Many providers treat trans people only with great reluctance, sometimes pointedly harassing them and embarrassing them, or condoning harassing behavior on the part of other patients or



clients. Transgender writer and activist Leslie Feinberg has described many incidents of health care transphobia: being turned out of an emergency room after the doctor in charge determined that hir anatomy was female, being called a “freak” by a resident, being told by a doctor that “the devil had driven her down the wrong path in life.”<sup>19</sup> (Feinberg prefers to use the gender-neutral pronoun “hir,” rather than his or her.) Many transgendered people avoid seeking medical assistance, even in dire circumstances, for fear of humiliation or rejection.

Transsexual people in particular can have difficult relationships with the medical system because once they are diagnosed as transsexual, insurance companies discriminate against them by excluding them from coverage for necessary treatments and procedures related to their transsexualism, as well as for any complications or conditions that may arise from these treatments and procedures. In addition, these exclusionary policy statements are often so broad in scope that they may effectively condone the denial of any medical treatment to a transsexual person. Stories abound of trans people being denied emergency (or non-emergency) care for conditions not even remotely related to transsexualism. Ignorant or prejudiced providers often assume that any adverse medical condition is a direct result of transsexualism. Even more stories of sub-standard care and neglect are easy to find at almost any transsexual support group meeting. Moreover, professionals who serve the transgender community may also become stigmatized by their peers because of their association with transgendered people, and this stigmatization, or fear of it, prevents many providers from serving transgendered patients.

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## **TRANSGENDER RIGHTS ARE HUMAN RIGHTS**

Basic civil rights protections for trans people ensure their ability to live and work as productive members of society. Even from a purely pragmatic perspective, the social cost of discrimination is much greater in the long run than the cost of inclusion. Anti-trans discrimination forces many trans people into a deadly cycle of poverty and unemployment. It prevents them from putting their abilities and skills to constructive uses, and often forces them into illegal activities in order to survive.

Ultimately, however, the most compelling arguments in favor of providing transgendered people with basic legal protections are those rooted in our common humanity. Transgender rights are simply human rights, based on the recognition that transgendered people are human beings deserving of common respect and dignity, regardless of their appearance or their choices about how to manage the transgender aspect of their lives. Just as gay, lesbian and bisexual people wish to be treated fairly and respectfully, and not discriminated against based upon whom they love or their consensual expression of sexuality, transgendered people seek the same levels of social safety and security and the same affirmation of our inherent equality.

# Transgender Equality

**A HANDBOOK FOR ACTIVISTS  
AND POLICYMAKERS**

by Paisley Currah  
and Shannon Minter

# A Growing Grassroots Movement

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## FOR TRANS EQUALITY

In the past ten years, transgendered and gender variant people have made unprecedented efforts to lobby for civil rights protections. The greatest initial impact of those efforts has been at the local level. In 1975, for example, the first known statute prohibiting discrimination against transgendered people was passed in Minneapolis, Minnesota. Fifteen years later, in 1990, only three additional cities had been added to that list—Harrisburg, Pennsylvania; Seattle, Washington; and St. Paul, Minnesota. By the end of 1999, however, the number of local ordinances had more than quintupled. In February 2000, Atlanta, Georgia became the twenty-sixth locality to enact a trans-protective law.

Encouragingly, progress in this area has not been limited to large metropolitan centers, college towns or any single geographic area. Jurisdictions that have passed local anti-discrimination laws include cities as culturally diverse as Ann Arbor, Louisville, New Orleans, and Tucson. They also include a healthy mix of small and mid-sized cities, such as York, Pennsylvania and Ypsilanti, Michigan (with populations of approximately 42,000 and 25,000 respectively) and Toledo, Ohio (with a population of approximately 333,000), as well as larger cities such as San Francisco and Pittsburgh.

Although securing statewide protections for transgendered people has been more difficult to achieve, recent developments suggest that it is by no means an unreachable goal. In 1993, Minnesota became the first state to enact an anti-discrimination law that includes express protections for transgendered and gender variant people in employment, housing, education, and public accommodations, as well as enhanced penalties for hate crimes committed against transgendered and gender variant people. Since that groundbreaking victory, efforts to achieve similar protections have been launched in other states. In 2000, for example, bills that would create statewide non-discrimination laws for trans people were introduced in the legislatures of California, Georgia, Illinois, Iowa, Michigan, Missouri, and Vermont, among others.

In 1998, California became the second state (following Minnesota in 1993) to amend

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In February 2000, Atlanta, Georgia became the twenty-sixth locality to enact a trans-protective law.

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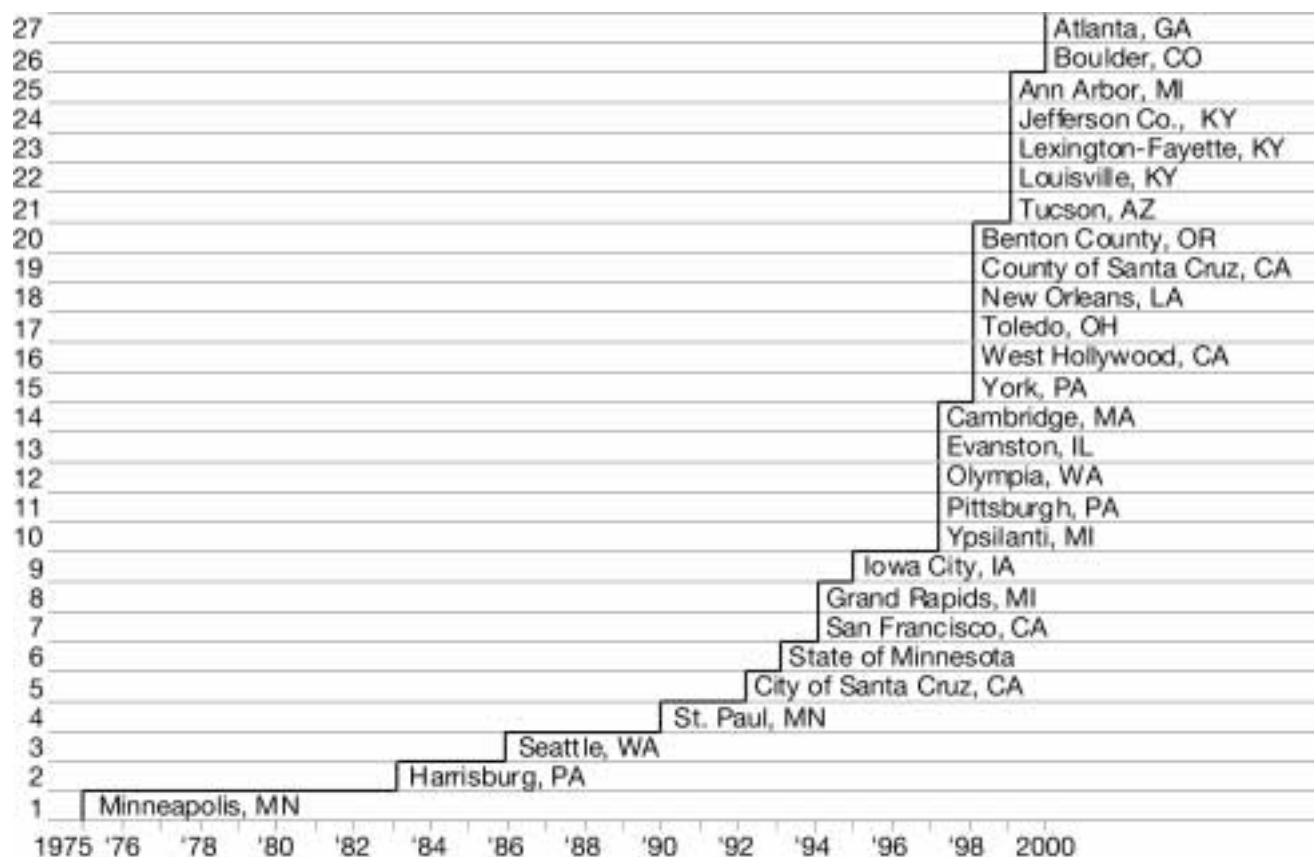
its state hate crimes statute to include transgendered and gender variant people. Vermont and Missouri adopted similar measures in 1999, with the result that there are now four states in which hate crimes against trans people are specifically subjected to enhanced penalties. Also in 1999, the governor of Iowa became the first to issue an executive order prohibiting discrimination against state employees on the basis of gender identity. By March 2000, over nine and a half million people, or approximately 3.8% of the US population, lived in jurisdictions with some kind of trans-inclusive non-discrimination law.

As legislators in these jurisdictions have realized, the need for specific legal protections for transgendered and gender variant people is compelling. Transgendered people experience severe discrimination—in employment, in health care, in housing, in public accommodations, in law enforcement, in education, and in many other areas. In principle, discrimination against transgendered people should be covered under laws that prohibit discrimination on the basis of sex and/or sexual orientation, and discrimination against transsexual people in particular should often be protected under laws that protect persons with disabilities. In practice, however, most courts have interpreted laws that prohibit discrimination on those bases to exclude transgendered people. Many legal scholars believe those judicial decisions are wrong, and many legal advocates are working to persuade courts to interpret existing anti-discrimination laws to protect transgendered people. Nonetheless, achieving civil rights protections in the courts will be a long and arduous undertaking. In the meantime, transgendered activists and allies must turn to the legislative branches of government—local city councils, state legislatures, and Congress—to secure basic civil rights protections.

There is also an added advantage to securing civil rights protections through the legislative process, rather than through the courts. Through the very act of fighting for our rights in a public forum, we educate our communities about the discrimination that transgendered people face. If the campaign is successful, politicians at other levels of government and in other parts of the country will know that your community took a stand against this kind of discrimination. Even if the effort fails the first time around, other transgendered people, including isolated transgendered youth, may realize they are not alone. Employers and other potential “discriminators” may learn that discriminating against individuals because of their gender identity or gender expression is wrong. And legislators may learn that transgendered and gender variant people are a part of their constituency and may be more receptive to the needs of that constituency the next time around.

Thanks to the hard work of trans activists and allies across the country, we now have several examples of successful campaigns to enact trans-protective legislation. With those victories in place, now is a good time to take stock of what has been accomplished so far and to collect some of the hard-won wisdom earned in the trenches to share with other activists. This report examines some of the successful strategies trans activists have used to lobby for trans-protective laws and some of the specific questions that activists, allies, legislative counsel, and legislators have faced in drafting this type of legislation.

**Figure 1: Human Rights Laws in the US that explicitly include transgendered people\***



\* Years indicate the date the law was passed, not the date the law was put into effect. This chart does not include jurisdictions such as Washington, D.C., that have case law interpreting the “personal appearance” category as covering transgendered people. See District of Columbia, Human Rights Act of 1977, Title I, Chapter 25, Sec. 1-2502, (22).

## A NOTE ON LANGUAGE

As Jamison Green pointed out in the introduction to this report, it was not until the 1990s that the word “transgendered” acquired its current meaning as an umbrella term including both transsexual and gender variant people. So, for example, when we use it to discuss organizing in Minnesota in the 1970s and 80s, it is, in a strict sense, anachronistic. Similarly, the word “trans” (as in “trans people” and “trans inclusion”), also reflects an effort to use language that includes the entire gender continuum, whether or not activists at the time used those terms. In this report, use of the words “transgendered” or “trans” is meant to include the widest possible range of people who do not fit into traditional social norms about gender.

There are advantages and disadvantages to using these terms. On the plus side, “transgendered” and “trans” are convenient shorthand labels for the concepts expressed in the phrase “any person whose anatomy, appearance, identity, beliefs, personality characteristics, demeanor or behavior diverges from or is perceived to diverge from prevailing social norms about gender.” On the downside, the use of historically- and culturally-specific labels can make some people and communities feel marginalized or even

excluded. For example, although the terms “gay,” “lesbian,” and “bisexual” have been powerful identity categories in creating and mobilizing the modern gay rights movement in the US and many other western countries, they also have sometimes proven ineffective and culturally biased in encompassing all those who are attracted to people of the same sex. Similarly, many of the people who can be described by the labels “trans” and “transgendered” may not use those terms to describe themselves. Thus, we also use the broad phrase “gender variant” at times to remind our readers of this fact.

Finally, in what follows we use phrases such as “transgender inclusive” or “trans-protective” to refer generally to laws that prohibit discrimination against transgendered and gender variant people. But, when looking at particular laws in particular jurisdictions, it is important to read the small print: not all of these laws protect everyone whose gender identity and expression is at odds with prevailing social norms. The scope of any particular law depends on the particular definition that is used, and may be limited by exclusions written into the law.

# Historical Memory

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## THE MINNESOTA STORY

Before turning to legislative drafting and other strategy issues, it is instructive to review some of the history behind one of the earliest—and most successful—efforts to secure civil rights protections for transgendered people. In 1975, the city of Minneapolis, Minnesota amended the definition of “affectional preference” in its local non-discrimination law to include the phrase “having or projecting a self-image not associated with one’s biological maleness or one’s biological femaleness.” In 1990, the city of St. Paul, Minnesota adopted similar trans-inclusive language in its local non-discrimination law. In 1993, the Minnesota state legislature enacted the first statewide law banning discrimination against transgendered people, adopting language based on the definitions in the St. Paul and Minneapolis codes. The history of those groundbreaking accomplishments in Minnesota provides important lessons for those following in their footsteps in other states and municipalities.<sup>20</sup>

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## 1975: THE MINNEAPOLIS ORDINANCE IS REVISED TO INCLUDE TRANS PEOPLE

How did it happen? Minneapolis passed a non-discrimination ordinance covering sexual orientation in 1974.<sup>21</sup> The next year, that law was revised by the City Council to include a more expansive, trans-inclusive definition of “affectional preference,” as part of a general overhaul of the local human rights ordinance. Although the inclusion of trans people in the 1975 revision was a historic moment for the trans community, it drew little notice from legislators.<sup>22</sup> According to Diana Slyter, a long-time Minneapolis transsexual activist, the transgender-inclusive definition of sexual orientation “sailed through” in a general flurry of progressive legislation enacted just before a newly-elected, more conservative mayor started his term.<sup>23</sup>

The passage of that legislation in 1975 has turned out to be a tremendous benefit for trans people elsewhere. Because Minneapolis has had civil rights protections for trans

people in place for so long, trans activists now working to pass similar legislation in their communities can point to that city's experience with transgender inclusion to reassure their own legislators that the sky will not fall if trans people are protected from discrimination and allowed to participate as equal citizens.

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## 1975 – 1977: INTRA-COMMUNITY CONFLICT OVER TRANS INCLUSION

The story behind the transgender-inclusive language in St. Paul and eventually, in the entire state of Minnesota, is more complex. To a remarkable degree, the struggles around securing statewide protection for transgendered people in Minnesota foreshadowed more recent national political debates over trans-inclusion within the gay movement. According to activists who were involved at the time, the inclusion of language covering trans people in the St. Paul and Minnesota statutes was the result of a long battle—often as much *within* the gay, lesbian, bisexual, and transgender community as *between* that community and those opposing any kind of equal rights for sexual minorities.

Minnesota Senator Allan Spear, who in 1974 became the first out gay male politician in the United States, was the chief sponsor of the Minnesota sexual orientation rights bill. Spear worked for its passage from 1975, when the bill was first introduced in the Minnesota legislature, until 1993, when it was finally passed. According to Spear, there was a strong “internal clash within the community” when the issue of transgender inclusion first arose in 1975. “Pragmatists, like me, took the position that transgender-inclusive language would make the bill fail,” Spear recalled. “There was an open clash within the community, including demonstrations [on the part of those who supported trans inclusion] at the [legislature].”<sup>24</sup>

Tim Campbell, who has since been described as “one of the Twin Cities’ most outspoken gay activists”<sup>25</sup> and who later became editor of the oldest gay newspaper there, was one of many activists who wanted the statewide bill to include gender variant people. “[The bill] was meant to be broad enough to include a sissy boy, a butch girl, a cross dresser, a transsexual,”<sup>26</sup> Campbell told the authors of *Out for Good*. Another prominent advocate for gay rights, Jack Baker, shared Campbell’s view. When challenged to defend the inclusion of transgendered people in the proposed legislation, Baker said, “I agree that you should take what you can get in chunks. But we are not willing to take a step backward from what we already have in the Twin Cities.”<sup>27</sup>

Interestingly, the two sides of the transgender debate did not line up with the usual party politics. When Spear, a Democrat, initially refused Campbell’s request to introduce a transgender-inclusive bill in the Minnesota Senate, Republican state representative Arne Carlson agreed to introduce a trans-inclusive amendment in the Minnesota House of Representatives and argued eloquently for the rights of transsexuals and transvestites.<sup>28</sup> This amendment was voted down; soon after, even the more limited bill (without the trans-inclusive definition of sexual orientation) was also voted down in the House. Eighteen years later, it would be Republican Governor Arne Carlson who would sign the trans-inclusive Minnesota human rights bill.



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## 1978 – 1991: REPEAL OF THE ST. PAUL GAY RIGHTS ORDINANCE HALTS PROGRESS AT THE STATE LEVEL

Minnesota activists agree that it was the tumultuous history of the local ordinance in the city of St. Paul that ultimately determined the fate of the statewide bill. In 1977, Anita Bryant's Save Our Children campaign organized a successful voter initiative to repeal the gay rights law in Dade County, Florida. A year later, a similar right wing campaign in St. Paul resulted in the repeal, by a margin of nearly 2-1, of a local gay rights ordinance that had been passed earlier in the decade by the St. Paul City Council.<sup>29</sup> (This ordinance had not been trans-inclusive.) According to Spear, the St. Paul repeal was "a monkey on our back" from 1978 until 1990. "It made it very difficult to get a state law passed," he said.<sup>30</sup>

Over ten years later, in 1990, local activists quietly convinced the St. Paul City Council to re-enact a law banning discrimination on the basis of sexual orientation. "It wasn't a visible political movement," according to activist Susan Kimberly, one of the chief lobbyists behind the bill. "We solicited promises from them that they would do it," she recalled.<sup>31</sup> This time, the law had an expansive definition of sexual orientation that clearly included transgendered people. Kimberly was well-acquainted with city hall. In the 1970s, she had served as president of the St. Paul City Council, before her transition, in her former identity as Bob Sylvester. (See sidebar below.)

Just one year later, however, the new St. Paul ordinance was once again under attack. A local group called "Citizen Alert" had collected enough signatures to get another repeal initiative on the ballot, and campaigned against the law with the misleading arguments that gay rights threaten parental rights, freedom of religion, and homeowners' rights.<sup>32</sup> Kimberly also recalled opponents of the ordinance attempting to exploit fears about trans people and bathrooms. In response to those questions, she explained, "I just said that there's been protection for [trans people] in Minneapolis since 1975, and there haven't been any complaints about bathroom usage there."<sup>33</sup>

Unlike the unsuccessful effort to defeat the repeal campaign in 1978, in which trans people were sidelined, the 1991 battle was a real coalition effort. Barbara Metzger, a lesbian and also a long-time organizer in St. Paul, was one of the key strategists behind that effort. Metzger was determined to run an inclusive campaign. "In 1978, the people running the anti-repeal campaign sent out letters advising volunteers to dress straight. They were very caught up in trying to look normal," Metzger said, "And that campaign lost." Metzger believes that a lot of people who were, in her words, "really out," didn't want to participate in a campaign that closeted gender variant people. In the 1991 campaign, many different elements of the community, including transgendered people, were actively involved.<sup>34</sup> After a hard fought battle—this time by a very open coalition of gay, lesbian, bisexual, and trans people and their allies—St. Paul voters voted to keep the law in place.

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The inclusion of trans people in the St. Paul and Minnesota anti-discrimination statutes was the result of a long battle—often *within* the gay, lesbian, bisexual, and transgender community

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## 1991 - 1993: THE PASSAGE OF AN INCLUSIVE STATEWIDE LAW

The victory in the St. Paul referendum rejuvenated the GLBT community and created momentum to press forward on a statewide bill. “When we won in St. Paul, we moved directly from that victory into the battle to pass the statewide legislation,” Spear recalled.<sup>35</sup> “That event transformed the debate at the state level,” Kimberly agreed. “At that point, organizing for passage of a state bill began again.”

At the state level, however, the issue of whether to press for trans-inclusive language in the bill was still up in the air. While Kimberly and other prominent members of the transgender and gay communities wanted inclusive language, Spear remained skeptical. Lobbyists for the bill soon got into a debate over whether to include trans-protective language and how to respond if legislators attempted to remove that language. Key local activists were insistent that trans people could not be cut from the bill. Metzger, one of the grand marshals in the 1992 Twin Cities GLBT pride parade, told Spear and assembled parade goers that she “would move to Minneapolis and run against him if he dealt away the transgender language.” And Kimberly, who had considerable political experience and clout as the former president of the St. Paul City Council, told the coalition lobbying for the bill in 1993 that “if the issue came up again, the bill had to be inclusive or I would do something foolish and handcuff myself to a urinal in the state capital. I was concerned that trans people were ballast on the bill.”<sup>36</sup>

“Fortunately, it never came to that,” Spear recalled, adding, “I admit I was surprised. I was one of those people who thought it would kill the whole bill.” According to Spear, the inclusion of transgendered people in the bill did not come up as a significant issue during the legislative debates: “We made no effort to hide it but we weren’t going to discuss it unless people brought it up.”<sup>37</sup> At the public hearings on the bill, witnesses were lined up from unions, religious organizations, business groups, and the lesbian and gay community. While out trans people did not testify at any of the bill’s the hearings, many trans people did lobby their state representatives. “You had to stand in line for a legislator, then, there were so many people lobbying,” Slyter recalled.<sup>38</sup> The trans issue was also indirectly raised by a Republican senator who suggested amending the bill to simplify the definition of sexual orientation to “homosexual, heterosexual, or bisexual,” to match the definition used by the other states. Spear countered that proposal by arguing that it was better for legislators to follow the language used in the Minnesota cities of Minneapolis and St. Paul. “We defeated that particular amendment without the transgender issue ever coming up in the Senate,” Spear said.<sup>39</sup>

Although the issue of trans-inclusion was not front and center in the legislature when the bill was first passed in 1993, it has since garnered more attention. In 1998, two widely-publicized cases involving transgender employees, the first involving a high school teacher and the second a high school librarian, generated significant public controversy and debate. “In both cases,” Spear noted, “the school board stood behind them because of the state law.” As a result of the publicity surrounding those cases, Spear and other members of the GLBT community in Minnesota geared up to fend off an assault on the state law, or at a minimum on the transgender-inclusive language in that law, in the 1999 session. “It didn’t happen this year, but it still might next year,” Senator Spear warned in late 1999.<sup>40</sup>

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## LESSONS FROM MINNESOTA: WHAT DOES IT TAKE TO PASS A STATEWIDE TRANS-INCLUSIVE ANTI-DISCRIMINATION LAW?

What do the experiences of GLBT activists in Minneapolis, St. Paul and the state of Minnesota tell us about how to achieve similar successes in other states and municipalities? From a national perspective, history is repeating itself in the heated and intense disagreements within the GLBT community about trans inclusion in the Employment Non-Discrimination Act (ENDA) and in other statewide and local initiatives. (The National Gay and Lesbian Task Force, the National Center for Lesbian Rights, and other groups support trans inclusion in ENDA; some other national groups do not.) “People in other parts of the country are fighting the fights we had in the ‘70s,” Slyter said in an interview.<sup>41</sup>

How did Minnesotans move beyond those divisions? What accounts for Minnesota’s success in becoming the first state to include trans people in its human rights laws? As is true in most coalition work, the activists involved emphasized different lessons from the years of struggle, depending on their individual perspectives. In general, however, the factors most frequently cited by those activists include:

### **1. Strong support from the GLB community, including those who recognize the importance of trans-inclusive language for gender variant lesbian, gay and bisexual people.**

- According to Kimberly, one reason the inclusive bill ultimately succeeded was that “a group of butch dykes really picked up the crusade. The language stayed in because they just wouldn’t give up.”
- “It was important to make room for all the different elements in our community,” Metzger noted, “including butch women and effeminate men as well as cross-dressers and transsexuals.”

### **2. A proven track record of securing trans-inclusive ordinances at the local level.**

- “No doubt if we hadn’t already had this language in the Minneapolis and St. Paul laws, it would have been harder,” Spear said.
- Metzger recalled that state legislators would tell her that amending the human rights bill to include GLBT people was the right thing to do. “But, the legislators would also say, ‘I can’t vote for it because my district will turn me out of office. Until you prove to us that the voters in St. Paul have changed their mind we’re not going to go out on a limb for you by backing this bill.’” When the St. Paul City Council re-enacted the local ordinance in 1990, and even more importantly, when the voters of St. Paul decisively rejected the rightwing effort to appeal the ordinance in 1991, state legislators saw that Minnesotans supported non-discrimination bills for gay, lesbian, bisexual, and transgendered people. “As soon as we won in St. Paul, we knew we could do it in the state legislature,” Metzger added.

### **3. An ability to move beyond intra-community conflict.**

- “By 1993 the gay community was on board with trans inclusion. Everyone had seen what had happened in 1975 and people did not want to get into that fight again,” Slyter said.

- According to Kimberly, by 1993 leaders in the GLB community had recognized that transgendered people were part of the larger community: “The world changed. In 1978, no one was out. In 1991, everybody knew somebody who was transgender,” she said.
- Metzger says that 15 years of being under attack led to a strong sense of solidarity in the GLBT community in St. Paul. “We had to have a coalition to make it work, and that made us more able to recognize all the parts of our community.”

#### **4. Public education and political visibility.**

- Karen Clark, a member of the Minnesota House of Representatives, was a chief sponsor of the bill. “Truly, I think it’s what the logo of this campaign says, which is, ‘It’s Time.’ The gay and lesbian community, the bisexual and transgender community has done a lot more visible work in recent years in terms of education about who we are and what we are about. There’s been a lot more people coming out, some of it for very positive reasons, some of it for very negative reasons in the sense that Minnesota has a high rate of violence...It’s required, I think, when there’s been hostility and bigotry acted out in that way for people to come forward and defend themselves.”<sup>42</sup>

#### **5. Key legislators and politicians willing to champion the bill and strategize for its passage.**

- “You can’t move a bill without legislators on your side,” Slyter said. “That’s what made the difference between 1975 and 1993.”<sup>43</sup>
- In addition to the crucial support of Spear and Clark, Governor Carlson’s support also played an important role in convincing legislators to vote in favor of the bill. According to Clark, “We had 11 Republicans who voted for the bill, plus several of them spoke so eloquently [on the floor]...The governor’s role has been, I think, not only to shore them up but also to make it clear to all Minnesotans that this is not a partisan issue.”<sup>44</sup>

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## **POST-MINNESOTA: INCREASED VISIBILITY BRINGS NEW CHALLENGES AND NEW STRENGTHS**

Since Minnesota became the first state to enact an inclusive statewide law prohibiting discrimination against GLBT people in 1993, those opposing civil rights protections for trans people have become more sophisticated in their tactics and more adept at exploiting various stereotypes and fears about trans people. In the past few years, transgendered people have made tremendous strides in gaining political visibility, including formal recognition as a constituency by many GLB organizations and the creation of many new transgender advocacy groups and initiatives. As we have become more visible, however, we have also become more of a target for the same reactionary groups that have long opposed equal rights for women, racial minorities and GLB people. Thus, in addition to educating legislators about who we are and the discrimination we confront, transgendered people must also increasingly respond to deliberate lies and misinformation.<sup>45</sup>

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# SUSAN KIMBERLY

*One of the chief lobbyists behind the 1990 St. Paul bill and 1991 repeal battle was Susan Kimberly. This story about her appeared in the Minneapolis Star Tribune, December 20, 1998.*

## **A change of heart for deputy mayor; Transgendered appointee has found happiness, new politics**

By Doug Grow, Staff Writer

I knew Susan Kimberly when she was hurting badly. This was in the early 1990s. Kimberly, who had undergone a



sex change in 1984, saw crisis wherever she looked. She had feuded publicly with Jim Scheibel, mayor of St. Paul at the time. The feud left her cut off from her lifeblood, City Hall. She was rapidly running out of money. Her sexuality made it harder to find work. Things got so desperate that in 1993 she was forced to sell her beloved classic Mustang. She was trying to write a play about her extraordinary life. ("Superman

Meets Lois Lane," was the working title. "I've decided I was a lousy playwright," she said.) She was trying to come to grips with her former self, Bob Sylvester, who had been a successful politician and businessman.

Just as she was making a personal comeback, Norm Coleman, whom she considered a friend, threw her for a loop. In 1994, Coleman became St. Paul's mayor and in one of his first public acts refused to sign a proclamation celebrating gay, lesbian, bisexual and transgender week

in St. Paul. For years, St. Paul mayors had been signing the proclamation as a matter of routine.

Kimberly, who had been Coleman's neighbor, was deeply hurt. "I thought he was my friend," Kimberly said at the time.

All of this culminated with a small but remarkable event last week. Coleman, who still campaigns against civil rights protections for gays, lesbians, bisexuals and those who have changed their gender, named Kimberly his deputy mayor.

"Liberals believe in handouts and proclamations," Coleman was quoted as saying when he appointed Kimberly. "I believe in recognizing people for their talent and competency."

It was a noble answer. But the big question is, what motivated Kimberly to take a job working directly for Coleman? Was this an act of forgiveness, ambition or desperation?

Desperation can be ruled out. Times are good for Kimberly. After losing a race for the Ramsey County Board a few years ago, she said she finally learned "I'm just not a great candidate." For the past few years, she's been doing work she loves, first for the St. Paul Coalition for Community Development, and in the last two years in the city's Planning and Economic Development Department. No longer is she constantly fretting about the bills.

As her spirits have risen, she's followed Coleman across the political spectrum, moving from left to right. Sylvester/Kimberly once was a big-government liberal. Like Coleman, she has become a believer that those old, liberal, big-government ideas no longer are effective.

“We agree on most things,” Kimberly said of her alignment with Coleman. “I respect that he and I have different views on this [sexuality] issue.”

What a profound issue to disagree on. Sexual identity is as fundamental as it gets. Obviously, few understand that so clearly as Kimberly. When, in 1994, Coleman refused to sign that simple gay pride proclamation, she felt personally rebuked. Given the chance, Coleman would take away basic civil rights protection that people like Susan Kimberly worked hard to get in both city ordinances and the Minnesota Constitution.

Comfortable as she is with the idea that she’s now almost a Coleman-like conservative, Kimberly does agree the big government she now abhors did set the

stage for people to step out of the closet. Over time, civil rights laws did help reshape attitudes in this country. With some brutal exceptions, acceptance has become the rule.

“I think that if my tribe were dealing with the political realities of the 1960s and 1970s, we would be marching to Washington just as African-Americans and Indians did,” Kimberly said. “We wouldn’t have any choice but to do that. But that era is over. We’ve moved away from the idea that government solves problems for people. For my people, it is a matter of coming out and being out and conducting ourselves in a way that earns us the respect we deserve.”

*—Reprinted with permission from the  
Minneapolis Star-Tribune.*

For example, less than 24 hours after the City Council in Boulder, Colorado amended that city’s non-discrimination law to include transgendered and gender variant people, Jerry Falwell, a spokesperson for the religious right, distributed a press release describing Boulder’s action as “mind-boggling” and decrying “the continued political acceptance and recognition of people simply because they have made deviant sexual choices.”<sup>46</sup> In Iowa, a right wing activist attacked the Governor’s executive order banning discrimination on the basis of sexual orientation and gender identity, arguing that it would lead to “affirmative action programs that require the state to recruit cross-dressers, transgenders, and she-males” for state jobs.<sup>47</sup> The American Center for Law and Justice (ACLJ), a right-wing group that uses legal challenges to further its agenda, has begun a campaign to challenge laws protecting GLBT people in the courts.<sup>48</sup> In Louisiana, a spokesperson for the ACLJ criticized the Louisville ordinance on the ground that it would force “employers who object to homosexuality and transgenderism to hire people who practice those lifestyles.”

On a far more positive note, transgender issues have been incorporated into the mainstream of the gay movement to a greater extent than ever before. In 1998, the Federation of Statewide Lesbian, Gay, Bisexual, and Transgender Organizations, which is coordinated by the National Gay and Lesbian Task Force, began admitting transgender groups. In addition, many statewide GLBT organizations have not only added trans issues to their mission statements, but have brought transgendered people and allies into their decision-making structures and demonstrated their commitment to trans issues through education efforts and the introduction of trans-inclusive legislation.

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## MIRANDA STEVENS-MILLER

Creating a Coalition in Illinois

*Miranda Stevens-Miller is Chair of It's Time, Illinois, and Vice-Chair of Equality Illinois, the statewide GLBT advocacy group in Illinois.*



“Both Beth Plotner (vice-Chair, ITIL) and I have been involved with NGLTF’s Federation of Statewide Lesbian, Bisexual, and Transgender Organizations since the 1998 Creating Change conference in Pittsburgh. The Federation has been enthusiastic in its acceptance of transgender rights organizations. The real issues, of course, are not transgender rights, but the rights of all sexual minorities and gender minorities. We

are all working for the same goal, and it has been wonderful to interact with GLBT activists from all over the US.”

“Ever since It’s Time Illinois was founded, we have sought to build coalition with the other human rights organizations in the state. Our strongest ally has been the Illinois Federation for Human Rights. Together we have crafted an inclusive human rights bill which has been introduced in Springfield, have lobbied for that bill, and organized Equality Begins at Home in Illinois with almost 40 events statewide. Equality Begins at Home has given us the credibility to easily form coalitions with other groups. Just this summer, over 30 state and local organizations came together to endorse the expansion of ENDA to include gender variance. Coalition has been and will be the key to our success.”<sup>49</sup>

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# Nuts and Bolts

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## HOW TO WIN CIVIL RIGHTS PROTECTIONS FOR TRANSGENDERED PEOPLE

While there are many excellent resources on how to lobby for gay rights laws, information on trans-specific legislation is scattered, sparse and often all but impossible to find. In the sections that follow, we have attempted to fill that gap by summarizing some of the key insights and experiences of trans activists who have succeeded in passing trans-protective civil rights laws. Rather than attempting to provide a comprehensive guide to every aspect of the lobbying process, we have focused on the specific issues that have arisen in just about every campaign to pass a trans-inclusive law. As described in more detail below, those common issues include the critical and often controversial questions of how to demonstrate the need for a trans-protective law, how to draft effective statutory language, and how to respond to common myths and misconceptions about equal rights for trans people.

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## DOCUMENTING THE PROBLEM: THE POWER OF PERSONAL STORIES

Before meeting with lawmakers, be they city councilors, state representatives, or members of Congress and their staffers, it is important to show why your proposed bill is needed. For example, if your group is working on a hate crimes law, it is essential to provide examples of hate crimes committed against transgendered and gender variant people in your jurisdiction. Similarly, if your group is working on a bill that would prohibit discrimination against trans people in employment, housing, and public accommodations, documenting particular instances of those kinds of discrimination is an invaluable tool. Personal stories and other forms of documentation can be presented in lobbying visits with legislators or through testimony at public hearings. If you are working in a large political jurisdiction, such as a state, be sure to collect evidence from as many parts of the state as possible. It is also important to show the full range of trans-



gender identities and experiences—for example, to include non-transsexual as well as transsexual people, as well as people from different walks of life and different racial and ethnic backgrounds. Best advice: it's never too early to start collecting evidence and identifying individuals who are willing to share their compelling personal stories of discrimination.

In the past few years, trans activists have produced some extremely effective and compelling reports documenting the need for non-discrimination and hate crimes legislation. To date, the most comprehensive and frequently cited report is San Francisco's "Investigation Into Discrimination Against Transgendered People," which Jamison Green authored for the San Francisco Human Rights Commission in 1994. The report summarizes over nine months of investigation into allegations of discriminatory treatment of transgender persons in employment, housing, public accommodations, health care, child custody, hate violence, and other areas. The report includes testimony from transgendered people from a wide range of racial and ethnic backgrounds, including African-American, Asian-American, Native American and Latino/a persons. The report also includes testimony from transgender elders and youth, as well as from service providers, partners, family members and friends. Based on the evidence documented in the report, the San Francisco Human Rights Commission recommended that the City enact legislation to add "gender identity" to the city's local human rights ordinance. The San Francisco report has been distributed to many legislators and city attorneys in other cities and remains one of the main sources of information about discrimination against transgendered people.

Even without support from local or statewide human rights commissions, transgendered activists in some states have undertaken their own investigations and produced their own reports. In 1997, for example, transgendered activists in Illinois distributed a comprehensive, statewide report titled, "Discrimination and Hate Crimes Against Transgendered People In Illinois." The report, produced by It's Time, Illinois!, is supplemented every year with new examples of discrimination and hate crimes. The report contains individual stories, case narratives, and a chart, titled "Cases of Discrimination Based on Gender Expression," that graphically communicate the frequency and types of discrimination and hate crimes described in the report. The report also interprets the data in very compelling summaries—easy to read and useful for legislators and other advocates. For example, on employment discrimination, the report states:

More than 40% of the cases we recorded during the past three years dealt with employment situations (16 out of 38 incidents). In half of those cases (8), the person was fired. In general, the firing occurred within a few months after the person's gender identity became known. In three of these cases, the company had employed the individual for over 15 years...The timing of the firing left no doubt as to the motive behind it.<sup>50</sup>

Not every group has the resources to undertake an extensive investigation or to produce a comprehensive report about discrimination against transgendered people in their area. What successful trans activists have learned, however, is that you must find some means of conveying personal stories of discrimination to show legislators why legal protections are needed. That can be as simple as identifying a few individuals who are willing to testify before your local city council, or as ambitious as undertaking a survey of discrimination in your jurisdiction.

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# F. M. CHESTER

A transgender lesbian speaks on gender identity

*F.M. Chester gave this speech at the Lexington-Fayette Urban County Council Meeting, July 1, 1999 in support of a fairness ordinance. The ordinance, which included gender identity, passed a week later.*

Hello, my name is Chester and I am here to talk about Gender Identity. I am a Nurse Practitioner and Co-Coordinator of the Fairness Campaign Louisville. I am also a transgendered lesbian.

Gender Identity is an umbrella term and is not linked to a person's sexual orientation. Gender Identity refers to people who manifest characteristics not traditionally associated with one's biological maleness or femaleness. Gender Identity is the "protected class." "Transgendered" is the term used by people who identify as alternatively gendered. Transgendered people include transexuals,<sup>51</sup> cross-dressers, effeminate men and masculine women.

Transexuals are people who go through sex reassignment. They are people who are born one sex and go through a medical process, including hormones and surgery, to change their body to the desired sex. Part of the process of sex reassignment is called the "Real Life Test." Prior to sex reassignment surgery, transexuals must live for one year successfully as the desired sex. They must be identified or "read" as the desired sex by society. They must pass.

Some transexuals choose not to have surgery. There is no way to tell a pre-operative or non-operative transexual from a post-operative transexual unless you look at their genitals or ask them. Some transexuals are heterosexual, some are homosexual.

Cross-dressers are primarily heterosexual men who sometimes wear female clothing. Most cross-dressers hide their cross-dressing from their spouses, family and friends for fear of reprisal. Most of these people are identified by others as a gender that is not their biological sex. Most times there is no way to tell a full time cross-dresser from a transexual or someone biologically male or female except to look at their genitals or to ask them.

Effeminate men and masculine or "butch" women are people who don't conform to traditional gender norms. Not all effeminate men or masculine women are homosexual.

Transgendered people are people who do not present characteristics traditionally associated with one's biological sex.

Many of the people in this room probably thought I was male when they first saw me. I am not. I am biologically female. However, my gender presentation is very masculine. I am a "man-nish" woman. I also wear men's clothes. I cannot wear women's clothes comfortably. They feel wrong. When I wear women's clothes I feel anguish. I feel like I am in "drag" and that I am "passing" as a woman. I have always been like this. When I was a child, I was a "tomboy." I remember telling everyone "I'm not a boy, I'm a girl" because everyone thought I was a boy. In sixth grade I moved and changed schools. In that school the boys sat on one side of the room and the girls on the other. I walked into class for the first time and heard "Yea! another boy for our side!" In High School I was tormented with

the nickname “Birl.” B-I-R-L. Which was short for Boy-Girl.

I am not transexual. At this point in my life, I do not want to become a man. I have considered changing my sex and have rejected it for me right now.



photo: Tamara Fitzpatrick

It is difficult to go through life as ambiguously gendered. I am frequently mistaken for male in women’s restrooms. I have been chased into women’s restrooms by male security guards [questioning my gender]. I have been told by women in women’s restrooms that I do not belong there.

I am also the victim of discrimination on the basis of gender identity. I was told my gender presentation was not appropriate in graduate school. While I was in my second-to-last semester at Vanderbilt University School of Nursing I was told that a few patients and my preceptor had complained, and that if I did not dress and present myself as recognizably female, I would not be allowed to progress in my program and to graduate. This was incredibly damaging to me. I was, like any victim of discrimination, deeply shamed. I was outraged, hurt and embarrassed. I almost left my chosen profession over this.

I am currently employed as a nurse practitioner at a clinic in Louisville. I pro-

vide primary health care for primarily indigent patients. I have been there for 5 years. I wear tennis shoes, khaki pants, a polo shirt and a lab coat. Sometimes children ask me if I am a boy or a girl. I always tell them that I am a girl. If I were not able to wear clothes that were comfortable to me at work, I would have to find another profession. If I did there would be approximately 1500 people a year in Louisville who would have no health care.

I am angry at society that tells women like me I should work construction or be an auto mechanic. I am an educated professional and deserve to work in my chosen profession.

Much of the discrimination that occurs against gay, lesbian and bisexual people is not because of their sexual orientation but is because that person has presented themselves as gender deviant. Effeminate men and mannish women are primary targets of discrimination.

One last thought. I live in Louisville, what I am doing here in Lexington? I am standing up and speaking out as transgendered for all of the transgendered people who are afraid to speak up. Many transgendered people, especially ones who pass, are fearful for their livelihood and their lives. There is no protection against discrimination on the basis of gender identity.

Please continue to include gender identity in the Fairness ordinance. Everyone deserves to live free from discrimination. And people like me deserve to be protected.

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## WORKING WITH YOUR LOCAL HUMAN RIGHTS COMMISSION

If your jurisdiction already has a human rights or non-discrimination law in place, most likely it will also have a human rights department or commission to enforce the law. Where possible, obtaining support from your local human rights commission can be a critical element in a successful legislative campaign. That support may take a variety of forms. In San Francisco, for example, the Human Rights Commission held a public hearing investigating discrimination against the transgender community and produced a report outlining the need for legal protection. When activists from It's Time, Illinois! began their campaign to amend Evanston's human rights law, one of their first steps was to meet with the Human Relations Commission to talk about discrimination. At the City Council hearing when the trans-inclusive ordinance was discussed, the chair of the Human Relations Commission spoke first and framed the ordinance for the legislators.

The staff at human rights departments are usually very approachable. It's part of their job to meet with representatives of community groups, and to learn about the kinds of discrimination people in their community face, even when the discrimination is not yet prohibited by the law.<sup>52</sup> When you or your group meet with a representative of your human rights commission or department, you should come prepared. You may need to do a "Transgender 101" session to answer basic questions, such as who transgendered people are and what types of discrimination we face. Be sure to use concrete examples. For example, after an incident in which a hotel had threatened to have transgendered people arrested for using, in the words of the hotel management, the "wrong" bathroom, representatives from NYAGRA, the New York Association for Gender Rights Advocacy, met with officials at the New York City Department of Human Rights for an information session. That initial meeting led to more NYAGRA-run education workshops on transgender issues for human rights officials.

If the human rights commission in your jurisdiction has already heard from transgendered people, these officials may be more supportive of the need for legislative protection. For this reason, it's a good idea to encourage transgendered people who have recently experienced discrimination in your jurisdiction to file a complaint, or at least tell their story—even in the absence of legal protection. For example, human rights officials in Boulder, Evanston, Iowa City, New Orleans, Pittsburgh, and San Francisco had met with transgendered people prior to the passage of ordinances in these cities. As a result, they knew there was a problem in those communities and were quicker to recommend to their city councils that the law be amended. According to activists from It's Time, Illinois!, because the human rights commission in Evanston "had heard from transgendered people that they had been discriminated against, the director of the human rights commission was immediately receptive to the idea of including transgendered people in the city's Human Rights Ordinance."<sup>53</sup>

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It's a good idea to encourage transgendered people who have recently experienced discrimination in your jurisdiction to file a complaint, or at least tell their story.

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## APPROACHING LEGISLATORS AND BUILDING A COALITION

Before meeting with potential supporters of your bill, it is helpful to lay the foundation for a successful legislative campaign by showing (1) that you are knowledgeable about your local or state law and (2) that you have or will be able to create a coalition of local or statewide supporters.

### 1) Have you researched the human rights or non-discrimination bill in your jurisdiction?

To advocate for a change in existing law, you need to know what the current law says and which groups it already protects. For example, when your group is meeting with local legislators to find a sponsor for a trans-protective bill, it is less effective to talk about the need for legal protection for transgendered people in the abstract than it is to show them a copy of the current law and to explain why it does not provide adequate protection for transgendered people.<sup>54</sup> In some cases, legislators may be under the impression that transgendered people are already covered under laws that prohibit discrimination on the basis of gender or sexual orientation. If so, it may be necessary to show that most courts have not interpreted existing laws to cover transgendered people. If you are fortunate enough to live in one of the few jurisdictions in which courts have protected transgendered people under existing anti-discrimination laws, then you must be prepared to show why it is necessary to codify and secure those protections through legislation.

### 2) Are you prepared to educate your legislators about transgender discrimination?

In addition, because most legislators have either never heard of transgendered people or have only the vaguest and most stereotypical notions of who we are, it is often essential to give legislators a basic introduction to transgendered people and the kinds of discrimination we face. Many trans lobbying groups have prepared short handouts that explain the range of transgender identities in a clear and concise way, without going into unnecessary detail.<sup>55</sup> It is important to stick to simple definitions and concepts and to be sure that everyone in your lobbying group is on the same page. Needless to say, a meeting with your local or state legislator is not the place to hash out philosophical differences within your group about trans identity!

Successful educational efforts may cause legislators to take important incremental steps toward passing a trans-inclusive law. For example, after being lobbied and educated by trans activists in Portland, legislators voted unanimously to direct city agencies to explore including non-discrimination on the basis of gender identity in the city's Equal Employment Opportunity program. It's Time, Oregon! is building on this very positive initial step to advocate for changes to Portland's human rights law. According to Lori Buckwalter, Director of It's Time, Oregon!, "there is still much to be done, to develop constructive trust relationships between those who have experienced gender identity discrimination, and public and private officials. Issues of employment and healthcare are primary, and this resolution creates [an opportunity to] cooperate to dispel decades of misunderstanding, and make a real difference in people's lives."<sup>56</sup>

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It is often essential to give legislators a basic introduction to transgendered people and the kinds of discrimination we face.

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### 3) Do you have support from GLB activists in your city or state?

Enacting trans-protective legislation depends on a strong alliance between gay and trans people—for principled as well as for practical reasons. In principle, homophobia and transphobia are closely connected and inter-related. Transgendered people have played an active role in fighting for gay rights. Now that gay people have begun to make some headway in securing basic civil rights, it would be unfair to leave transgendered people behind. In addition, discrimination on the basis of gender expression affects many GLB people, regardless of whether they identify as transgender.

In practice, support from the GLB community has been critical in most jurisdictions that have succeeded in passing transgender-protective laws. The gay rights movement has spent decades fighting for political legitimacy and establishing connections with local, state and federal legislators. Building on that foundation to educate legislators about the need for trans-inclusive laws is a far more realistic approach than attempting to create those relationships, which take years to develop, from scratch.

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Enacting trans-protective legislation depends on a strong alliance between gay and trans people.

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In fact, every successful effort to win civil rights protections for trans people has taken place in a jurisdiction that either already has a gay rights law in place, or in which gay and trans activists have worked together to pass a comprehensive non-discrimination law that includes both sexual orientation and gender identity. To date, there are no jurisdictions in which trans people have succeeded in obtaining civil rights protections for transgendered and gender variant people before GLB people have done so.

In jurisdictions where protection on the basis of sexual orientation has already been secured, support from GLB people played a vital role in persuading legislators to expand that protection to include transgendered and gender variant people. That was the case, for example, in San Francisco, Seattle, Ann Arbor, Iowa City and many other localities. Similarly, it was only by working closely together as a unified GLBT front that activists in Lexington, Louisville and Jefferson County, Kentucky were able to secure new local laws protecting both sexual orientation and gender identity.

In contrast, trans people have had little success in passing trans-inclusive laws in jurisdictions in which the GLB community has been divided over whether to support trans-inclusion or to push for sexual orientation protections alone. In 1998, for example, gay and transgendered activists in Onondaga County, New York, attempted to amend the fair practices law there to include sexual orientation *and* gender diversity. While several legislators and many in the GLBT community supported the addition of language to protect transgendered people, at least one local GLB organization and one local allied organization, the Stonewall Committee and the Central New York Chapter of the ACLU, did not. Despite heated debate over whether or not the omission of gender variant people was “exclusionary,” the lack of a unified position from the GLBT community resulted in the bill passing without protections for transgendered people.<sup>57</sup>

### 4) Are there other groups and/or individuals who will lend advice and support?

In addition to working closely with GLB activists and groups, it is also important to reach out to other potential allies and supporters. For example, endorsers of trans-protective bills have included: local clergy; local teacher associations; local unions and

labor organizations; local physicians, nurses and other health care workers; local social workers and other mental health professionals; local disability rights groups; local chapters of the National Organization for Women, the League of Women Voters and other feminist groups; and local chapters of the National Association for the Advancement of Colored People, the Urban League, the American Jewish Congress, the Anti-Defamation League, and other advocacy groups for racial and religious minorities. The more your own transgender and/or GLBT group reflects the diversity of the community in which you live, the easier it will be to reach out to a diverse range of allied groups and to build a broad base of support for trans-protective laws.

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## PAULINE PARK

As coordinator of a legislative work group that includes city council members, transgender-supportive allies, and other members of the New York Association for Gender Rights Advocacy, Pauline Park is one of the key players in the initiative to amend New York City's Human Rights Law to include transgendered and gender variant people. (In February 2000, city council members announced their co-sponsorship of a trans-protective bill; it has not yet passed.)



Park's participation in transgender activism began with GenderPAC's annual national gender lobby days in Washington, D.C., in May 1997

and 1998. She and other New York-based trans activists decided to focus their efforts at the state and local levels, and in June, 1998, they founded the New York Association for Gender Rights Advocacy (NYAGRA), the first statewide transgender political organization in New York.

Park, who has a Ph.D. in political sci-

ence from the University of Illinois, found working on this project in the highly-charged political environment of New York City to be a real education in lobbying. Her first piece of advice: "While the support of legislative staff is important, it's crucial to get at least a few of the members themselves actively engaged in the process. We've been very fortunate to have the direct and active participation of two legislators of color—Margarita Lopez, an openly lesbian Latina city council member; and Bill Perkins, a GLBT-supportive African American city council member." The legislative work group meets in person or via a conference call every two or three weeks.

"It's also vital to have the support of the lesbian, gay, and bisexual community. We've formed a working partnership with Tim Sweeney and Ralph Wilson at the Empire State Pride Agenda, and we've been able to build on the credibility with legislators that they already enjoy," Park said.

Park also emphasizes the importance of forming a broad coalition of allies in support of the bill. "In a city as diverse as New York, it's important to counter the perception that transgender-based discrimination is only a white queer

lower Manhattan issue.” Park said. “With Pride Agenda staff and the six council members in our legislative work group, we’ve produced what looks to be a winning strategy, forging a broad-based coalition that includes communities of color and people in the outer boroughs.” Members of the legislative work group have reached out to a range of organizations for their support, including the Audre Lorde Project, the National Organization for Women-New York City Chapter, the Asian American Legal Defense and Education Fund, Puerto Rican Legal Defense & Education Fund, District Council 37 (the largest union in the city), the GLB political clubs, and people of faith.

Park has been involved with organizing in GLBT communities since 1994, when she launched Gay Asians & Pacific Islanders of Chicago, an organization for gay, bisexual, and transgendered Asian and Pacific Islanders.

Since then, she has continued to be involved in Asian and Pacific Islander communities, working with the Gay Asian & Pacific Islander Men of New York and co-founding Iban/Queer Koreans of New York in February 1997. The initial spark for Iban/QKNY was the Korean LGBT Forum organized by the Korean Gay Organization/Chingusai and hosted by the Korean American Association of Greater New York on November 2, 1996. Park was one of the four speakers in that panel discussion, the first forum on GLBT issues ever sponsored by a non-queer Korean American organization.

For Park, ensuring that people of color have an equal voice in the transgender political movement is critical. “As a transgendered woman of color, I do not have the luxury of completely separating what are ostensibly ‘transgender’ issues from issues of race, ethnicity, nationality, and citizenship status.”

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## DRAFTING CLEAR AND EFFECTIVE STATUTORY LANGUAGE

Drafting legislation is a highly skilled art. To be useful, civil rights statutes must be worded carefully. Sloppy or ambiguous language can create unintended loopholes or exclusions that may defeat the purpose of passing a law in the first place. Once a non-discrimination statute is passed, courts will scrutinize the language very closely. Lawyers representing employers (landlords, businesses, etc.) will do their best to find loopholes and to persuade courts to interpret the law as narrowly as possible. In the context of federal laws that prohibit sex discrimination, for example, literally hundreds of pages of court decisions have been devoted to interpreting the three little words “because of sex.” Individual litigants have won or lost cases depending on how narrowly or broadly a particular court has interpreted this single phrase.

To avoid these problems as much as possible, it is a good idea to enlist the help of supportive attorneys and/or legislators who are skilled at drafting legislation, and who can help you anticipate criticisms, misunderstandings, and unintended consequences of language that is confusing, weak, or just poorly drafted. This doesn’t mean that you have to relinquish all control to legal “experts.” But it does suggest that once you know what you want your statute to accomplish, it makes sense to consult or collaborate with folks who have the knowledge and the skills to draft a strong, carefully worded law that will afford as much protection as possible.<sup>58</sup>



Of course there is another very good reason to enlist support from a legislator or legislators in drafting the language of your proposed law—at the end of the day, you must have a legislator who is willing to introduce the bill in your local or state legislature. The more invested that legislator is in your proposed bill, the harder she will fight to secure its passage. And the more she understands why the bill is necessary and what it is intended to accomplish, the less likely she is to agree to legislative amendments or modifications that may weaken the bill or undermine its purpose. As with any other proposed legislation, it is always important to remember that once a trans-related or trans-inclusive bill is introduced, the ultimate decision about the wording of the law is in the hands of the legislature. As constituents and activists, we can encourage a legislator to introduce the language that we want; we can monitor legislative discussions of the language once it is introduced; and we can lobby against proposed changes that we don't like. But once a proposed bill is in the hands of a legislative committee or on the floor, we do not have any direct power or control over the language that is ultimately enacted into law.

Unfortunately, even after intensive lobbying and education efforts on the part of trans activists and allies, and assurances from those sponsoring the bill that trans-inclusive language would be incorporated, legislators have been known to cut the language before the bill is formally introduced, or even just before it is voted upon. For example, after eight years of lobbying and petitioning for a sexual orientation bill that would include gender diverse people, trans activists in Onondaga County, New York “were shocked and surprised to find at public meetings designed to introduce the legislation, that inclusive language was not in the new version of the legislation.”<sup>59</sup> Similarly, in DeKalb, Illinois, GLBT activists had been assured by city officials that a transgender-inclusive bill would be passed. But after the first reading of the bill, the city attorney's office and the director of the DeKalb Human Relations Commission decided—without informing any representatives of the GLBT groups—to omit the expansive, trans-inclusive definition of sexual orientation, which had been based on the Minnesota statute. Rick Garcia, the Political Director of the Illinois Federation for Human Rights (now Equality Illinois), and a staunch supporter of the expansive language, was present at the first reading of the bill. According to Garcia, although there was a question from the floor about “men in dresses,” six out of seven legislators were firmly in support of the transgender-inclusive language. Garcia stated later, “Words cannot adequately express my disappointment and utter disgust that [the Human Relations Commission] would consciously eliminate the gender variant from civil rights protections. It is one thing to overlook a group of people and quite another to consciously eliminate them.”<sup>60</sup>

According to activists from It's Time, Illinois!, they learned a difficult lesson from this experience. Because the working draft of the bill included the trans-inclusive language that Garcia had given the city councilors, It's Time, Illinois! activists decided not to attend the hearings. “[We] stayed out, figuring why rock the boat. We're included; we don't need to be present at the hearings. The lesson we learned is that the ‘stealth’ approach is a bomb...it can blow up in your face. By not being visible, by not showing that we are part of the DeKalb queer community, the DeKalb Human Relations Commission felt it was acceptable to exclude gender variance.”<sup>61</sup>

## The two key issues in drafting statutory language: How to define transgendered people and where to place the definition

To ensure that civil rights statutes are as precise as possible, they almost always contain explicit definitions of the statute's key terms, even words that might seem obvious, such as "landlord," "discrimination," "educational facility," or "sexual orientation." In drafting bills, most questions about trans-inclusive language revolve around two critical definitional issues: first, which words should be used to indicate that discrimination against transgender people is prohibited, and second, where should those words appear in the statute. (We have included the definitions from existing statutes in the charts on page 37.)

### Issue one: How to define transgendered people

As you can see from the charts below, different jurisdictions have adopted slightly different language. In Minnesota, for example, the state law defines trans people in very broad and general terms, prohibiting discrimination against persons "having or being perceived as having an identity or self-image that is not traditionally associated with one's biological maleness or femaleness." In contrast, the original ordinance in Seattle, which was first amended to include trans-people in 1986, was far more specific, prohibiting discrimination on the basis of "transsexuality and transvestism." Benton County, Oregon and the city of Olympia, Washington, among others, also define the protected class in very specific terms. In those localities, gender identity is defined to include the status of being transsexual or transgender (in Benton County) and the status of being transsexual, transvestite or transgender (in Olympia).

Unfortunately, there are few if any published court decisions interpreting these statutes, so we don't yet have much guidance from the courts as to problems or limitations that may be associated with particular kinds of language. In 1999, however, the City of Seattle Commission on Sexual Minorities recommended that the words used to include trans people in their 1986 ordinance (transsexuality and transvestism) be changed. In an extensive report, the Commission concluded that "the terminology used by the City of Seattle on this matter could be changed to be made more accurate, inclusive, and more easily administered in its attempts to protect gender non-conforming persons." They found that:

The words transsexuality, transvestism, but not the word transgendered appear in current housing, employment, public accommodation and provision of City services protective ordinances for gender non-conforming people in Seattle. This leaves transgendered people at risk of being left unprotected. The term transgendered could simply be added, but doing so could allow the term transgendered to be read in its narrowest definition, and thus leave unprotected some other members of the gender identity community.<sup>62</sup>

In September of 1999, the Seattle City Council accepted the Commission's recommendation and voted to add a definition of gender identity that combined the general and the specific approaches: " 'gender identity' means having an identity, expression, or physical characteristics not traditionally associated with one's biological sex or one's sex at birth, including transsexual, transvestite and transgendered, and including a per-

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"Every few years, there's a new word. When we passed the law in the '80s, 'transgender' wasn't something anyone used. With all these words of the week, the real objective is to find the most inclusive set of words."

—Marsha Botzer

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son’s attitudes, preferences, beliefs and practices pertaining thereto.” Commission member Marsha Botzer, who is also the founder of the Ingersoll Gender Center, explained the reasoning behind the recommendation. “Every few years, there’s a new word. When we passed the law the first time in the ‘80s, ‘transgender’ wasn’t something anyone used. With all these words of the week, the real objective is to find the most inclusive set of words.”<sup>63</sup> The City of Tucson has also opted for this combination approach. The Tucson ordinance includes both a general clause defining gender identity to mean “an individual’s various attributes as they are understood to be masculine and/or feminine,” and a more a specific clause stating that the ordinance “shall be broadly interpreted to include pre- and post-operative transsexuals, as well as other persons who are, or are perceived to be, transgendered.”

Similarly, when activists in Minnesota fought to include trans-people in the Minnesota law, they were advised to avoid using specific terms that might lose or change their meaning over time (e.g. transvestism), and instead to use less potentially time-bound words that reflect more general concepts.<sup>64</sup> “We had considered doing a laundry list, but the house legislative counsel recommended that we go instead with a list of behaviors,”<sup>65</sup> activist Diana Slyter said. As Brett Beemyn explained at an Iowa City public hearing on the Iowa City ordinance, “I can foresee a future where somebody who is not transsexual or does not define himself as a transvestite faces discrimination and doesn’t have protection because they’re not officially included in the ordinance wording.”<sup>66</sup>

Based on the wording of statutes in jurisdictions that have opted either for the more

**Figure 2: Common components of trans-inclusive legislative definitions of gender, gender identity, or orientation**

| <b>Gender Identity:</b>  | <b>Gender Expression:</b>   | <b>Others’ Perceptions:</b>  | <b>Incongruence:</b>   |
|--|---|--|--|
| <ul style="list-style-type: none"> <li>• gender identity</li> <li>• status</li> <li>• self-image</li> <li>• attitudes</li> <li>• preferences</li> <li>• beliefs</li> </ul> | <ul style="list-style-type: none"> <li>• gender expression</li> <li>• appearance</li> <li>• projecting a self-image</li> <li>• behavior</li> <li>• practices</li> <li>• presenting or holding oneself out to the public</li> <li>• displaying</li> <li>• manifesting</li> </ul> | <ul style="list-style-type: none"> <li>• understood to be</li> <li>• perceived</li> <li>• presumed</li> <li>• assumed by others</li> </ul> | <ul style="list-style-type: none"> <li>• different from that traditionally associated with one’s sex at birth</li> <li>• incongruent with the person’s biological sex</li> <li>• not traditionally associated with one’s biological maleness or one’s biological femaleness</li> <li>• appropriate to the biological or legal sex other than one’s biological sex at birth, as when a male is perceived as feminine or a female is perceived as masculine</li> </ul> |

general or for the combination approach, it is possible to identify some common components of these definitions. In general, these types of definitions include some reference to:

- 1) One's own internal identification as male or female (often referred to as "gender identity");
- 2) The external manifestation or expression of one's gender identity, through clothing, appearance, demeanor, personality characteristics, etc. (often referred to as "gender expression");
- 3) How others perceive one's gender identity and/or gender expression;
- 4) The fact that one's biological sex, gender identity, and/or expression may not be associated with one's birth sex.

Why is it important to draft statutory language that addresses all of these components? Simply put, it is important because the more clarity there is in the text of the statute itself—the plain meaning of the law—the less trouble there will be when the law gets interpreted later, by employers, by the local human rights commission, and, eventually, by the courts. Even transsexuals who have undergone complete sex reassignment and who meet traditional expectations for people of their (new) biological sex need the fourth component to be sure that employers and others who discover that their birth sex differs from their current biological sex are prevented from discriminating. Language should be drafted to apply to as wide an array of transgendered and gender variant people as possible, recognizing, for example:

- that female-to-male transsexuals (FTMs) often have different routes to transition than male-to-female transsexuals (MTFs), and that many FTMs may never have genital ("bottom") surgery;
- that many transsexuals are non-operative, either because they cannot afford or choose not to undergo sex reassignment or are prevented from doing so for health reasons;
- that some transsexual people may transition with hormone therapy only;
- that some transgendered people may choose to take hormones but not to transition from their birth sex, or may choose to take low doses of hormones to bring about some physical changes;
- that some transsexual people who are transitioning or have transitioned may not be under a doctor's care;
- that many transsexual people are not readily identifiable as such and do not challenge prevailing gender norms in any visible way;
- that other transsexual people are more visible, either because they cannot or do not wish to conceal their transsexual status.
- that some transgendered people do not fit easily into one of two gender categories.

In sum, the legislation has to accomplish two things at once. It has to be clear and specific enough to make it obvious that the purpose of the law is to prohibit discrimination against transgendered people. At the same time, the language used to define transgendered people has to be flexible and general enough to ensure that the full range

of transgendered identities are protected. Experience has shown that it is impossible to list all of the different types of transgender identities that exist now or that may exist in the future. Experience with other types of civil rights statutes has also shown that courts typically interpret such lists to be exhaustive and will likely refuse to extend protection to particular types of transgendered experience not specified. In light of that experience, the safest course is to include at least some general language that describes the prohibited discrimination in broad terms.

### **Issue two: where to place the definition**

Another issue is where to place the definition of transgendered people. As reflected in the accompanying chart, there are three options: (1) adding trans people as a new, free-standing category of protected persons; (2) including transgendered people in the definition of sexual orientation; and (3) including transgendered people in the definition of sex or gender. In San Francisco, for example, local legislators opted for the strategy of including trans people as a new protected group. The local ordinance, which already prohibited discrimination on the basis of sex, sexual orientation, race, religion, and various other attributes, was amended to prohibit discrimination on the basis of “gender identity” as well. In the state of Minnesota, as well as in Toledo, Ypsilanti and several other cities, trans people are included in the definition of “sexual orientation.” Finally, in the state of California, as well as in Santa Cruz, Cambridge, and some other local jurisdictions, trans people are included in the definition of “sex” or “gender.” There are arguments in favor of all three strategies.

- (1) *Arguments in favor of adding trans people as a new protected category:* Some activists have argued that it is important to make “gender identity” or “gender variance” a separate category in order to underscore the point that trans people are being treated equally with other protected groups. These activists have also pointed out that including transgendered people in the definition of sexual orientation or gender or sex may make it more difficult to educate the public and human rights department investigators about transgendered and gender different people, and the specific kinds of discrimination they face. For example, while most people will never read the complete ordinance, they may see gender identity in widely-distributed general policy statements listing all the bases on which it is illegal to discriminate.<sup>67</sup> As trans activist Dawn Atkins pointed out at the Iowa City hearing on a trans non-discrimination bill, “most people in this community will never read the complete ordinance...What they will see...is the list that you give...If gender identity is subsumed under sexual orientation most of them will never know that...Some people will violate the law not knowing that it is illegal.”<sup>68</sup>
- (2) *Arguments in favor of including trans people in the definition of sexual orientation:* Others, such as activists from It’s Time, Illinois!, point out that there may be “pitfalls in setting yourself up as a separate category [because it] may result in a very cumbersome, narrowly defined category.” “For example,” those activists have noted, “in the New Orleans ordinance there is a four-part definition of gender identification as well as an exclusion of cross-dressing at the workplace unless the employee can certify with a letter from a doctor that the employee has been diagnosed with gender identity disorder.”<sup>69</sup> Instead, they and other groups are in favor of using the Minnesota definition of sexual orientation, both because it highlights the connections between homophobia and transphobia, and because it is inclusive

of all GLBT people. “The [Minnesota]definition is very broad. It covers the entire GLBT community and then some. Not only are transgenders included, but also all other gender variant peoples who may or may not identify as ‘trans’ anything. It also defines sexual orientation without using the words ‘homosexuality, heterosexuality or bisexuality.’ It includes affection and choice of partner and self-expression. It protects as many people as possible.”<sup>70</sup>

- (3) *Arguments in favor of including trans people in the definition of gender or sex:* Still others believe that including transgendered people under the definition of “gender” or “sex” is the best option, because it helps to establish the general principle that existing sex discrimination laws should be interpreted to include trans people. In Santa Cruz County, for example, the ordinance includes trans people under the category of gender, which is defined as follows: “‘Gender’ has the same meaning as ‘sex’ as that term is used in state or federal anti-discrimination legislation and shall be broadly interpreted to include sexual stereotyping and persons who are known or assumed to be transgendered.”<sup>71</sup> In addition, statutory language that also explicitly equates “gender” with “sex,” such as that used in Santa Cruz County, conveys the principle that gender stereotyping is a kind of sex discrimination. In keeping

**Figure 3: Different categories used to include trans people\***

|   | <b>Trans language included in the definition of sex or gender</b>   | <b>Trans language included in the definition of sexual orientation</b>                                    | <b>Trans language included in a separate category</b><br>(gender identity, gender variance, or transsexualism)  |
|---|---|---|---|
| <b>Trans protections adopted at the same time as a sexual orientation provision</b> | Harrisburg, PA, 1983  | Minneapolis, MN, 1975<br>St. Paul, MN, 1990<br>Minnesota, 1993<br>Toledo, OH, 1998<br>Ypsilanti, MI, 1997 | Benton County, OR, 1998<br>Jefferson County, KY, 1999<br>Lexington-Fayette, KY, 1999<br>Louisville, KY, 1999  |
| <b>Trans protections adopted after a sexual orientation provision</b>               | Cambridge, MA, 1997<br>City of Santa Cruz, CA, 1992<br>County of Santa Cruz, CA, 1998<br>Pittsburgh, PA, 1997 | Evanston, IL, 1997<br>Seattle, WA, 1986 <sup>72</sup><br>York, PA, 1998                                   | Ann Arbor, MI, 1999<br>Atlanta, GA, 2000<br>Boulder, CO, 2000<br>Iowa City, IA, 1995<br>New Orleans, LA, 1998<br>Olympia, WA, 1997<br>San Francisco, CA, 1994<br>Tucson, AZ, 1999<br>West Hollywood, CA, 1998 |

\* This chart is based on an examination of 26 jurisdictions with trans-inclusive human rights laws. It omits Grand Rapids, MI, because “gender orientation” is an atypical category and is not defined in their ordinance.

with this strategy, five of the six jurisdictions that have amended their definitions of sex or gender to include trans people explicitly state that sex has the same meaning as gender or *vice versa*.<sup>73</sup>

While some people may have very strong opinions about which of these three strategies is the best, the bottom line in most cases may be that the “best” strategy is the one that has the most chance of success in a given city or state. From a purely philosophical perspective, there is no universal agreement and probably no “right” answer to the question of whether trans people should be (1) identified as a separate and distinct group; (2) included in the definition of “sexual orientation”; or (3) included in the definition of “sex” or of “gender.”

From a practical perspective, there may be very good reasons to opt for one of these strategies over the other, depending on the circumstances in your particular city or state. For example, it may be easier to persuade your local legislators to amend the definition of “sexual orientation” or of “sex” or “gender” than to add a whole new category of persons to the law. If you live in a city or state that does not already have a law prohibiting discrimination on the basis of sexual orientation, it may make a lot more sense to band together with lesbian, gay, and bisexual people and include trans people under the definition of sexual orientation.

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The “best” strategy is the one that has the most chance of success in a given city or state.

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Empirically, an analysis of existing laws shows that ordinances that added trans people to laws that *already* covered sexual orientation have been slightly more likely to place trans people in a separate category than to amend the definition of gender or sexual orientation. In contrast, laws that were passed to protect gay and trans people at the same time have been almost evenly split between including trans people under the rubric of sexual orientation and adding trans people as a new category. Similarly, most of the state-wide non-discrimination bills with trans language that have been introduced though not yet passed in 1999/2000 legislative sessions have followed Minnesota’s lead, placing the trans-inclusive language under the category of “sexual orientation.”<sup>74</sup> The two state bills that do not, California and Vermont, already have sexual orientation non-discrimination laws.

In sum, there is no one right way to amend a civil rights law to include gender variant and transgendered people. Moreover, the final decision on how to include trans-protective language will ultimately be up to the legislators. Their decision will take into account the opinions of different participants in the process: the transgendered activists pushing hardest for the bill, legislative counsel, and human rights commission officials.

### **Boulder trans activists at the cutting edge**

On January 20, 2000, after more than a year’s discussion among activists, social workers, city councilors, attorneys, and human rights officials, Boulder officials supported an ordinance amending the city’s law to protect transgendered people. Transgender Boulder activist Kathryn Haley described this language “as the most thorough” trans-inclusive language in the nation.<sup>75</sup> The Boulder legislation is the first to use the term “gender variance” as its overall category; the ordinance also defined several other commonly used transgender terms, and referred to those terms in different sections of the bill.<sup>76</sup> In a substantial policy memo to members of the city council, the Boulder City Attorney explained why “gender variance” should be the term used for the protected class definition:

“gender variance” comes the closest to defining the class of persons covered by the testimony before the Human Rights Commission. This class is somewhat broader than that of the “transitioning transsexuals,” who originally approached the commission and requested an ordinance. However, “gender variance” is less broad than “gender identity” or the class of persons sometimes referred to as “transgendered.”<sup>77</sup>

The policy memo recommends specific approaches to dealing with locker rooms, showers, and cross-dressing in the work place. To address the fear of some employers that gender variant people will radically vary their gender presentation from day to day, the bill states that “a workplace supervisor may require that a worker not change gender presentation in the workplace more than three times in any eighteen-month period.” Transitioned transsexuals may use the locker room and showers appropriate to their new sex; transitioning transsexuals will be granted “reasonable accommodation” in accessing locker rooms and showers. Even this extremely thoughtful piece of legislation, however, does not pay close enough attention to the differences between male-to-female and female-to-male transsexuals. Because Boulder defines “transitioned transsexual” as “a person who has completed genital reassignment surgery,” female-to-male transsexuals—many of whom never have genital reassignment surgery—may be left in a legal limbo with regard to the use of locker and shower facilities. Also, the Boulder law exempts people under age of twenty-five from its housing provisions: in sex-segregated housing situations, such as college dorms, homeless shelters, jails, and juvenile facilities, trans youth and young adults may be housed with those of the opposite gender identity.

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## BUILDING ON LEGISLATIVE VICTORIES

Passing a trans-inclusive statute in one area, such as hate crimes, may pave the way for using the same legislative language to amend other non-discrimination statutes in the same jurisdiction. For example, in 1998, trans-inclusive language was added to the California hate crimes statute, under the definition of gender. The next year, in 1999, the California Legislature enacted the Dignity for All Students Act, which amended the California Education Code to prohibit discrimination on the basis of sexual orientation and gender in California schools. Rather than drafting new definitions of sexual orientation and gender, the legislators simply incorporated the categories and definitions in the state hate crimes law, which of course had already been amended to include transgendered people the prior year. As a result, transgendered students and teachers are now protected from discrimination under California law. In 2000, legislators introduced a bill that would add gender to the California Fair Employment and Housing Act. This bill also relied upon the expansive, trans-inclusive definition of gender already set forth in the Hate Crimes Act and the Education Code.

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Transgendered students and teachers are now protected from discrimination under California law.

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## SAFE SCHOOLS

Since the passage of the California Dignity for All Students Act (which protects both gay and transgendered students) in 1999, at least one other local jurisdiction has amended its nondiscrimination policy to make schools safer for trans and gender different children and teenagers. In February of 2000, at the urging of a concerned parent and his son, the Decatur, Georgia School Board changed its policy to read: “City Schools of Decatur shall not discriminate on the basis of race, color, national origin, sex, age, religion, handicap, sexual orientation, or gender identity in its programs and activities.”<sup>78</sup> Advocates for gay, lesbian and bisexual youth have had some success in changing school policies to prohibit discrimination on the basis of sexual orientation. In addition, Title IX of the federal Civil Rights Act, which prohibits peer sexual harassment, also applies to some situations in which students are harassed by other students or teachers because they are, or are perceived to be, gay, lesbian, or bisexual. But these successes have not often been applied to gender different students. As the Gay Lesbian & Straight Education Network points out, “[s]tudents who identify themselves as ‘transgender’ typically are harassed because they don’t look and act the way other people expect a ‘boy’ or a ‘girl’ to look and act. That isn’t covered by policies on sexual orientation discrimination.”<sup>79</sup> In 2000, legislators in Colorado followed California’s lead and introduced a safe schools bill that included gender identity.<sup>80</sup>

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## TRANS-INCLUSIVE DEFINITIONS IN NON-DISCRIMINATION AND HATE CRIMES LAWS

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**Figure 4: Statutory definitions of “gender identity” and “gender variance”**

|                                    |  |
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| <b>Ann Arbor, MI,<br/>1999</b>     | “‘Gender Identity.’ A person’s actual or perceived gender, including a person’s gender identity, self-image, appearance, expression, or behavior, whether or not that gender identity, self-image, appearance, expression, or behavior is different from that traditionally associated with the person’s sex at birth as being either female or male.”<br><br>(Ordinance No. 10-99, effective March 17, 1999.) |
| <b>Atlanta, GA<br/>2000</b>        | “Whereas, gender identity, meaning self-perception as male or female...”<br><br>(Ordinance No. 00-0074, adopted by City Council February 21, 2000, approved by Mayor, March 14, 2000.)   |
| <b>Benton County,<br/>OR, 1997</b> | “‘Gender identity’” includes the status of being transsexual or transgender.<br><br>(Benton County Ordinance No. 98-0139, passed July 1998, effective August 14, 1998.)  |

|  |  |
|--|--|
| <b>Boulder, CO,<br/>2000</b>   | <p>“‘Gender variance’ means a persistent sense that a person’s gender identity is incongruent with the person’s biological sex, excluding the element of persistence for person’s under age twenty-one and including, without limitation, transitioned transsexuals.”</p> <p>(Ordinance No. 7040, passed January 20, 2000.)</p>  |
| <b>Iowa City, IA,<br/>1995</b>   | <p>“GENDER IDENTITY: A person’s various individual attributes, actual or perceived, in behavior, practice or appearance, as they are understood to be masculine and/or feminine.”</p> <p>(Iowa City, Oct. 95, Ordinance No. 95-3697.)</p>  |
| <b>Jefferson<br/>County, KY,<br/>1999</b>                                  | <p>“GENDER IDENTITY. Manifesting an identity not traditionally associated with one’s biological maleness or femaleness.”</p> <p>(Ordinance No. 36, Series 1999. Adopted October, 12, 1999.)</p>  |
| <b>Lexington-<br/>Fayette Urban<br/>County<br/>Government,<br/>KY,1999</b> | <p>“‘gender identity’ shall mean: (a) “having a gender identity as a result of a sex change surgery; or (b) manifesting, for reasons other than dress, an identity not traditionally associated with one’s biological maleness or femaleness.”</p> <p>(Lexington-Fayette Urban County Government Ordinance, approved July 8, 1999.)</p>  |
| <b>Louisville, KY,<br/>1999</b>  | <p>“‘GENDER IDENTITY.’</p> <p>(1) Having a gender identity as a result of a sex change surgery; or<br/>(2) Manifesting, for reasons other than dress, an identity not traditionally associated with one’s biological maleness or femaleness.”</p> <p>(Ordinance, No. 9, Series 1999, 1-26, 1999.)</p>  |
| <b>New Orleans,<br/>LA, 1998</b>   | <p>“‘Gender identification’ is the actual or perceived condition, status or acts of:</p> <p>Identifying emotionally or psychologically with the sex other than one’s biological or legal sex at birth, whether or not there has been a physical change of the organs of sex.</p> <p>Presenting and /or holding oneself out to the public as a member of the biological sex that was not one’s biological or legal sex at birth,</p> <p>Lawfully displaying physical characteristics and/or behavioral characteristics and /or expressions which are widely perceived as being appropriate to the biological or legal sex other than one’s biological sex at birth, as when a male is perceived as feminine or a female is perceived as masculine, and /or being physically and /or behaviorally androgynous.”</p> <p>(Adopted By The Council Of The City Of New Orleans July 1, 1998.)</p> |
| <b>Olympia, WA,<br/>1997</b>   | <p>“‘Gender Identity’ includes the status of being transsexual, transvestite, or transgender.”</p> <p>(Olympia, WA, Ordinance passed February 1997, Ordinance No. 5670.)</p>   |

|  |  |
|--|--|
| <b>San Francisco, CA, 1994</b>                           | <p>“Gender Identity’ shall mean a person’s various individual attributes as they are understood to be masculine and/or feminine.”</p> <p>(Passed December 1994. San Francisco Ordinance No. 433-94.)</p>   |
| <b>Seattle, WA, 1999</b><br>definition changed from 1986 | <p>“‘Gender Identity’ means a person’s identity, expression, or physical characteristics, whether or not traditionally associated with one’s biological sex or one’s sex at birth, including transsexual, transvestite, and transgendered, and including a person’s attitudes, beliefs, preferences, and practices pertaining thereto.”</p> <p>(Seattle Ordinance no. 119628, passed August 1999.)</p>           |
| <b>Tucson, AZ, 1999</b>                                  | <p>“<i>Gender identity</i> means an individual’s various attributes as they are understood to be masculine and/or feminine and shall be broadly interpreted to include pre- and post-operative transsexuals, as well as other persons who are, or are perceived to be, transgendered.”</p> <p>(Ordinance number 9199, Adopted by the Mayor and City Council February 01, 1999.)</p>                              |
| <b>West Hollywood, CA, 1998</b>                          | <p>“<i>Gender Identity</i> refers to a person’s actual or perceived sex, and includes a person’s identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person’s sex at birth.”</p> <p>(Ordinance No. 98-520, passed, approved, and adopted July 20, 1998.)</p>   |
| <b>Vermont, Hate Crimes Law, 1999</b>                    | <p>Vermont’s law includes gender identity without defining it: “Protected category’ includes race, color, religion, national origin, sex, ancestry, age, service in the armed forces of the United States, handicap, sexual orientation and gender identity, and perceived membership in any such group.”</p> <p>(Chapter 33, Section 1458, amended to include sexual orientation and gender identity, 1999)</p> |

**Figure 5: Statutory definitions of sexual orientation or affectional preference that include transgendered people**

|                             |   |
|-----------------------------|---|
| <b>Evanston, IL, 1997</b>   | <p>“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.”</p> <p>(Ordinance No. 61-0-97.)</p> |
| <b>Minneapolis, MN 1975</b> | <p>“<i>Affectional Preference</i>: 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 femaleness.”</p> <p>(Code of Ordinances, City of Minneapolis, Title VII, Chapter 139.20.)</p>  |

|  |  |
|--|--|
| <p><b>Minnesota, 1993</b><br/>(This definition is used in Minnesota's Human Rights Law and Bias Offense Law)</p> | <p>“‘Sexual orientation’ means 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 an orientation for such 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.”</p> <p>(Minnesota Statutes, section 363.01, subdivision 45.)</p>  |
| <p><b>Missouri Hate Crimes Law, 1999</b></p>   | <p>“‘Sexual Orientation’, male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, or having a self-image or identity not traditionally associated with one’s gender.”</p> <p>(Senate Bill No. 328, Signed by Governor, July 1, 1999.)</p>   |
| <p><b>St Paul, MN, 1990</b></p>  | <p><i>“Sexual or affectional orientation</i> means having or being perceived as having an emotional or physical attachment to another consenting adult person or persons, or having or being perceived as having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally associated with one’s biological maleness or one’s biological femaleness.”</p> <p>[Note also that how the St. Paul code defines sex: “Sex means being identified as having or being perceived as having male or female characteristics and encompasses, but is not limited to, pregnancy, childbirth, disabilities related to pregnancy or childbirth, and sexual harassment.”]</p> <p>(St. Paul Code of Ordinances, Sec. 183.02, passed 1991.)</p> |
| <p><b>Toledo, OH, 1998</b></p>   | <p>“‘Sexual Orientation’ means a person’s actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity, by orientation or practice.”</p> <p>(Toledo Ordinance No. 1183-98.)</p>   |
| <p><b>York, PA, 1998</b></p>   | <p>“‘Sexual Orientation’ means male or female heterosexuality, homosexuality, bisexuality, or any other gender identity by practice as perceived by others.”</p> <p>(Ord. 9-98. Passed 9-15-98.)</p>   |
| <p><b>Ypsilanti, MI, 1997</b></p>  | <p>“‘Sexual Orientation.’ Heterosexuality, male or female homosexuality, bisexuality, or gender identity.”</p>   |

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**Figure 6: Statutory definitions of gender or sex that include transgendered people**

|   |   |
|---|---|
| <b>California Hate Crimes Law, 1998</b> | <p>“‘gender’ means the victim’s actual sex or the defendant’s perception of the victim’s sex, and includes the defendant’s perception of the victim’s identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the victim’s sex at birth.”</p> <p>(Bill Number: AB 1999 Chaptered 09/28/98.)</p> |
| <b>Cambridge, MA, 1997</b>              | <p>“‘Gender’ means the actual or perceived appearance, expression or identity of a person with respect to masculinity and femininity.”</p> <p>“‘Same sex’ means occupying the same social and identity roles as another with respect to being male female.”</p> <p>(Ord. 1182, Amended, 02/24/1997.)</p>  |
| <b>City of Santa Cruz, CA, 1992</b>     | <p>“‘Gender’ shall have the same meaning as ‘sex’ as that term is used herein and shall be broadly interpreted to include persons who are known or assumed to be transgendered.”</p> <p>(City of Santa Cruz prohibition against Discrimination Chapter. Chapter 9.83.)</p>  |
| <b>County of Santa Cruz, CA, 1998</b>   | <p>“‘Gender’ has the same meaning as ‘sex’ as that term is used in state or federal anti-discrimination legislation and shall be broadly interpreted to include sexual stereotyping and persons who are known or assumed to be transgendered.”</p> <p>(County of Santa Cruz, Ordinance no. 4501, passed April 1998.)</p>  |
| <b>Harrisburg, PA, 1983</b>             | <p>“‘Sex’ means the gender, male or female, of a person, including those persons who are changing or have changed their sex.”</p> <p>(Harrisburg City Code, Title 4.)</p>   |
| <b>Pittsburgh, PA, 1997</b>             | <p>“‘Sex’ means the gender of a person, as perceived, presumed or assumed by others, including those who are changing or have changed their gender identification.”</p> <p>(Pittsburgh City Code, Chapter 651.04 (ii) (Amendment. Ord. 1-1997. Effective 2/7/97.)</p>   |

**Another approach: The District of Columbia protects trans people on the basis of “personal appearance.”**

According to D.C. attorneys Dana Priesing and Bob Summersgill, there have been several cases in which courts in the District of Columbia have interpreted the D.C. law prohibiting discrimination on the basis of “personal appearance” to protect transgendered people.<sup>81</sup> One of the most well known is the wrongful death suit brought by Margie Hunter after Tyra Hunter, her pre-operative transsexual daughter, was denied emergency medical care following a car accident when city fire fighters and paramedics discovered that Tyra had male genitals. Margie Hunter sued the city and won \$500,000 for human rights violations and \$2,900,000 for malpractice.<sup>82</sup>

**The Washington, D.C. statute**

“PERSONAL APPEARANCE—The outward appearance of any person, irrespective of sex, with regard to bodily condition of characteristics, manner or style of dress, and manner or style of personal grooming, including, but not limited to, hair style and beards. It shall not relate, however, to the requirement of cleanliness, uniforms, or prescribed standards, when uniformly applied for admittance to a public accommodation, or when uniformly applied to a class of employees, for a reasonable business purpose, or when such bodily conditions or characteristics, or style or manner of dress or personal grooming presents a danger to the health, welfare or safety of an individual.” (District of Columbia, Human Rights Act of 1977, Title I, Chapter 25, Sec. 1-2502, (22).)

# Debunking Common Myths and Misconceptions

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The purpose of trans-inclusive civil rights legislation is to ensure that transgendered people are able to live and work with dignity and to participate in society on equal terms. In practice, however, those who are working to secure the passage of such laws are often forced to spend more time and energy debunking irrational stereotypes and fears about transgendered people than engaging in a rational discussion of why legislation is needed. What follows is a list of some of the most common myths and misconceptions, along with suggestions on how to address them.

## **Misconception #1: “Including trans people will kill the bill”**

This objection usually arises in localities and states that do not yet have non-discrimination laws relating to sexual orientation. It is often voiced by GLB people who fear that lobbying for a trans-inclusive bill will undermine efforts to secure civil rights for gay people. Perhaps because of this fear, trans people were excluded from almost 80% of the local laws prohibiting sexual orientation discrimination in employment that were enacted from 1996 through 1999.

In fact, the fear that including trans people “will kill the bill” is almost always exaggerated and based far more on unfounded speculation than on a realistic assessment of what is possible. Civil rights protections for trans people have been won in a broad range of local jurisdictions, including some that are widely perceived to be quite conservative. In those and many other jurisdictions, experience has shown that even conservative legislators will respond to reasoned arguments and education about trans people—particularly when GLBT advocates present a united front and work together to plan and implement a coordinated strategy. Conversely, experience has also shown that nothing is more destructive of efforts to win civil rights protections for our communities than internal conflicts and divisions. Those conflicts drain our collective energies and engender bitterness and mistrust that may poison working relationships for years. They also play

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The fear that including trans people “will kill the bill” is almost always exaggerated and based far more on unfounded speculation than on a realistic assessment of what is possible.

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directly into the “divide and conquer” strategy of our opponents, who are only too happy to see us focusing our limited resources on battling one another. In the long run, making a good faith effort to work for and include trans people is by far the most pragmatic strategy.

In addition, there is little evidence that omitting transgendered people actually increases a bill’s chances of passing. For example, Dan Farrell is a gay activist who has been involved with the Kentucky Fairness Campaign for many years and who participated in the successful effort to pass a local law prohibiting discrimination against gay and transgendered people in Louisville, Kentucky in 1999. In Farrell’s view, attempting to gain more votes by compromising on trans-protective language does not work. “Over the years, sponsors had made other compromises at the suggestion of opponents without ever gaining a yes vote. I think this shows that this is just a ploy that legislators use,” he said.

Although the Fairness Campaign itself never offered to drop gender identity, the bill’s sponsors had dropped trans-inclusive language from the proposed ordinance in previous years in an attempt to get more votes. According to Farrell, dropping gender identity from ordinances never resulted in getting even one more vote in favor of a bill. “In 1999, we made the decision early on that we wouldn’t let our sponsors compromise on the categories. We decided that we would keep gender identity in, and that we would eventually get the bill passed. We felt that if we had to sacrifice transgendered people to get a sexual orientation bill passed, it would have set us back 15 years.” Instead of causing any delay, the decision to present a united front helped to secure the passage of a comprehensive non-discrimination ordinance, including both gay and transgendered people, in 1999.

Including trans-protective language is also extremely important for the many gay, lesbian and bisexual people who are affected by gender-based discrimination, even if they do not identify as transgender. For example, one study of workplace discrimination in the legal profession found that “[l]esbian and gay lawyers are sometimes advised to conceal their sexual orientation or to alter their appearance to look less stereotypically gay.” One lesbian survey respondent said that her employers “told me that I was not ‘feminine’ enough and that I should let my hair grow long, wear make-up, and wear more jewelry.”<sup>83</sup> In short, discrimination on the basis of gender variance is not an exclusively “transgender” issue. Including language that prohibits discrimination on the basis of gender variance and gender stereotypes also protects the rights of many lesbian, gay and bisexual people, as well as some heterosexual people.

Finally, it would be unprincipled and unethical for GLB people to exclude transgendered people from legislative advocacy for fear of being associated with a group that has suffered even more discrimination and stigmatization. For example, just as it would have been unthinkable and unacceptable to support the exclusion of people with HIV and AIDS from the Americans with Disabilities Act, in the interest of dissociating that civil rights law from the “stigma” of HIV, it is equally wrong to support the exclusion of trans people from proposed civil rights laws that prohibit discrimination against gay, lesbian and bisexual people, in the interest of dissociating those laws from the “stigma” of gender variance.

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Discrimination on the basis of gender variance is not an exclusively “transgender” issue.

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# DAWN JOSEPHINE WILSON

In 1999, three separate Kentucky jurisdictions—the City of Louisville, Lexington-Fayette Urban County, and Jefferson County—passed human rights laws that prohibited discrimination on the basis of gender identity. In 2000, the Kentucky Fairness Alliance and other GLBT organizations mounted a serious campaign to pass a statewide bill that would prohibit discrimination on the basis of sexual orientation and gender identity. Dawn Wilson is one of the many dedicated activists in Kentucky working on these efforts.



Wilson has been an active member of several transgender political groups and initiatives since 1995. As a board member of the Louisville Gender Society, she served as that group's representative to the Congress of Transgender Organizations in Atlanta. Wilson also participated in the first "Coming Together Kentucky," a gathering of GLBT youth attending state colleges in Kentucky, where she served as the only transgender instructor. She is also a co-founder of the Bluegrass Belles.

As a participant at Transgender Lobby Days in Washington in October 1995, Wilson was able to draw on her experience as a former legislative assistant to Senator Mitch McConnell to lobby and educate congressional representatives and staff. "For the first time," Wilson notes, "we in the transgendered community were willing to take a stand, one that has gained momentum over the years."

Wilson received the Wasson Volunteer of the Year Award from the Lexington Pride Committee in 1999 in recognition of her advocacy on behalf of GLBT people and her leadership role in securing passage of the Lexington ordinance.

Because the three Kentucky ordinances simultaneously added sexual orientation and gender identity to their non-discrimination codes, transgendered activists worked closely with the GLB activists in those communities. (The City of Henderson passed a non-discrimination ordinance that included sexual orientation, but not gender identity.)

Wilson played a key role in educating GLB activists about the importance of including gender identity in these non-discrimination laws. In 1997, she and Angela Bridgeman organized a group of transgendered people who protested the removal of gender identity from a pending ordinance in Lexington. According to Wilson, "that version of the ordinance didn't go forward, partly due to protests against it from transgendered people. Without those protests, gender identity would not have had such strong support from the Fairness Alliance in 1999."

Once trans-inclusive bills were on the legislative agenda, Wilson, a former resident of Lexington and now a resident of Louisville, participated in a number of lobbying meetings and attended the public hearings on the Louisville transgender-inclusive ordinance. Wilson also took part in public hearings on the Jefferson County Fairness Ordinance and on the Lexington Ordinance, both of which passed. (The Louisville Fairness Campaign was responsible for the victories in Louisville and Jefferson

County. The Kentucky Fairness Alliance chapter in Lexington was responsible for the Lexington win.)

“Those hearings were the worst thing I’ve ever been through. My own family was assaulted. I received death threats,” Wilson says.

Wilson has also taken a leadership role in addressing racism within GLBT communities and in creating resources for transgendered people of color. In 1998, after hearing a racist joke at an international transgender conference, Wilson not only protested the joke, but decided to start an online organization for transgendered people of color. Although yet to be named, the group has attracted participants from across the country and is developing a number of projects to increase the visibility of people of color in transgender communities. As Wilson recently told a reporter, “Prejudice, bigotry, and racism are the children of fear

and ignorance. The best way to defeat them is through education and one-on-one contact. Because laws can only change the actions, not the heart or the mind.”

Wilson is now the interim chair of NTAC, the National Transgender Advocacy Coalition. She is also a member of the Board of Directors of the Robert H. Williams Cultural Center in Lexington, and has taught over 600 inner-city young people to use modern computers in a laboratory that she designed and built. She is also a deaconess at Woodland Christian Church in Lexington.

Considering the successes in Kentucky in 1999, Wilson muses. “How did we get this successful? Simple. We all worked together—churches, gay, bisexual, lesbian, and trans people. We in the Kentucky transgendered community are very proud of our GLB brothers and sisters in their efforts.”

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## **Misconception #2: “Civil rights protections for trans people will force employers to hire a man in a dress”**

One of the most irrational fears that has been used to oppose civil rights protections for transgendered people is the misguided notion that such laws will result in an outbreak of cross-dressing in the workplace. In the words of Brett Beemyn, a trans-identified activist and scholar who worked on passing the Iowa City ordinance:

The argument took us by surprise at first because it seemed so silly. . . . But when we realized how much of an issue this was for some legislators, we explained . . . that employers would still be able to have reasonable, equitable dress codes at their places of employment.<sup>84</sup>

After reasoned discussion between city councilors, human rights officials, and activists at the city council hearing, the Iowa City council members passed the Iowa City ordinance intact, without so-called “cross-dressing exclusions.” In other places, however, irrational fears about cross-dressing have led to some defeats. For example, officials in DeKalb, Illinois, pulled the trans-inclusive language from the local ordinance at the last minute after it occurred to them that the expansive definition of sexual orientation would include people whose gender expression differs from that traditionally associated with their physical sex. (Unfortunately, trans activists had not been present at the hearing where these fears were raised and could not address their concerns.)

Invariably, concerns about “cross-dressing” in the workplace are focused almost exclusively on fears that transgender employment protection will result in “men in dresses” showing up to work. One doesn’t hear the reverse alarm—that these laws will cause “women in suits” to overwhelm the workplace—sounded nearly as often. Why not? Because women have already begun to wear clothing that was once reserved only for men. The tremendous social changes of the last decades have resulted in much more flexibility in dress and far less rigid lines and distinctions between exclusively “male” and exclusively “female” clothing—particularly for women. Lyone Feine, testifying at a public hearing in favor of a trans civil rights bill, put it this way:

I just want to say some words about cross dressing because I noticed some discomfort amongst the members of the council when that issue was being discussed. I just want to point out that at this moment, I am cross dressing. I’m wearing a pair of boys’ jeans. I also see that there are a number of female members of the council who at the moment are cross dressing. They’re wearing these kinds of blazers that are really designed for men to wear or an adaptation of male clothing. The reason I’m saying this is because the issue that made some people squirm really comes down to an issue of fashion. And fashion changes. Louis IV wore clothing which we would see these days as more appropriate for women, or maybe not appropriate for anybody but a five year old getting dressed up on Easter Sunday. . .In 50 years that fashion will change and what constitutes cross dressing will probably change also.<sup>85</sup>

As social norms continue to evolve, discrimination against those who wear clothing traditionally associated with the other gender will continue to dissipate and to be recognized as a type of gender discrimination, as both the United States Supreme Court and many other courts have already done. As a result, jurisdictions that have incorporated these kinds of gender-based dress exclusions in their human rights laws are not only out-of-step with social reality, but may well find that those exclusions are impermissible even under existing sex discrimination laws.

Opposition to cross-dressing in the workplace is perhaps the most commonly voiced objection to transgender rights. In practice, however, there is not a shred of evidence that protecting trans people against discrimination leads to any increase in the number of employees who cross-dress on the job. Employers in jurisdictions that have passed trans-inclusive ordinances have not reported or complained of any such increase, and human rights departments in those jurisdictions have not been inundated with complaints from cross-dressing employees.<sup>86</sup>

Passing civil rights protections for gender variant and transgendered people does not mean that employers may not impose dress codes requiring employees to present a neat, well-groomed and professional appearance. Rather, it simply means that employees may dress in the type of clothing that conforms with their gender identity. Nonetheless, the issue of “men in dresses” has led some jurisdictions to exclude many, though not all, trans people from their human rights laws.<sup>87</sup> For example, the ordinances in both Louisville and Lexington, Kentucky define “gender identity,” in part, as “manifesting, *for reasons other than dress*, an identity not traditionally associated with one’s biological maleness or femaleness” [emphasis added].<sup>88</sup> One’s choice of clothing is a vital part of the expression of one’s gender identity; omitting dress from the definition excludes many people, especially non-transsexual transgendered people whose gender variance is expressed *primarily* through dress. In addition to the limited definition of gender identity, the Louisville and Lexington ordinances also contain an exclu-

sion designed to prohibit cross-dressing in the workplace: “Nothing herein shall be construed to prevent an employer from...enforcing an employee dress policy which policy may include restricting employees from dress associated with *the other gender*” [emphasis added].<sup>89</sup> Many employers have gender-based dress codes. One problem with these particular exclusions, however, is the phrase “the other gender.” How one proves that one is not dressing in the other gender’s clothes but rather that one is “the other gender” is ambiguous. Another problem is that it appears to contradict existing trends in jurisprudence on gender-based stereotyping.<sup>90</sup>

As other jurisdictions have recognized, exemptions of this kind are unnecessary and lead to unintended ambiguities in the interpretation of the law and perhaps even to unintended exclusions. For example, in July and August of 1999, the city council of Boulder, Colorado debated whether or not to limit those who would be protected on the basis of gender identity to those “under the care of a licensed physician to change his or her gender identity, or who has successfully made such a change, as certified by a licensed physician.”<sup>91</sup> Christa Kriesel is the coordinator for a Boulder County Health Department program for GLBT youth. She is also the partner of a female-to-male transsexual. Kriesel argued that this limitation would be “tragic because the licensed physician requirement brings up issues of classism and ageism, since everyone does not have equal access to medical care.”<sup>92</sup> Boulder Human Relations Commissioner Liz Padilla agreed, stating that “I don’t want to be responsible for somebody’s pain just because they don’t have the money for a doctor or they haven’t gone that route.”<sup>93</sup> And asking people to “prove” their identity is a radical departure from the usual practice of human rights laws. “The idea of singling out people and making them carry a bit of documentation to have access to the most basic human rights — that is most offensive to me,” said Kathy Wilson of the Gender Identity Center of Colorado.<sup>94</sup>

After a robust public debate on this issue, the Boulder City Council decided to omit this restriction when it extended civil rights protections to gender variant people. Similarly, in Kentucky, just three months after the Louisville ordinance passed, Jefferson County, which encompasses the city of Louisville, passed a law defining gender identity as “manifesting an identity not traditionally associated with one’s biological maleness or biological femaleness,” which would include dress. While this ordinance explicitly allows employers to enforce a written employee dress policy, it does not require transgendered people to prove their gender identity by providing documentation from someone in the medical profession.<sup>95</sup> This wording extends employment and other protections to gender variant people who are not transsexual.<sup>96</sup>

In general, then, it is highly advisable that supporters and legislators resist these kinds of exclusions, as legislators in Jefferson County and many other jurisdictions with trans-inclusive human rights laws have done. But, if the legislators demand them, these unrealistic and unsupported fears can be addressed in other venues, or in less confusing and exclusionary ways in the language itself. One strategy is to omit this issue from the legislation itself, and leave the interpretation of the law to the agency responsible for overseeing it, the human rights commission in your jurisdiction. For example, the compliance guidelines drawn up by the San Francisco Human Rights Commission to aid in the interpretation of San Francisco’s transgender non-discrimination law address this issue: “Employers have the right to implement employee dress codes including those according to gender. Transsexual employees have the right to comply with sex-specific dress codes according to their gender identity.” Because the definition of “transsexual”

in these guidelines include non-operative transsexuals, “who may or may not be undergoing any medical treatment in relation to their gender identity,” the determination of one’s gender identity is left to the individual.<sup>97</sup>

But if legislators demand that the legislation itself address the cross-dressing question, there are much better solutions than the ones employed in the New Orleans, Louisville, and Lexington laws. It is not difficult to craft language that reasonably addresses this fear about dress but that does not put the many different kinds of gender variant people who need employment protection outside the statute’s reach. A statute might allow the employer to set standards for a gender-specific dress policy, but leave the determination of gender identity up to the individual. Gender identity is, after all, *one’s own* sense of being male or female. In contrast, exclusions that rely on psychiatric diagnoses put many transgendered people at a real disadvantage. Phyllis Frye, the founder of the International Conference of Transgender Law and Employment Policy, suggests that employers be allowed to require a *consistent* gender presentation in the workplace<sup>98</sup>. The City of Boulder, Colorado, adopted a version of this rule, requiring that all persons claiming protection maintain a reasonably consistent gender role in the workplace. Finally, it is very important that dress code rules *not* apply when the employee is not on the job.

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## JAMISON GREEN

### **A discussion with a human resources director about bathrooms and transsexual employees**

The HR director of a San Francisco subsidiary of a major New York-based corporation received advice from his New York legal department to instruct a local newly-transitioning FTM employee that he couldn’t use the men’s bathroom until he had had genital reconstruction (which many transmen never have) and until he was listed with the health insurance carrier as male.

The HR Director had called me at the request of the very agitated and frustrated FTM employee. I told him that it would soon be very inappropriate for the transman to be using the women’s room, and that he would be using a stall in the men’s room, so there would be no forced or required nudity (as in a shower situation), and no violation of privacy. He seemed to understand me, and he was relieved that I had a sense of humor

about the matter while I explained to him about the puberty-like nature of hormonal transition and its biochemical processes, surgery issues, and the fact that social maleness is really more important on a day-to-day basis than the shape of one’s genitals. But somehow I had to bring the point home, because I wasn’t sure he was getting it in a way that would resolve the transman’s problem and solidify the HR Director’s position with respect to his corporate legal department.

“How many men do you meet every day, feel comfortable with, do business with, etc., etc.?” I asked him. “And how many of those men do you know for a fact has a penis?”

He was stunned. “So how important is a man’s penis in your employer/employ-

ee relationship?” I inquired. He was contrite.

“You assume all the men you meet have penises and started their lives in male bodies. This may not be true; and if that is so, what difference does it make to you?”

“I see,” he said, thoughtfully.

“So the difference in the case of this employee,” I went on, “is that you actually know an intimate detail of his life that you are not privileged to know in other cases. Transsexualism is a medical condition, treated by doctors to improve the quality of life for their patients. It is difficult, at best, to go through this process at all, and virtually impossible without some social support, unless one does it in secret, obliterating their past and cutting all ties with people who had any knowledge of their previous embodiment. Many people have lived that way and made their transitions a secret. What your employee is doing now is a courageous act, worthy of your respect. He has thought long and hard about this

transition he is making, and he is not masquerading or playing games. He is required by established medical standards to live completely as a man before he can have surgery. Your corporate refusal to cooperate feels like a game to him and is highly frustrating and demoralizing. He gets along with his co-workers and they accept him as a man, so your refusal to accept him becomes a productivity obstacle for your entire staff. It unnecessarily calls attention to a personal situation that should be none of your business beyond your privileged awareness that it exists and is a condition of his life.”

The transman was permitted to use the men's restroom; his employment records were changed to reflect his new sex. Further, the company built a single-occupant unisex restroom for all employees' use to alleviate any future instances of similar difficulty, and the transman was NOT required to use that facility. This result is also in compliance with the San Francisco Public Ordinance.

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### **Misconception #3: “What about bathrooms?”**

It's no secret—everyone has to go to the bathroom. But some employers, legislators, and co-workers seem to forget that simple fact of life when it comes to transgendered people. Like everyone else, transgendered people need to use bathroom facilities with safety and dignity. (See the story boxed below.) As in the “cross-dressing” objection, the bathroom objection tends to be voiced in gender-specific terms—the fear that transgender inclusive laws or policies will lead to “men in dresses” invading women's bathrooms and posing a threat to the security of the women using them. However, without reasonable bathroom policies allowing trans people to use the bathroom appropriate to their gender identity, transsexual employees may be forced to use the bathroom of their birth sex. For example, in the absence of such a policy, a female-to-male transsexual man who has been taking male hormones and whose external appearance is completely male may have no choice *but* to use the women's bathrooms, despite the obvious disruptions and problems that would cause.

In fact, the bathroom objection is very similar to the homophobic myths that were raised during the debate over the ban on gays in the military. Both objections are based

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## EVERY CIVIL RIGHTS MOVEMENT HAS A BATHROOM MOVEMENT

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It all seems to boil down to bathrooms. Every civil rights movement has a bathroom movement. The Disabilities Rights Movement? Bathroom accessibility. The Black Civil Rights Movement? Bathroom sharing. The Equal Rights Movement? Anti-ERA forces said that if the amendment were passed there would be unisex bathrooms. This panicked people who had apparently been raised in households very different from mine. “Don't go in there! That's the men's bathroom in this household!” No women could even be elected to the Senate until bath-

rooms were built for them, lest they have to excuse themselves from an important hearing to go to Bethesda to find a women's room.

The Gay Rights Movement was specifically about towel-snapping gay men in showers. At first I was disheartened that the whole issue of gays in the military was reduced to porcelain, but then I thought it was good, because it meant we had arrived as a genuine civil rights movement.

—Kate Clinton, *Don't Get Me Started*  
(NY: Ballantine Books 1999) p.126

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on the false notions that GLBT people are predatory creatures whose elimination and hygiene needs come second to their supposedly voyeuristic desires. The bathroom objection puts transgendered people in other good company, historically speaking: more than one debate over civil rights has revolved significantly on the bathroom issue: white segregationists objected to sharing bathrooms with blacks; one of Phyllis Schafley's many arguments against passage of the Equal Rights Amendments was that it would lead to unisex bathrooms.<sup>99</sup>

While it is important never to discount an individual's fear—emotions are real, after all—the truth of the matter is that the “bathroom issue” gets sorted out best through face-to-face communication, as transgendered people educate their peers and supervisors, rather than through legislation. For example, Boulder's City attorney recommended to city council members that, “With regard to bathrooms, the proposal is that the ordinance remain silent, allowing social norms to sort themselves out.”<sup>100</sup> The city councilors agreed with this recommendation, deciding not to legislate who, and in what stage of transition, should use which bathroom.

Legislators who wish to design a policy designating bathroom access on the basis of genitals may raise other, unintended problems for employers, governments, and providers of public accommodations. The San Francisco Human Rights Commission compliance guidelines recognizes the troubles raised by the idea of “genital” gender checks: “Challenging someone's gender may be considered as harassment, and an invasion of privacy.”<sup>101</sup> Kentucky gay activist Dan Farrell addressed this issue when lobbying for trans-inclusive laws. “Sure,” he said, “lawmakers worried about the bathroom question. But we told them, listen, ‘Everyone has to go to the bathroom. But if you know what's between someone's legs—you're the one who is being inappropriate.’”<sup>102</sup>

There are practical solutions to this objection that do not discriminate against or dehumanize transgendered people. For example, some employers have simply installed a

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# KIM COCO IWAMOTO

## A historical perspective on bathrooms

*After being harassed for using the women's bathroom, then law student Kim Coco*

*Iwamoto distributed a statement to her University of New Mexico Law School community. What follows is an excerpt from that statement.*

Once upon a time...the entire UNM Law School community was just one gender: "MALE." The lavatories reflected the needs of the population at that time; they were all MEN'S rooms.

One day, a differently gendered student body arrived at the law school.

In order to accommodate these new students, some of the MEN's restrooms underwent sex-changes and became WOMEN's restrooms.

Despite the success of these sex-changes, there were still other student bodies that did not fit into these lavatories; so the restrooms underwent further reconfiguration and were made wheelchair accessible.

Since then, transgender bodies have arrived at the law school; these bodies do not always fit in to the MEN's room or the WOMEN's room. Because of our law school's commitment to diversity, yet another change must be made to accommodate the vast array of gendered and non-gendered bodies.



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lock on the inside of the bathroom door or provided a sign that can be placed on the outside of the door when the bathroom is in use. Others have provided a single-occupant bathroom facility. As New Orleans transgender activist Courtney Sharp says, "Employers who want to find solutions have found solutions. Those who do not want to find solutions tend to use the issue as an excuse to terminate the employee."<sup>103</sup> In the end, transgendered and gender variant people must have access to safe and dignified bathroom facilities.

In this section, we discussed common misconceptions that legislators and allies might have about transgender-inclusive legislation. In the next section, we list some "talking points" that you might use to frame your message *proactively*, as you educate legislators, the media, and the public about the need for civil rights legislation covering transgendered and gender variant people. In addition to preparing talking points about your proposed legislation and discrimination against transgendered people in your community, it is also a good idea to prepare a sheet of simple and clear terms and definitions. Examples of the kinds of education materials that trans groups have used are listed in the resource section.



# Talking Points

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## **Question: Why is this legislation needed?**

Answer: Transgendered people face serious discrimination, not only in the workplace, but also in housing, and in public accommodations.

- Many pre-operative transsexuals are fired the moment their employers find out about their plan to undergo sex reassignment surgery.
- Transgendered people who cross-dress only outside the workplace live in fear that their employer will discover that fact and fire them.
- Transgendered people often face severe discrimination when we try to find a place to live.
- Many transgendered and gender variant people are denied equal treatment in public accommodations. We are asked to leave restaurants, hotels, stores, medical facilities, and educational institutions. We are denied credit. We are refused access to restroom facilities.
- Our community should take a stand against this invidious gender-based discrimination. Everyone deserves to live and work with equality and dignity. No one should lose their job, or be denied a place to live, because of their gender identity or expression.

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Over nine and a half million people, or 3.8 % of the US population, live in jurisdictions with non-discrimination laws that apply to transgendered people.

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## **Question: Isn't this kind of discrimination already illegal? Isn't it covered by sexual orientation or gender discrimination laws?**

Answer: So far, most courts have not found that laws prohibiting sexual orientation or gender discrimination apply to transgendered people. We would be happy to provide you with a brief overview of the case law on this question.

**Question: Does this mean women will have to share bathrooms with men?**

Answer: This law will prevent people from being forced to use bathrooms that do not correspond to their gender identity. Like everyone else, transgendered people need access to safe and dignified restroom facilities.

- Right now, in our community, there *already are* cases in which people are required to use bathrooms inappropriate to their gender identity—when trans women are forced to share bathrooms with men, or trans men are forced to share bathrooms with women because employers and providers of public accommodations do not have a sensible bathroom policy in place. *This legislation will help resolve those awkward situations, not create them.*
- Many employers have successfully dealt with the issue of restroom usage on a case-by-case basis. Human rights departments in cities that have transgender non-discrimination laws, such as San Francisco, have produced compliance guidelines that take the needs of transgender employees and their employers into account.

**Question: Will this law encourage cross-dressing in the workplace?**

Answer: There has been no “outbreak” of cross-dressing in workplaces in the jurisdictions that have adopted such anti-discrimination provisions. The City of Minneapolis has had a transgender-inclusive non-discrimination law since 1975, and there has been no influx of cross-dressers into the workplaces in that jurisdiction.

- *Like non-transgendered people*, transgendered people simply want to go to work in clothes that conform to their gender identity, clothes that they feel the most comfortable wearing.
- Nothing in this bill would prevent an employer from enforcing a written dress policy. This legislation simply means that employees may dress in the type of clothing that conforms to their gender identity.
- Many women already “cross-dress” in the workplace by wearing what used to be considered traditionally male clothing, such as pant suits. The case law is beginning to catch up with changing ideas about gender-based clothing; so should our human rights bill.

**Question: Are we going out on a limb here? Is our jurisdiction going to be the first to adopt this kind of law?**

Answer: As of March 2000, 27 jurisdictions in the US had passed non-discrimination laws that protect transgendered people.

- Transgender civil rights legislation has passed in jurisdictions as varied as Ann Arbor, Boulder, Pittsburgh, Toledo, Tucson, San Francisco, and Seattle. The state of Minnesota added trans-inclusive language to its human rights law in 1993.
- Lucent Technologies and Apple Computers have adopted non-discrimination policies that protect transgendered people. Other high tech corporations are also currently considering adding gender identity and expression to their equal opportunity policies.
- By March 2000, over nine and a half million people, or 3.8 % of the US population, lived in jurisdictions with non-discrimination laws that apply to transgendered people.

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# ALEXANDER JOHN GOODRUM

The circumstances leading up to the Tucson City Council's vote to add "gender identity" to its non-discrimination law in 1999 actually began with an oversight. The previous fall, after the murder of Matthew Sheppard, Tucson's



mayor at the time, George Miller, called a meeting with representatives from the GLB community to find out what the city could do to prevent hate crimes in Tucson. Transgendered activists Alexander Goodrum and Jerry Armsby were left off the invitation list for the meeting. "Both of us just went anyway, after we heard about the meeting," Goodrum recalled. "It was an accidental oversight."

Goodrum and Armsby, both female-to-male transsexuals, took advantage of that community gathering to educate participants about transgender issues and people. They began by calling out "and transgender" whenever speakers referred to gay, lesbian, and bisexual people. "The response was uniformly positive. The gay and lesbian activists there realized they didn't have a clue about transgender issues, and they wanted to learn," Goodrum said.

At this forum, when the discussion turned to amending the archaic language of "sexual preference" to the more usual "sexual orientation" in the city's non-discrimination law, Goodrum asked that gender identity also be added to the law. "Here were lots of nods, no serious disagreement," he recalled. "And later,

there was no problem with the Tucson city council. It was predominantly Democratic and progressive."

In addition to the decision to amend Tucson's law, the meeting led to the creation of the Mayoral Task Force on GLBT Issues, divided into legal, education, and social services subcommittees. Goodrum was appointed to the Task Force and became the co-chair of the social services committee. "Working on the mayor's task force, I began to realize how little the gay and lesbian community knows about transgendered people. My primary goal on that task force was to educate the gay and lesbian community. Many of the gay and lesbian folks in that meeting were using the word 'transgender,' but they were appropriating it without knowing what it meant, and what transgender issues are." Goodrum made it his mission to transform the gay, lesbian, and bisexual community's willingness to add the "T" to GLB into more concrete policy initiatives.

It wasn't the first time that Goodrum had been involved in lobbying for GLBT rights legislation. Goodrum's activism began in Chicago in 1979 when he testified at a hearing in favor of a gay and lesbian civil rights ordinance. At the time, he was 19 and had just come out as a lesbian. "A friend got me involved in working for the bill and that was my introduction to activism."

Goodrum had mixed feelings about his role in lobbying for the Chicago bill. "Supporters of the bill had asked me to testify because I'm black and many of the bill's opponents were religious black people. In many ways, it was a positive experience. But it was also a bad experience in other ways. My first experi-

ence in activism was as a figurehead in the gay community—I was the only black person to testify. Other blacks just weren't able to testify.”

Still, that experience led to Goodrum on to more activism. “It made me want to work for gay rights and let people know there were lots of black gay and lesbian people who for one reason or another just could not speak out.” Soon after testifying, Goodrum joined the Illinois Gay and Lesbian Task Force and worked on youth issues.

When Goodrum transitioned—by then he lived in San Francisco—he stopped his advocacy work for a time. “When I first began my transition, I didn't have the energy to do activism,” he said. Eventually, though, Goodrum got involved, helping organize the first FTM conference in San Francisco in 1995. Goodrum moved to Tucson later that year, and by the time of the mayor's GLBT community meeting in 1998, he was eager to start working again on GLBT advocacy work in Tucson.

In Tucson, Goodrum again took on the job of providing a voice for a disenfranchised community. Reverend Joyce L. Cook, the pastor of the Water of Life Metropolitan Community Church in Tucson, worked closely with Goodrum on the social services committee. “He is such an important spokesman for the transgender community,” she said. “Alexander, along with two of my transgendered parishioners, have taught me so much about the transgender community and the issues they face,” she said.

“The transgender community can be a very silent community, but by speaking out and sharing their stories, Alexander made me aware how huge it is.”

Goodrum now serves on the City of Tucson Commission on Gay, Lesbian, Bisexual and Transgender Issues, the official successor to the mayoral task force, focusing his work there on access to social services and proactive outreach to the business community. That work, Goodrum said, provides an “an opportunity to do a preemptive strike. The first time a business hears from the GLBT community, it's not a punitive thing, but as a resource for the business community so they can start talking about it so when they deal with GLBT issues, they're not caught off guard. It's more like, ‘What can we do to help your business running smoothly and help GLBT people in the workplace?’”

Goodrum does not believe the struggle for transgender rights should be separated from the struggle for GLB rights. “When transgendered people are denied rights, it's often the because of the perception that they're homosexual. With gay people, it's often as not because they're perceived to be violating gender norms. It's the same fight against the same enemies. GLBT people have to realize that in order to move ahead.”

Alexander lives in Tucson with his partner of seven years, Daniel Goodrum, an artist. Alexander is a writer, speaker and activist. His “Gender 101” primer is available on the web at <http://www.users.uswest.net/~ajgoodrum/gender101.htm>.

# Hate Crimes Laws

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## WHAT ARE HATE CRIMES?

Both as a legal term and in everyday language, “hate crimes” are acts of physical violence motivated by the victim’s race, gender, religion, ethnicity, nationality, disability, or sexual orientation. Hate crimes are also often referred to as “bias-motivated violence” or “bias crimes.” Hate crimes are not random or isolated acts of violence. The perpetrator of a hate crime is not only targeting an individual victim because he thinks the person is a member of a particular social group. He is also creating an environment of fear and intimidation that affects everyone in that group. In the words of Luin Wang, hate crimes have “an especially strong impact on observers who identify with the victim,” because those individuals will internalize the assumption that “their very identities render them especially vulnerable to criminal victimization of a particularly devastating kind.”<sup>104</sup>

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## AN EPIDEMIC OF HATE: VIOLENCE AGAINST TRANS PEOPLE

In recent years, reported violence against GLBT people and people perceived to be GLBT has reached epidemic proportions, and GLBT activists and allies have begun working to insure that hate crimes committed against people because their attackers perceive their victims to be gay, lesbian, bisexual, or gender variant are also included in hate crimes statutes. According to the National Coalition of Anti-Violence Program annual report, in 1998 there were 2252 anti-GLBT incidents, including 33 murders, 88 sexual assaults, and 907 assaults or attempted assaults; of these incidents, 161 victims self-identified as transgender. While transgendered people have always been victims of hate crimes, it is only recently that any agencies have begun to acknowledge or to document those crimes. As a result of those efforts, more transgendered people are beginning to report these incidents. For example, between 1997 and 1998 there was a 49% increase in the number of transgender hate crime victims coming forward to report incidents to anti-violence programs.<sup>105</sup> Trans activist Gwendolyn Ann Smith maintains a web site, “Remembering Our Dead,” that lists the names, places, and where possible, faces of the transgendered people who have been murdered because of their gender identity or expression.<sup>106</sup>

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# CARRIE DAVIS

*The following an excerpt from a speech that Carrie Davis gave to over 100 people, including transgender identified people, partners, lovers, boyfriends, girlfriends, friends, politicians, reporters, social workers and other allies, at a town meeting on Trans-Safety and Violence at the Lesbian and Gay Community Services Center in New York City in March 1999.<sup>107</sup>*

I stand before all of you this evening:

As a woman of transgender experience.

As an activist and as an advocate for our community through my role as a social worker, counselor and HIV outreach Coordinator for the Gender Identity Project and my other work at GenderPAC and NYAGRA.

Everyday I work with organizations that process statistics. These statistics indicate that almost 60% of all transpeople are victims of violence. Recently we have begun to realize that one transperson is murdered each month, nationwide. This is information that is routinely underreported and, in many instances, erased by the both the straight and queer media.

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The identity of transfolk are continually erased from mention by the media. As a result, our dead are usually mis-identified as gay men or lesbian women. And we are labeled as just a transvestite, just a crossdresser, just a drag queen or JUST a prostitute. But transpeople are not being killed because of our sexual orientation. Transfolk are being killed:

Because of the way we look ...

And because of who we are seen as ...

When I am beaten and raped by someone who cannot accept the fact that he is attracted to me, or when I am hosed down with water on the street by youths washing their car, or when I am confronted, pushed and shoved by men wandering the streets on a Saturday night, or surrounded and shouted at for 20 minutes by 20 people on the A train, at those moments, I am not being attacked and abused because of my sexual orientation, I am being subjected to that terror:

Because of the way I look ...

And because of who I am seen as...

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## RECOGNIZING THE CONNECTIONS: MISOGYNY, HOMOPHOBIA, TRANSPHOBIA AND RACISM

Hate crimes against GLBT individuals or against individuals who are perceived to be GLBT are often described by the press and by some GLB advocates as “anti-gay.” In practice, however, it is often difficult to establish whether the perpetrators of a particular hate crime targeted their victim because of the person’s gender or sexual orientation, or because they perceived the victim to be gender variant. As two researchers who have studied violence against transgendered people have pointed out, “distinguishing the motivation behind a violent attack against a transgender person is often impossible because of the intersection between misogyny and hatred of other persons whose existence undermines perceived male sexual supremacy and the gender dichoto-

my which is its necessary underpinning.”<sup>108</sup> For example, one national survey of violence against gender variant people found that “faggot” is the most common epithet used when transgendered people are victims of hate crimes. As Riki Wilchins, the executive director of GenderPAC (the organization that conducted the survey), has pointed out, “Transpeople are targeted because of the perception that we are gay. And gays are often picked out because they are ‘visibly queer,’ that is, because they are gender-different. But the fine-line distinctions we draw to populate and protect the divisions among us—between orientation and gender or between gay and queer or between you and me—are lost upon those who stalk and prey upon us.”<sup>109</sup>

Similarly, many hate crimes against GLBT people are also inseparably connected to the victim’s race, although the impact of racism is rarely acknowledged by the media or in official reports. In one widely reported case, a gang of eight white teenagers confronted Loc Minh Truong, a 55-year-old Vietnamese American man, while he was walking in a “gay section” of Laguna Beach, California. Two of those teenagers beat Truong until he was unconscious, inflicting serious injuries to his face and head and permanent damage to his left eye. The attack was reported and prosecuted only as an “anti-gay” crime, despite the great likelihood that race played an equally critical role. As Darren Lenard Hutchinson has pointed out, “several aspects of the crime strongly suggest the relevance of [race] in the assault. Because Asian Americans have endured a long history of white supremacist subordination through...violence, any ‘hate’ crime involving a large group of white men physically and brutally dominating an Asian American likely involves an element of white supremacist motivation.”<sup>110</sup>

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## WHAT DO HATE CRIMES STATUTES DO?

Hate crime laws impose additional or “enhanced” penalties when someone is convicted of committing an act of violence against an individual because of bias against the victim’s race, religion, gender, national origin, or other personal characteristic. Twenty-two states and the District of Columbia have hate crime laws that include sexual orientation.<sup>111</sup> As of 1999, only four of those states contain language that explicitly includes crimes committed against people because of their gender identity or gender expression: Minnesota, California, Vermont, and Missouri.<sup>112</sup> In addition, the District of Columbia also has a “Bias-Related Crime” statute that could be interpreted to protect transgendered and gender variant people.<sup>113</sup>

At the federal level, the proposed hate crimes bill, the Hate Crimes Prevention Act (HCPA), would allow federal prosecution of bias-related crimes. Some GLBT activists fear that a hate crimes bill with explicit trans-inclusive language will be doomed to fail because of the transphobia of members of Congress. As a result, activists working for the HCPA have suggested that the inclusion of the phrase “actual or perceived gender” in a hate crimes bill should be interpreted by prosecutors to cover trans people—especially if the bill’s legislative record is salted with explicit references to trans people. Because of the growing jurisprudence extending the meaning of “gender” and “sex” to gender stereotyping,<sup>114</sup> this strategy *may* ultimately prove effective in forcing prosecutors to apply this law to violence and harassment against trans people.

Unfortunately, however, while such a strategy may ultimately result in a legal victory, a powerful educational message may be lost. One important function of hate crimes statutes is to send a *clear* signal to the police, prosecutors, the courts, the general public, and transgendered people that violence and harassment committed against transgendered people should be taken seriously. As the National Gay and Lesbian Task Force's state legislative lawyer Hector Vargas has explained, although courts should interpret the language 'actual or perceived gender' to include transgendered people, "we have enough experience to know that courts do not always rule consistently with legislative intent. Thus, NGLTF supports the inclusion of specific language evincing a clear and unequivocal legislative intent to cover crimes against transgendered people, as has been enacted in California, Minnesota and Missouri."<sup>115</sup>

When transgendered people are the victims of violence and harassment, many do not turn to the police because they fear, often quite rightly, that they will be victimized again at the hands of the criminal justice system. Regardless of whether or not your jurisdiction passes an explicitly trans-inclusive hate crime bill, people working within the criminal justice system need to learn to take violence against transgendered people seriously. Raising the issue of explicit transgender inclusion in your state's hate crime bill can help get that message across to the people who need to hear it.<sup>116</sup>

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## **INCLUDING TRANS PEOPLE IN THE CALIFORNIA HATE CRIMES LAW: A RECENT EXAMPLE OF SUCCESS THROUGH CAREFUL PLANNING AND COLLABORATION**

A great deal of behind-the-scenes work lay behind the passage of a trans-inclusive hate crimes statute in California in 1998. Prior to drafting the proposed bill, Assemblywoman Sheila Kuehl directed her staff to meet with trans people and trans organizations in all parts of the state to make sure that she understood the full range of trans identities and the types of hate violence that trans people confront. She also analyzed the way that the existing hate crimes law was being interpreted, in order to see why trans people were not being protected under the existing language. Once Assemblywoman Kuehl understood what trans people in California needed and wanted the law to do, she worked with GLBT attorneys to draft language that would include everyone in the trans community (transsexual, transgender, and gender variant), and that would withstand the scrutiny of other California legislators. Assemblywoman Kuehl sponsored legislation that added gender to the Hate Crimes Statute, and, importantly, defined gender to include transgendered people. When other legislators had questions or concerns about the necessity of the bill or the meaning of the proposed language, she explained its importance and defended the proposed language. She also did a tremendous job of working with the transgender community to identify compelling personal stories from many different parts of the state.



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# BILLIJO WOLF

BilliJo Wolf's passion for activism grew out of the discrimination she has faced over the years as an intersexed person, a transsexual woman, and a lesbian. A native of St. Louis, Missouri and currently a resident of Rochester, she first got involved in activism in the 1960s with the civil rights and anti-war movements. Wolf now uses her skills as a writer and a photographer to promote a broad-based human rights agenda.



Wolf first publicly came out as an intersexed person at a 1999 National Organization for Women summit on lesbian rights. “I asked, ‘Where do intersexuals fit within this transgender movement within NOW? Another women there also outed herself as intersexual’.” Her

participation at that meeting helped to bring intersexual and transgender issues to the forefront.

When she was 41, Wolf discovered that she was born intersexed when her attorney found all of her birth records: she had been born with XXY chromosomes, a penis, and ovaries. (Female-bodied people usually have XX chromosomes, male-bodied people usually have XY chromosomes.) Her ovaries were removed soon after she was born—she was left with a penis and raised as a boy. Unbeknownst to her, in addition to the surgery, she was put on hormone therapy. “I thought I was getting allergy shots.”

“I presented as male until I was 17. Then I tried to present as female, and

my parents committed me to a mental institution for nine months.” After being released from the institution, Wolf again tried to live as a man, got married, “did everything I was supposed to.” Eventually, however, Wolf realized she was a woman and underwent sexual reassignment surgery and therapy. “One of the reasons I’m so passionate about intersexed issues is that I don’t want other people to live the life I’ve led,” Wolf said.

“I started facing real discrimination after I ‘transitioned.’ I’m transsexual in the sense that I did make a change.” Besides facing discrimination in academia, housing, and employment, her motivation stems from prejudice she encountered following an attempted rape in Monroe County, New York in January 1998. When Wolf attempted to have the man charged, the local district attorney decided not to prosecute her assailant despite direct evidence—including the perpetrator’s own statement—that provided a solid case. The official failed to bring charges because of “a lack of credibility due to her lifestyle.” According to Wolf, “though I received the same treatment most women receive when reporting a rape or sexual assault crime, it was more severe because most of the response was based on my gender identity and sexual orientation. I take serious exception to my life as a human being demeaned by references to my ‘lifestyle’. I have a life, not a lifestyle.”

Her views of social change and activism make it impossible for her to work on only one cause at a time. “We need to put an end to single identity politics. Single identity politics has failed. We need to move beyond inclusion by find-

ing the thread of human commonality amongst our many issues. Coalition building is what is needed. We all live in the same world.”

Wolf is a co-founder of the Rochester Lesbian Avengers. She is also now working with Empire State Pride Agenda to pass gay anti-discrimination

legislation with trans inclusion in Rochester, New York. And she chairs the Lesbian Rights Task Force for the Rochester Chapter of N.O.W.

She describes her identity as “transgender by birth, out, loud and queer by nature and choice.”

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# Alternative Routes

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## EXECUTIVE ORDERS, EMPLOYERS, COLLEGES AND UNIVERSITIES

### Executive orders

In 1999, the Governor Tom Vilsack of Iowa issued an executive order proclaiming “that an individual shall not be denied access to state employment opportunities because of race, creed, color, religion, national origin, gender, gender identity, sexual orientation, age, marital status, or physical or mental disability.”<sup>117</sup> This order applies to all state employees. While other states have executive orders prohibiting discrimination on the basis of sexual orientation in public employment, Iowa is the first state to include transgendered people.

### Employers

Large employers, both private and non-profit institutions, such as colleges and universities, are likely to have written equal opportunity policies that affirmatively state their commitment as employers to not discriminate on the basis of race, sex or gender, citizenship, religion, national origin, physical and mental disability, age, and marital status. (These categories are already covered by federal and many state laws). Since the 1970s, GLB employees and employee groups have worked to add sexual orientation to many companies’ and institutions’ non-discrimination policies. At the time of writing, one GLB employment project listed 1,558 employers with non-discrimination statements that include sexual orientation, including Fortune 500 companies, many smaller companies, non-profit institutions, unions, and colleges and universities.<sup>118</sup> Because there are no laws prohibiting discrimination in employment based on sexual orientation in most states or at the federal level, GLB activists have recognized the importance of pursuing equality in the workplace with individual employers.

Since transgendered people are even less likely to live in jurisdictions with laws that prohibit discrimination on the basis of gender identity and expression, GLBT employee groups have begun to follow the same approach to ensure workplace equality for

trans people. The results so far are encouraging. In 1997, Lucent Technologies became the first private employer in the US to include “gender identity, characteristics and expression” in their equal opportunity policy statement. A year later, Apple Computer followed suit, adding the same phrase to their non-discrimination policy. In June of 1999, Congresswoman Janet Schakowsky of Illinois became the first member of Congress to extend her office’s personal policy to include “gender self-image or identity.”<sup>119</sup> In addition to this list, there are many more employers who do not discriminate against transgender employees and who have worked to accommodate employees who transition on the job. It’s Time! Massachusetts (ITM) has an extensive list of trans-friendly corporations.<sup>120</sup>

Kathleen Dermody, co-president of EQUAL!, the GLBT employee group at Lucent Technologies, described the process of changing the equal opportunity policy at Lucent. First, at the request of Nancy Nangeroni, an out transgender Lucent Employee, the GLB employee group at Lucent amended its mission statement to include transgendered people. Soon after, another transgender EQUAL! member, Mary Ann Horton, started pushing to have the company’s equal opportunity policy amended. According to Dermody, the actual process of changing the Lucent equal opportunity policy was “relatively painless. We presented it to Human Resources and the legal department and they said, “This is the right way to go.” Horton adds, “We had a really key EQUAL! member in Human Resources Department who knew all the right people to talk to, and a really supportive director of diversity in HR who was the real decision maker. Our EQUAL! leader in HR pushed it with legal and HR and got it through in a few months.”

The experience of others who have succeeded in changing their employer’s non-discrimination policy suggests that working from within an officially-sanctioned GLB, or, even better, GLBT employee group is the most practical strategy. One activist, who could only speak anonymously, said that transgender-identified employees first promoted awareness within the GLB employee group, and requested that it expand its mission to include transgendered people. The group then drafted a proposal for the company that: 1) requested that gender identity and expression be included in the equal opportunity statement; 2) laid out the background to the issue; and 3) explained the possible results for the company of such a policy change. One other essential part of the strategy, this activist said, was to meet with representatives from the company’s human resources and legal departments at the same time, to facilitate communication between those departments, and to prevent either from attempting to blame the other for stalling on this issue.

The employer approach has several advantages for transgendered people. Whether or not the request for inclusion is immediately successful, mobilizing for equality in the workplace can work to educate people in the human resources department about the kinds of workplace discrimination faced by transgender employees and to explain the needs of employees who transition on the job. Working with your employee GLB or GLBT group also provides an opportunity to talk with your employer about the specific work situations faced by gender non-conforming people. Finally, the existence of transgender inclusive employer non-discrimination policies, especially in the private sector, indicates to legislators not only that more and more employers are committed to workplace fairness, but that such policies are workable.

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Mobilizing for equality in the workplace can work to educate people in the human resources department about the kinds of workplace discrimination faced by transgender employees and to explain the needs of employees who transition on the job.

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There are also good reasons for employers to agree voluntarily not to discriminate on the basis of gender identity and expression: such policies mean employers are more likely to attract and retain the best workers and reduce the turnover that occurs when employees are fired for reasons unrelated to job performance. Many of the resources listed in our resources section have much more detailed information on strategies for including transgendered and gender variant people in non-discrimination policies.<sup>121</sup>

## Colleges and universities

Colleges and universities are generally committed to ensuring that the teaching and research endeavors of its faculty and students are unfettered by restrictions on academic freedom. As a result, institutions of higher learning can be ideal places to mobilize for workplace equality for transgendered people. Because the 1993 Minnesota trans-inclusive law applies to educational institutions, the University of Minnesota system has trans protections. In 1996, the University of Iowa added “gender identity” to its equal opportunity policy prohibiting discrimination in employment and education programs. Soon after that policy was enacted, Deirdre McCloskey, the John F. Murray Professor of Economics at the University of Iowa, came out to the Dean of the Business school there as a transsexual women. She recounts that incident: “After he got his jaw off the floor, he went into a comedy act, saying, “Oh, thank God, I thought you were going to confess to becoming a socialist.” After that, McCloskey recalled, “He said, ‘That’s a strange thing to do. How can I help you?’ And he did. He explained things to the faculty and to the other administrators and it was no problem at all.” McCloskey recounts this story and many others in her book, *Crossing: A Memoir*.<sup>122</sup>

Rutgers, the State University of New Jersey, also has an employment non-discrimination policy. In 1997, the Rutgers University Senate passed a resolution requesting the Board of Governors to “provide full protection for transgendered and transsexual students, faculty, and staff.” The university officials charged with reviewing university policy in light of this resolution, however, decided that Rutgers would include only transsexuals—defined as “individuals who have changed sex or are in the process of changing sex”—within the university’s prohibition against discrimination on the basis of sex. Because Rutgers officials claimed they could not determine the precise legal meaning of “transgendered,” they left it out of the new policy, believing it overlapped to some degree with sexual orientation. Despite the hard work and lobbying efforts of trans activist Ben Singer and allies, this policy fails to explicitly include transgendered and gender variant people who are not undergoing sexual reassignment surgery. Nonetheless, it certainly is an important step in the right direction.<sup>123</sup>

Student-led initiatives are another approach to employment equality in higher education. For example, in 1998 the University of Kansas’s student senate unanimously agreed to include “gender identity or expression” in its code of student rights and responsibilities. This code protects transgender and gender variant undergraduate and graduate students (but not faculty and staff) from discrimination in admissions and all university-sponsored activities. Christine Robinson, a doctoral student in sociology who worked to pass the resolution, noted, “It protects anyone who may be perceived as inappropriately masculine, feminine or androgynous.”<sup>124</sup> And at Harvard, the undergraduate student government created a Gender Identity Task Force to research and raise awareness of the issue of including “gender identity” in the university’s non-discrimination statement.<sup>125</sup>

# Conclusion

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In the past ten years, the transgender movement has reached a critical mass. As recently as 1990, there were only four cities with laws that protected trans people from discrimination. By February 2000, that number had multiplied exponentially. Today, transgendered and gender variant people have won explicit civil rights and/or hate crime protections in four states, three counties, and at least 20 additional cities. Several major corporations have adopted non-discrimination policies for transgender employees. Colleges and universities have begun to follow suit, adopting equal opportunity policies that prohibit discriminatory treatment of transgender students, faculty and staff. In the courts, transgender plaintiffs are challenging outdated rulings in a new wave of civil rights litigation. Outside of the legislative and legal arenas, media interest in transgender issues has grown by leaps and bounds, increasing from a mere trickle of stories in the early 1990s to a veritable flood at the present day. Perhaps most importantly, transgendered people have become a visible constituency within GLB communities, emerging from decades of stigma and marginalization to reclaim a place alongside our lesbian, gay and bisexual brothers and sisters and a voice in our collective political movement.

Yet despite these advances, much work remains to be done before transgendered people are included in GLBT advocacy in a truly comprehensive and meaningful way. That is particularly true when it comes to civil rights legislation. Although our focus in this publication has been on examples of success in passing trans-inclusive laws, the majority of new sexual orientation non-discrimination laws still do not include transgendered people. From the beginning of 1996 through the end of 1999, 31 jurisdictions passed laws prohibiting employment discrimination on the basis of sexual orientation. Of those 31 new statutes, only six—about 20%—included protections for transgendered people as well.<sup>126</sup>

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Today, transgendered and gender variant people have won explicit civil rights and/or hate crime protections in four states, three counties, and at least 20 additional cities.

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**Figure 7: How many recently-passed sexual orientation non-discrimination laws include transgendered and gender variant people?**

|                            | 1996   | 1997  | 1998   | 1999   |
|----------------------------|--|---|--|--|
| <b>Trans-inclusive</b>     |  | Ypsilanti, MI   | Benton Co., OR<br>Toledo, OH   | Jefferson County, KY<br>Lexington-Fayette, KY<br>Louisville, KY  |
| <b>Non-Trans inclusive</b> | Albany County, NY<br>Cleveland, OH<br>Oberlin, OH<br>Tybee Island, GA<br>Worcester, MA | Athens, OH<br>Brookline, MA<br>Lacey, WA<br>Riverside, CA | Bar Harbor, ME<br>Costa Mesa, CA<br>Dekalb, IL<br>Fort Collins, CO<br>Gainesville, FL<br>Miami-Dade County, FL<br>Onondaga County, NY<br>Orono, ME<br>Sorrento, ME<br>South Portland, ME | Carson City, NV<br>Cedar Rapids, IA<br>Daly City, CA<br>Falmouth, KY<br>Henderson, KY<br>Long Island, ME<br>Spokane, WA<br>Westchester, NY |

\* This chart does not include jurisdictions where previously existing sexual orientation non-discrimination laws were amended to include transgendered and gender variant people. Also, this chart refers only to jurisdictions passing civil rights laws prohibiting discrimination in public employment and/or private employment.

Why have most of the jurisdictions that enacted sexual orientation protections in the past few years failed to include transgendered people? Perhaps these communities lacked organized and visible transgendered people to push for inclusion. Perhaps GLB activists in these communities did not understand that transgender and gender variant individuals are also victims of discrimination and harassment and need protection. Perhaps trans-inclusive language was dropped at the last minute because community members or legislators were afraid it would “kill the bill.” Or perhaps legislators and activists in those communities had never heard of transgender-specific language and did not know that other jurisdictions have adopted inclusive language. We hope the information and arguments presented in this publication will help to convince activists and policy makers that, like gay, lesbian, and bisexual people, transgendered people experience severe discrimination and harassment, and that there are successful models for enacting policies and laws to alleviate that discrimination.

As Cambridge-based activist Nancy Nangeroni has pointed out, “Everyone has a stake in gender freedom, not just trans people.” Stereotypes about gender are harmful to all people. When the law excludes transgendered people from protection, it sends the message that sexism and gender stereotyping are acceptable. The goal of the transgender movement is to eliminate the gender-based discrimination that resulted in:

- F.M. Chester being threatened with expulsion from nursing school because her gender presentation was deemed too “mannish.”

- BilliJo Wolf being denied any recourse to the criminal justice system when she was sexually assaulted.
- Kim Coco Iwamoto being harassed by her law school peers for using the women's bathroom.
- Tyra Hunter being denied emergency medical treatment.
- Brandon Teena being murdered because law enforcement personnel did not consider the life of a young FTM worth protecting.
- Countless other transgendered people being forced into homelessness and unemployment, denied access to basic medical care, and targeted by violence and threats of violence.

No one should be denied the opportunity to live and work in safety. By fighting for basic civil rights, trans people are affirming our inherent value and dignity as human beings and our right to equality in the public sphere.



# Endnotes

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## Introduction

1. For example, the National Gay and Lesbian Task Force; the Gay & Lesbian Alliance Against Defamation; the Gay Lesbian and Straight Education Network; Parents, Families and Friends of Lesbians and Gays.
2. Philip Brian Harper, *Are we not men? Masculine anxiety and the problem of African-American identity* (New York: Oxford University Press, 1996).
3. T. Govorun, B. Vornyk, (1997), "The self-concept development of transsexual persons," a paper presented at the XV<sup>th</sup> Harry Benjamin International Gender Dysphoria Association Symposium, Vancouver, Canada (noting that there are roughly equal numbers of MTFs and FTMs); M. Landen, J. Walinder and B. Lundstrum, (1996), "Prevalence, incidence and sex ratio of transsexualism in Sweden," *Acta Psychiatry Scandinavia*, 93, 221-223; M. Landen, J. Walinder, and B. Lundstrum, (1996) (reviewing data on the sex ratio of transsexualism in Sweden from the 1960s through 1992 and finding that the incidence of primary transsexualism was equally common in MTFs and FTMs); Gretchen Finke & Roger Northway, "Patterns in and treatments for gender dysphoria," in Bonnie Bullough, Vern L. Bullough, and James Elias, eds., *Gender Blending* (Prometheus Books, 1997), p. 237. (Transsexualism "occurs in about equal numbers in men and women; however, more men present for formal treatment.")
4. What causes a person to be transgendered is unknown. With regard to transsexual people in particular, recent scientific theories focus on events in fetal development. Such events include incomplete sexual differentiation of the brain, hormonal imbalances occurring during critical fetal development stages, and a mixture of biological predispositions that are subsequently triggered in early childhood or adulthood. In other words, no one knows for sure, but science is beginning to recognize the reality of transgender existence. See Dr. R Reid, et al, "Transsexualism : The Current Medical Viewpoint," (1996) [<http://www.pfc.org.uk/medical/mediview.htm>].

5. Virginia Prince, *How to be a Woman though Male* and numerous other titles available through the International Foundation for Gender Education (IFGE), P.O. Box 229, Waltham, MA 02254-0229.
6. C.J.S. Thompson, *The Mysteries of Sex: Women Who Posed as Men and Men who Impersonated Women* (New York: Causeway Books, 1974). This text is archaic in many ways, but full of historical reference points. A more transpositive slant on these lives is presented in Jason Cromwell's essay "Passing Women and Female Bodied Men: (Re)claiming FTM History," published in Kate More and Stephen Whittle, *Reclaiming Genders* (London: Cassell, 1999). See also Judith Halberstam, *Female Masculinity* (Durham: Duke University Press, 1999).
7. Diane Wood Middlebrook, *Suits Me: The Double Life of Billy Tipton* (New York: Houghton Mifflin, 1998).
8. Louis Sullivan, *From Female to Male: The Life of Jack Bee Garland* (Boston: Alyson Publications, 1990).
9. See, for example, Nicholas J. Bradford, "Transgenderism and the Cult of Yellamma [in Japan]," *Journal of Anthropological Research* 39.3 (1983); Serena Nanda, "Hijras: An Alternative Sex and Gender Role in India," in *Third Sex, Third Gender*, ed. Gilbert Herdt (New York: Zone Books, 1996), pp. 373-417; Gilbert Herdt, *Same Sex, Different Cultures* (Westview Press, 1998); Wyatt MacGaffey, "Husbands and Wives [Africa]," in *Transition*, Vol. 6, No. 3 (1996), pp. 122-130; J. Lorand Matory, *Sex and the Empire That Is No More [Africa]*, (Minneapolis: University of Minnesota Press, 1994); Heike Bödeker and Kiira Triea, "Native vs. White Sex Cosmologies: Sex and Gender Variability vs. Variance in Inter- vs. Intracultural Perspective," *Yumtzilob* Spring 1998, [<http://www.sonic.net/~cisa/yumtzilob.html>].
10. See, for example, *One of the Children: Gay Black Men in Harlem*, William G. Hawkeswood and Alex W. Costley, eds. (Berkeley: University of California Press, 1997); *A Lotus of Another Color*, Rakesh Ratti, ed. (Los Angeles: Alyson Publications, 1993); *Q&A: Queer in Asian America*, eds. Alice Hom and David Eng (Philadelphia: Temple University Press, 1998); Leslie Feinberg, *Transgender Warriors* (Boston: Beacon Press, 1996); George Chauncey, *Gay New York* (New York: Basic Books, 1994).
11. Much of the information in this section was contributed by Cheryl Chase of the Intersex Society of North America. See her article, "Hermaphrodites with Attitude: Mapping the Emergence of Intersex Activism," *GLQ: A Journal of Gay and Lesbian Studies* 4 (2): 189-211.
12. Source: "Abnormalities of Sex Differentiation," Chapter 41 of *Smith's General Urology*, 13th Edition, Felix A. Conte, M.D. & Melvin M. Grumbach, M.D., (Appleton and Lange Medical Books, 1992).
13. Doctors claim that it is technically easiest to create female genitalia, so often infants with ambiguous genitals are assigned the sex of female by surgery. Intersex activists counter that this judgment rests upon social prejudices that discount the importance of sexual pleasure and function in women as compared to men. See Suzanne Kessler, *Lessons from the Intersexed* (New Brunswick: Rutgers University Press, 1998), pp. 12-32.
14. For further information on intersex issues, contact the Intersex Society of North America (ISNA) at <http://www.isna.org>. See also Suzanne J Kessler, *Lessons from the Intersexed* (New Brunswick: Rutgers University Press, 1998); *Intersex in the Age of Ethics*, Alice Comurat

Dreger, ed. (Hagerstown: University Publishing Group, 1999).

15. Some intersexed people forced to have surgery as infants are required to undergo additional surgeries as teenagers, and may also require hormones to induce puberty and maintain secondary sex characteristics throughout their adult lives.
16. Estimates of gay, lesbian, and bisexual-identified transsexual people range from 30 to 50% for male-to-female (MTF) and from 15 to 40% for female-to-male (FTM) individuals. The sexual orientation of transsexual people can change as they go through the hormonal and surgical transition.
17. Anti-transgender violence statistics were not recorded prior to 1995, but with increased awareness of transgender issues, many GLBT anti-violence programs began to actively collect data at that point. There is widespread agreement that these figures represent a serious under-reporting of actual incidents.
18. Susan Stryker, "Anti-Transgender Violence and Discrimination: Historical and Theoretical Observations Drawn from San Francisco Experience," presented at "Beyond Homophobia," an international conference held April 6-9, 1999, San Francisco State University, San Francisco, CA. Manuscript notes courtesy the author.
19. Leslie Feinberg, *Trans Liberation* (Boston: Beacon Press, 1998).

## II. Historical Memory

20. The story behind the activism in Minnesota that led to the nation's first transgender inclusive human rights laws was not easy to unearth. As Donna Cartwright has pointed out in "Distorting Mirror: Trivializing and Silencing Transgendered people in Queer Media," (*Transgender Tapestry Magazine*, forthcoming), even one of the most extensive accounts of that history, Adam Nagourney and Dudley Clendinen's *Out for Good*, "treats [trans people] largely as a disempowered, voiceless 'other.'" In their account of the Minnesota struggles about trans inclusion, for example, Cartwright notes that Nagourney and Clendinen "primarily quote opponents of trans-inclusion, and to a lesser extent, gay advocates for transgender rights," while failing to let the voices of transgendered activists appear in their narrative. Cartwright also points out that "their description of us 'gender queers' virtually drips with condescension." Unfortunately, the omission of trans people from gay history is also apparent in another very important recent book on local GLBT rights ordinances, James W. Button, Barbara A. Rienzo and Kenneth D. Wald's *Private Lives, Public Conflicts: Battles over Gay Rights in American Communities* (Washington, DC: Congressional Quarterly Press, 1997), which does not mention trans-inclusive ordinances at all.
21. Ordinance 99-68 amending chapter 945 of the Minneapolis Code of Ordinances was passed March 29, 1974, defined "affectional or sexual preference" as "having or manifesting an emotional or physical attachment to another consenting person or persons, or having or manifesting a preference for such attachment."
22. Diana Slyter interview with Paisley Currah and Shannon Minter, June 26, 1999.
23. Diana Slyter interview with Paisley Currah and Shannon Minter, June 26, 1999.
24. Minnesota State Senator Allan Spear interview with Paisley Currah and Shannon Minter, June 23, 1999.
25. Doug Grow, "After 13 years of remonstrating, Tim Campbell's voice gives out," *Minneapolis*

*Star Tribune*, May 17, 1992, p. 3B

26. Dudley Clendinen & Adam Nagourney, *Out for Good* (New York: Simon and Schuster, 1999), p. 237.
27. Clendinen & Nagourney, *Out for Good*, p. 237.
28. Clendinen and Nagourney, *Out for Good*, p. 237.
29. Anthony Lonetree, "Voters refuse to repeal gay rights," *Minneapolis Star Tribune*, November 6, 1991, p. 1A
30. Minnesota State Senator Allan Spear interview with Paisley Currah and Shannon Minter, June 23, 1999.
31. Susan Kimberly interview with Paisley Currah and Shannon Minter, June 25, 1999.
32. Susan Kimberly, "Lies, gay rights and Citizen Alert," *Minneapolis Star Tribune*, October 28, 1991, p. 17A.
33. Susan Kimberly interview with Paisley Currah and Shannon Minter, June 25, 1999.
34. Barbara (BJ) Metzger interview with Paisley Currah, July 6, 1999.
35. Minnesota State Senator Allan Spear interview with Paisley Currah and Shannon Minter, June 23, 1999.
36. Susan Kimberly interview with Paisley Currah and Shannon Minter, June 25, 1999.
37. Minnesota State Senator Allan Spear interview with Paisley Currah and Shannon Minter, June 23, 1999.
38. Diana Slyter interview with Paisley Currah and Shannon Minter, June 26, 1999.
39. Minnesota State Senator Allan Spear interview with Paisley Currah and Shannon Minter, June 23, 1999.
40. Minnesota State Senator Allan Spear interview with Paisley Currah and Shannon Minter, June 23, 1999.
41. Diana Slyter interview with Paisley Currah and Shannon Minter, June 26, 1999.
42. Donna Halvorsen, "They know whereof they legislate," *Minneapolis Star Tribune*, April 2, 1993, p. 1B.
43. Diana Slyter interview with Paisley Currah, March 7, 2000.
44. Donna Halvorsen, "They know whereof they legislate," *Minneapolis Star Tribune*, April 2, 1993, p. 1B.
45. For example, just one year after the 1993 statewide victory in Minnesota, St. Paul Mayor Norm Coleman refused to sign a proclamation declaring June gay pride month—because the proclamation included bisexual and transgendered people. "I see [being bisexual or having a sex change] as lifestyle issues," Mayor Coleman explained, but, in his view, being lesbian or gay is "the way nature intended things." Anthony Lonetree, "Coleman won't sign gay month proclamation; Objects to 'lifestyle issues' language," *Minneapolis Star Tribune*, May 4, 1994, p. 1B.
46. Falwell, Jerry [webmaster@libertyalliance.org]. "Protecting Transsexuals." E-mail message to Falwell Confidential list [fclist@lists.sparklist.com]. 03 February 2000.

47. David Yepsen, "Secrecy alleged on gay rights," *The Des Moines Register*, October 15, 1999, p. 1.
48. ACLJ Press Release, 14 Sep 1999, "ACLJ Files Federal Lawsuit Challenging Sexual Orientation Ordinance In Louisville, Kentucky."
49. Miranda Stevens-Miller, "Federation," private e-mail message to Paisley Currah, 24 August 1999.

### III. Nuts and Bolts

50. "Discrimination and Hate Crimes Against Transgendered People in Illinois," 1998 Supplement, Prepared by It's Time, Illinois! Documentation Project, February 1998, [<http://itstimeil.org/>].
51. Many people use "transsexual" rather than "transsexual." See Riki Anne Wilchins, *Read My Lips* (Ithaca: Firebrand, 1997), p. 15.
52. Of course, as trans activist Jessica Xavier, has pointed out, "some human rights commissions have even refused to meet with local transactivists, probably due to the lack of statutory jurisdiction or possibly transphobia."
53. Miranda Stevens-Miller, "ITA Press Release: Evanston, Illinois Passes Transgender Inclusion Ordinance," [<http://www.itstimeil.org/pressrls/evanston797.html>].
54. For a summary of court cases dealing with transgendered people, see Shannon Minter, "Discrimination Against Transgendered People: A Summary of Existing Case Law," [<http://www.genderlaw.org/>].
55. For examples of educational materials that have been prepared for local and state legislators, see the It's Time, Illinois! reports listed in the resources section.
56. It's Time, Oregon! Press Release, "Portland Oregon City Council Passes Gender Identity Protections," [<http://www.geocities.com/~itstimeoregon/news/pdxGidRes.html>], December 1998.
57. See Sue Weibezahl, "Gay Rights Bill Splits County Legislators," *Syracuse Online* [[http://www.syracuse.com/news/sttuesday/19980804\\_gays.html](http://www.syracuse.com/news/sttuesday/19980804_gays.html)]. See also Expressing Our Nature (EON) Press Release, "Fair Practice Law Passes Onondaga County Legislature, But Not Without Protest from the Entire GLBT Community," August 3, 1998, [<http://www.nyagra.org/policy/eonaug98.htm>].
58. For assistance in drafting trans-inclusive legislation, contact the National Center for Lesbian Rights at 415-392-6257 or the National Gay and Lesbian Task Force Legislative Lawyering Program at 202-332-6483.
59. See also Expressing Our Nature (EON) Press Release, "Fair Practice Law Passes Onondaga County Legislature, But Not Without Protest from the Entire GLBT Community," August 3, 1998 [<http://www.nyagra.org/policy/eonaug98.htm>].
60. Miranda Stevens-Miller, It's Time, Illinois! "DeKalb Excludes Transgender Protection at the Last Minute," January 6, 1999, and "DeKalb Follow-Up," January 20, 1999 on Gender Advocacy Internet News (GAIN), January 20, 1999, [<http://gender.org/gain/g99/index.html>].
61. It's Time, Illinois!, "4th Annual Report on Discrimination and Hate Crimes Against Transgendered People in Illinois," May 1999 [<http://www.itstimeil.org/reports/report99a.html>].
62. See "Policy and Legislative Recommendations Concerning Transgendered Citizens in Seattle," a report of the Seattle Commission for Sexual Minorities. May 1999,

[<http://www.ci.seattle.wa.us/scsm/transgender.html>].

63. Marsha Botzer interview with Paisley Currah, July 19, 1999.
64. Diana Slyter interview with Paisley Currah and Shannon Minter, June 26, 1999.
65. Diana Slyter interview with Paisley Currah, March 7, 2000.
66. Brett Beemyn, testimony at a Iowa City Council meeting of September 26, 1995.
67. From a litigation perspective, however, opting for the strategy of adding “gender identity” as a distinct classification may have the unintended effect of providing ammunition for the view that courts should not afford any protection to transgendered people under any statute that has not been amended to include that very language.
68. Testimony of Dawn Atkins at a public hearing on an ordinance amending the Iowa City Code Title 2, Human Rights Ordinance, Chapter 2, Section 2-2-2, and 2-1-1, September 26, 1995.
69. It’s Time, Illinois!, “4th Annual Report on Discrimination and Hate Crimes Against Transgendered People in Illinois,” May 1999, [<http://www.itstimeil.org/reports/report99a.html#a3>].
70. It’s Time, Illinois!, “4th Annual Report on Discrimination and Hate Crimes Against Transgendered People in Illinois,” May 1999, [<http://www.itstimeil.org/reports/report99a.html#a3>].
71. County of Santa Cruz, Ordinance no. 4501, passed April 1998.
72. Seattle first amended its non-discrimination law in 1986 to include “transsexuality” and “transvestism” in its definition of sexual orientation. In 1999, the Seattle city council voted to put trans-inclusive language in the new category of “gender identity.” (See discussion below.)
73. The vast majority of existing local, state, and federal non-discrimination statutes use the term “sex” rather than the term “gender,” and very few of those statutes include any definition of the term “sex.” For the most part, recent court decisions interpreting sex discrimination statutes have interpreted those statutes to include discrimination on the basis of gender stereotyping, as well as discrimination on the basis of a person’s biological sex. In *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989), for example, the U.S. Supreme Court found that a woman who did not conform to prevailing gender norms—she had been described by a partner in her firm as “macho,” by another as “tough talking” and “masculine”—had been the victim of sex discrimination. In contrast, those who oppose equal rights for women are against applying sex discrimination laws to gender-based stereotyping. For example, a conservative activist in Westchester succeeded in changing the definition of gender in a proposed sexual orientation non-discrimination bill from “‘gender’ means both the biological and social characteristics of being female or male” to “‘gender’ means the biological characteristics of being male or female.” This strategy of limiting the definition of gender is an attempt to prevent human rights officials and judges from interpreting the statute to prohibit discrimination based on gender stereotypes, including discrimination against gender variant and non-transitioning transgendered people. See Joann Prinzivalli, “So, who’s entitled to human rights around here, anyway?,” *The Loft* (the newsletter of the Westchester Lesbian & Gay Community Services Center), Volume 11, Issue 2 (March 2000), at page 12.
74. See, for example: Illinois, House Bill 474, “ ‘Sexual orientation’ means having or being perceived as having an emotional, physical, or sexual attraction to another person without regard to the sex of that person, or having or being perceived as having a self-image or identity not traditionally associated with one’s biological maleness or femaleness”; Michigan

House Bill 5107, which is almost identical to Illinois House Bill 474; Missouri House Bill 1438, “ ‘Sexual orientation’, male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity, or expression, or having a self-image or identity not traditionally associated with one’s biological maleness or femaleness”; Georgia House Bill 1727, “ ‘Sexual orientation’ means being, or perceived as being, heterosexual, homosexual, or bisexual, or having, or being perceived as having, a self-image or identity not traditionally associated with one’s biological maleness or femaleness”; Iowa House Bill 2451, “ ‘Sexual orientation’ means actual or perceived heterosexuality, homosexuality, bisexuality, or a person’s attributes in behavior, practice, or appearance as they are understood to be masculine or feminine.” California and Vermont, which already have state-wide sexual orientation non-discrimination laws, use sex and “gender identity,” respectively, to include trans people. The California employment discrimination bill, Assembly Bill 2142 defines “sex” as including, but “not limited to, pregnancy, childbirth, medical conditions related to pregnancy or childbirth, and a person’s gender, as defined in section 422.76 of the penal code.” That section of the California code defines gender as “the victim’s actual sex or the defendant’s perception of the victim’s sex, and includes the defendant’s perception of the victim’s identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the victim’s sex at birth.” Vermont Senate Bill 255 does not define gender identity.

75. Sheba R. Wheeler, “Transgendered Law On Agenda, Boulder Ordinance Would Be A First,” *The Denver Post*, January 18, 2000, p. B2.
76. The definitions: “ ‘Gender variance’ means a persistent sense that a person’s gender identity is incongruent with the person’s biological sex, excluding the element of persistence for person’s under age twenty-one and including, without limitation, transitioned transsexuals”; “ ‘Gender identity’ means a person’s various individual attributes, actual or perceived, that may be in accord with, or sometimes opposed to, one’s physical anatomy, chromosomal sex, genitalia, or assigned sex”; “ ‘Gender reassignment surgery’ means surgery to alter a person’s genitals, in order to complete a program of sex reassignment surgery”; “ ‘Sex’ means biological sex, the sum of a person’s physical characteristics”; “ ‘Sex reassignment treatment’ means treatment to change a person’s sex, based on medically recognized treatment protocols such as that published by the Harry Benjamin International Gender Dysphoria Association”; “ ‘Transitioning transsexual’ means a person who has completed genital reassignment surgery”; “ ‘Transitioned transsexual’ means a person who has completed genital reassignment surgery.” (Ordinance No. 7040).
77. The legislation itself and the city attorney memorandum on the legislation are available on the internet at <http://www.ci.boulder.co.us/clerk/previous/list/000201/10.htm>.
78. City Schools of Decatur, Code GAAA, Adopted 10/75, Amended 2/00. See also Karen Hill, “Decatur Schools state’s first first to ban ‘gender identity’ bias,” *The Atlanta Constitution*, February 17, 2000, p. 5JA.
79. The Gay Lesbian & Straight Education Network and the ACLU Lesbian & Gay Rights Project, “Adding Sexual Orientation & Gender Identity To Discrimination & Harassment policies In School,” [<http://www.glsen.org/pages/sections/news/alerts/glac.html>].
80. 2000 Colorado S.B. 105.
81. According to Dana Priesing of GenderPAC, two unreported administrative decisions from the District of Columbia’s Office of Human Rights have found that transgender individuals

who suffered public accommodations discrimination are covered under the D.C. Human Rights Law's provision against discrimination on the basis of personal appearance (and possibly also on the basis of sex and/or sexual orientation). See Letter of Determination, *Budd v. D.C. Dept. of Corrections*, Docket No. 97-280-PA (Dept. of Human Rights and Local Business Development, March 12, 1999) (finding probable cause that respondent's policy barring cross dressed males from admission to corrections facility visiting areas constituted unlawful discriminatory practice based on complainant's appearance, sex, and sexual orientation); and Letter of Determination, *Hammond v. D.C. Dept. of Corrections*, Docket No. 97-281-PA (Dept. of Human Rights and Local Business Development, March 12, 1999) (same).

82. For more information on this case, see the Gay and Lesbian Activists Alliance of Washington, D.C. web site at <http://www.glaa.org>.
83. Report of the District of Columbia Task Force on Sexual Orientation and the Legal Workplace, March 1999, Vol. I, pp. 21-22.
84. Brett Beemyn, "Gender identity in Iowa City," private email communication to Paisley Currah, 28 August 1999.
85. Testimony of Lyone Fein at the Iowa City public hearing on amending the Iowa City human rights ordinance to include gender identity. September 26, 1995.
86. Interviews conducted by Paisley Currah by telephone, during the summer of 1999.
87. In New Orleans, some local legislators were so fearful that the local law might be misinterpreted to protect a "man in a dress" that they insisted on adding broad exclusionary language. The New Orleans exemption states, "Nothing in this Chapter shall prohibit an employer from prohibiting cross-dressing in the workplace or while an employee is acting in the course and scope of his or her employment." Then it adds an exemption to the cross-dressing exemption:

"Cross-dressing" shall not be deemed to include the regular wearing of clothing, cosmetics, footwear and or other accouterments which is appropriate to the gender other than his or her biological or legal gender at birth with which an employee or applicant identifies if the employee or applicant provides the employer with the written statement of a licensed doctor or other health care professional certifying that the employee or applicant presents the characteristics of gender identification disorder or another similar status or condition and that the employee or applicant intends prospectively to attire and conduct himself or herself for the foreseeable future in the employee's employment and workplace or workplaces in the manner appropriate for persons of the gender with which he or she identifies. (New Orleans Ordinance No. 18794, passed July, 1998.)

This cross-dressing exclusion appears to limit employment protection to those under a doctor's care, because it requires the employee to provide a written statement certifying that he or she "presents the characteristics of gender identification disorder." As New Orleans' transgendered activist Courtney Sharp, noted, "Better language could have been used to accomplish this goal."

88. Louisville Ordinance No. 9, series 1999, passed February 1, 1999. Lexington Ordinance No. 201-99, passed July 1999.
89. Louisville Ordinance No. 9, series 1999, passed February 1, 1999. Lexington Ordinance No. 201-99, passed July 1999.



90. *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989). For a discussion of why existing non-discrimination law should apply to transgendered people, see Jennifer Levi, "Protection Against Discrimination for Transgendered People." (See Resources.)
91. Kristin Dizon, "City Council Faces Human Rights Vote," *Boulder Daily Camera*, July 20, 1999.
92. Mike Mills, "City of Boulder Ponders Transgendered Rights," from *CU Out & About*, a quarterly GLBT newsletter put out by the University of Colorado GLBT Resource Center, Fall 1999.
93. Kristin Dizon, "City Council Faces Human Rights Vote," *Boulder Daily Camera*, July 20, 1999.
94. Halle Shilling, "Gender Identity Discussed," *Boulder Daily Camera*, August 17, 1999.
95. Jefferson County Ordinance No. 36, Series 1999, adopted October 12, 1999.
96. Unfortunately, on March 10, 2000, a trial court judge in Louisville, Kentucky ruled that Jefferson County's ordinance does not apply to Louisville or any of the other 90 municipalities in the county, but only to unincorporated areas of Jefferson County. The American Center for Law and Justice has filed a federal lawsuit against both the city and the county ordinance.
97. Compliance Guidelines to Prohibit Gender Identity Discrimination, City and County of San Francisco Human Rights Commission [[http://www.ci.sf.ca.us/sfhumanrights/tg\\_guide.htm](http://www.ci.sf.ca.us/sfhumanrights/tg_guide.htm)].
98. Memorandum on "Gender Variance Anti-Discrimination Ordinance Considerations" from Joseph N. de Raismes, III, City Attorney to William R Toor, Mayor, Members of the City Council, Ronald A. Secrist, City Manager, December 20, 1999, [<http://www.ci.boulder.co.us/clerk/previous/list/000201/10.htm>].
99. See Jane Mansbridge, *Why We Lost the ERA* (Chicago: University of Chicago Press, 1986).
100. Memorandum on "Gender Variance Anti-Discrimination Ordinance Considerations" from Joseph N. de Raismes, III, City Attorney to William R Toor, Mayor, Members of the City Council, Ronald A. Secrist, City Manager, December 20, 1999, [<http://www.ci.boulder.co.us/clerk/previous/list/000201/10.htm>].
101. Compliance Guidelines to Prohibit Gender Identity Discrimination, City and County of San Francisco Human Rights Commission, December 10, 1998, [[http://www.ci.sf.ca.us/sfhumanrights/tg\\_guide.htm](http://www.ci.sf.ca.us/sfhumanrights/tg_guide.htm)].
102. Interview with Paisley Currah, November 1999.
103. Courtney Sharp, email communication to Paisley Currah, July 1999.
104. Luin Wang, "The Transforming Power of 'Hate': Social Cognition Theory and the Harms of Bias-Related Crime," 71 *S. Cal. L. Rev.* 47 n.53 at 119-120 (1997).

## VI. Hate Crimes Laws

105. For an overview of anti GLBT violence, see "Anti-Lesbian, Gay, Bisexual and Transgender Violence in 1998," A Report of the National Coalition of Anti-Violence Programs, 1999, [<http://www.avp.org>]. For more information on hate violence committed against transgendered and gender variant people, see Noelle Howey, "Boys Do Cry," *Mother Jones Magazine*, March 22, 2000; Lisa Meyer, "The Hidden Hate Epidemic," *The Advocate*, May 25, 1999;

- and Dallas Denny and Margaux Ayn Schaffer, "Violence Against Transgendered Persons: An Unrecognized Problem," *The Advocate*, April 1992, [<http://www.gender.org/aegis/other/editorials/violence.html>]; Tarynn M. Witten and A. Evan Eyler, "Anti-transgender Violence: The 'Invisible Human Rights Violation,'" *Peace Review: An International Quarterly*, (1999).
106. Gwendolyn Ann Smith, "Remembering Our Dead," [<http://gender.org/remember/about/core.html>].
107. Carrie Davis, "Trans Safety and Violence," [[http://www.gpac.org/speeches/safety\\_speech.html](http://www.gpac.org/speeches/safety_speech.html)].
108. Tarynn M. Witten and A. Evan Eyler, "Anti-transgender Violence: The 'Invisible Human Rights Violation,'" *Peace Review: An International Quarterly*, (1999).
109. Riki Anne Wilchins, "IYF - Editorial From Genderpac's Executive Director," [<http://www.gpac.org/iyf/html/iyf144.html>].
110. Darren Lenard Hutchinson, "Ignoring the Sexualization of Race: Heteronormativity, Critical Race Theory and Anti-Racist Politics," *47 Buffalo Law Review* 1, 23 (Winter, 1999).
111. Two federal hate crime-related statutes include sexual orientation. The Hate Crime Statistics Act, which became law in 1990, requires the Justice Department to collect information from state and local law enforcement officials about crimes which "manifest prejudice based on race, religion, sexual orientation, or ethnicity." (Disability was included in a 1994 amendment.) Sexual orientation is defined in this statute as "consensual homosexuality or heterosexuality." (28 U.S.C. 534.) The Hate Crimes Sentencing Enhancement Act, which became law in 1994, directed the U.S. Sentencing Commission to mandate increased sentences for hate crimes, including crimes committed because of the actual or perceived gender or sexual orientation of the victim. These increased sentences, however, apply only to hate crimes committed in national parks or on federal property. (Section 280003 of the Violent Crime Control and Law Enforcement Act of 1994.) Neither of these statutes explicitly include trans people, though it is possible in the future that courts will interpret "actual or perceived gender or sexual orientation" to cover hate crimes against transgendered people.
112. Minnesota Statutes, Section 611A.79 (Civil damages for bias offenses). California: Assembly Bill No. 1999. Vermont: "An Act Relating to Injunctions Against Hate-Motivated Crimes," S. 45, signed into law June 1, 1999, effective July 1, 1999. Missouri: Senate Bill 328, signed by into law by Governor, July 1, 1999.
113. District of Columbia Code, Title 22, Chapter 40 (including personal appearance, sexual orientation, and sex).
114. See endnote 53.
115. Hector Vargas, email communication to Paisley Currah and Shannon Minter, March 8, 2000.
116. Recently the GLBT community has engaged in more nuanced discussions of hate crimes legislation in light of the racial and class biases of the criminal justice system and the potentially problematic nature of the focus on punishment over prevention embodied in hate crimes legislation. Some are arguing for the prioritization of anti-homophobia and anti-transphobia education to make people less likely to engage in anti-GLBT hate violence. Others are speaking out against hate crimes legislation as a remedy for anti-GLBT violence.

## VII. Alternative Routes

117. Executive Order Number Seven, September 14, 1999.
118. Kim Mills, "The State of the Workplace for Lesbian, Gay, Bisexual, and Transgendered Americans," Human Rights Campaign, 1999, [<http://www.hrc.org/worknet/>].
119. It's Time, Illinois! Press Release, "Congresswoman Schakowsky Extends Personnel Policy to Include Gender Variance," [<http://www.itstimeil.org/newsletters/itil9907.html#101>].
120. It's Time, Massachusetts!, "Trans at Work," [http://www.tgender.net/itma/at\\_work.htm](http://www.tgender.net/itma/at_work.htm)].
121. Unions could also play an important role in promoting equality for transgendered people in the workplace, as employers themselves, and as advocates for employees through the collective bargaining process. For example, in 1999, Donna Cartwright, a member of the Newspaper Guild, asked that union's human rights committee to extend its commitment to non-discrimination to include transgendered people. As a result, the Newspaper Guild amended its human rights policy statement to state: "In all aspects of union activity it is our commitment to create a culture of respect and tolerance and a workplace free of discrimination because of irrelevant factors such as race, religion, ethnicity, language, sex, age, sexual orientation, gender expression, disability, family, parental, marital, immigration or citizenship status."
122. Deirdre McCloskey's description of coming out as a transsexual woman are taken from a video, "Transgender: The Law and Employers," produced by the City of Iowa City Human Rights Commission. It is also described in her memoir, *Crossing* (Chicago: University of Chicago Press, 1999).
123. Rutgers policy is stated in a letter from Joseph Seneca, Rutgers Vice President for Academic Affairs, to Executive Committee of the University Senate, January 6, 1998.
124. *Pitchweekly*, Dec. 10-16, 1998, [<http://www.gender.org/news/kansas.txt>].
125. Seth Persily, "Transgender Students Seek Change in Harvard Policy," *Harvard Law Record*, March 7, 1997, [[http://www.law.harvard.edu/studorgs/lambda/l\\_transg.html](http://www.law.harvard.edu/studorgs/lambda/l_transg.html)].
126. Interview with Paisley Currah, 27 June 1999.

# Resources

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## GENERAL REFERENCE MATERIAL

Boenke, Mary, ed. *Trans Forming Families: Real Stories About Transgendered Loved Ones*. Imperial Beach, CA: Walter Troom Publishing, 1999.

Bornstein, Kate. *Gender Outlaw—On Men, Women and the Rest of Us*. New York: Routledge, 1994.

Brown, Mildred L. and Rounsley, Chloe Ann. *True Selves: Understanding Transsexualism*. San Francisco: Jossey-Bass Publishers, 1996.

Califa, Pat. *Sex Changes: The Politics of Transgenderism*. San Francisco: Cleis Press, 1997.

Cameron, Loren. *Body Alchemy: Transsexual Portraits*. San Francisco: Cleis Press, 1996.

Chase, Cheryl. "Hermaphrodites with Attitude: Mapping the Emergence of Intersex Activism." *GLQ: A Journal of Gay and Lesbian Studies*, Vol. 4, No. 2 (1998), pp. 189-211.

Cromwell, Jason. *Transmen and Ftms : Identities, Bodies, Genders, and Sexualities*. Chicago: University of Illinois Press, 1999.

Dreger, Alice Comurat. *Intersex in the Age of Ethics*. Hagerstown: University Publishing Group, 1999.

Feinberg, Leslie. *Transgender Warriors: Making History from Joan of Arc to RuPaul*. Boston: Boston, 1996.

Israel, Gianna E. and Tarvel, Donald E. *Transgender Care: Recommended Guidelines, Practical Information and Personal Accounts*. Philadelphia: Temple University Press, 1997.

Kessler, Suzanne J. *Lessons from the Intersexed*. New Brunswick: Rutgers University Press, 1998.

McCloskey, Deirdre N. *Crossing*. Chicago: University of Chicago Press, 1999.

More, Kate and Whittle, Stephen. *Reclaiming Genders: Transsexual Grammars at the Fin de Siècle*. London and New York: Cassell, 1999.

Smith, Gwendolyn. *Remembering Our Dead* website at <http://www.gender.org/remember/>.

Wilchins, Riki Anne. *Read My Lips: Sexual Subversion and the End of Gender*. Ithaca, NY: Firebrand Books, 1997.

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## LEGAL AND POLITICAL ADVOCACY

Bergstedt, Spencer. *Translegalities: A Legal Guide for MTFs*; and *Translegalities: A Legal Guide for FTMs*. These publications may be ordered for \$25 by emailing Spencer Bergstedt at [MstrSpence@aol.com](mailto:MstrSpence@aol.com).

City and County of San Francisco Human Rights Commission. Compliance Guidelines to Prohibit Gender Identity Discrimination. [[http://www.ci.sf.ca.us/sfhumanrights/tg\\_guide.htm](http://www.ci.sf.ca.us/sfhumanrights/tg_guide.htm)].

Cole, Dana. *The Employer's Guide to Gender Transition*. Wayland, MA: International Foundation for Gender Identification, 1992.

Coles, Matthew. *Try This At Home: A Do-It-Yourself Guide to Winning Lesbian and Gay Civil Rights*. New York: New Press, 1996. (Note: No discussion of transgender issues, but a good general resource for lobbying for ordinances at the local level.)

Cope, Allison and Darke, Julie. "Trans Accessibility Project: Making Women's Shelters Accessible to Transgendered Women." To get a copy, email Juliet Darke at [jdarke@kos.net](mailto:jdarke@kos.net).

Currah, Paisley. *Gender Law and Policy Page*. (Updates of the legislative material in this handbook and selected articles.) [<http://www.genderlaw.org>].

Currah, Paisley and Minter, Shannon. "Unprincipled Exclusions: The Struggle for Legislative and Judicial Protections for Transgendered People." *College of William and Mary Journal of Women and the Law* (forthcoming in 2000).

Denny, Dallas. "Transgendered Youth at Risk for Exploitation, HIV, Hate Crimes." [<http://www.gender.org/aegis/index.html>].

The Gay Lesbian & Straight Education Network and the ACLU Lesbian & Gay Rights Project. "Adding Sexual Orientation & Gender Identity To Discrimination & Harassment Policies In School." [<http://www.glsen.org/pages/sections/news/alerts/glac.html>].

GenderPAC Position Paper. "Including Gender Protection in ENDA." [[http://www.gpac.org/empdis/enda\\_position.html](http://www.gpac.org/empdis/enda_position.html)].

Green, Jamison. *Investigation into Discrimination Against Transgendered People, A Report by the Human Rights Commission, City and County of San Francisco*, September, 1994. [[www.ci.sf.ca.us/sfhumanrights/lg\\_info.htm](http://www.ci.sf.ca.us/sfhumanrights/lg_info.htm)].

Horton, Mary Ann. *Transgender at Work*. (Substantial internet resources.) [<http://www.tgender.net/taw/>].

Iowa City Human Rights Commission. "Transgender: The Law and Employers" (edu-

cational video). The check for \$50 should be made out to the City of Iowa City and sent to City of Iowa City, Attn: Heather Shank, 410 East Washington Street, Iowa City, Iowa 52240. Or call 319-356-5022.

International Bill of Gender Rights. Adopted June 17, 1995 in Houston Texas. [<http://www.altsex.org/transgender/ibgr.html>].

Intersex Society of North America. "Recommendations for Treatment Intersex infants and children." [<http://www.isna.org/recommendations.html>].

Intersex Society of North America. "Hypospadias Surgery: a parent's guide." [<http://www.isna.org/hypospadias.html>].

The International Conference on Transgender Law and Employment Policy, Proceedings I-V. (Transcribed presentations and appended papers dealing with the multitude of legal challenges faced by transgendered people, along with strategies for progressive change in the law.) Order forms at <http://www.abmall.com/ictlep/procord.html>.

*Investigative Reports: Transgender Revolution*. (Video on transgender civil rights issues that aired on Arts & Entertainment Channel.) Available from the A&E store, at <http://www.aetv.com>, for \$19.95.

It's Time, Illinois. "Discrimination and Hate Crimes Against Transgendered People in Illinois." [<http://itstimeil.org/reports.html>].

It's Time, Illinois. "Guide to TG Rights." [<http://itstimeil.org/publications.html>].

It's Time, Massachusetts. "Equality Principles on Gender Variance." [<http://www.tgender.net/itma/files/principles.htm>].

Kirk, Sheila and Rothblatt, Martine. *Medical, Legal & Workplace Issues for the Transsexual*. Blawnox, PA: Together Lifeworks, 1995.

Levi, Jennifer. "Protection Against Discrimination for Transgendered People." Available from Gay & Lesbian Advocates & Defenders, 294 Washington Street, Suite 740, Boston, MA 02108. Tel: 617-426-1350. Email: [gladlaw@glad.org](mailto:gladlaw@glad.org).

Minter, Shannon. "Discrimination Against Transgendered People: A Summary of Existing Case Law." Available from the National Center for Lesbian Rights, 870 Market Street, Suite 570, San Francisco, CA 94102, 415-392-6257, or at <http://www.genderlaw.org>.

Minter, Shannon. "Issues for Transgendered Parents." Available from the National Center for Lesbian Rights (\$20), 870 Market Street, Suite 570, San Francisco, CA 94102, 415-392-6257.

New York Association for Gender Rights Advocacy. "Terms and Definitions." [<http://www.nyagra.org/policy/>].

Priesing, Dana. "Transgenderism and Transition In The Workplace." Human Rights Campaign Worknet [<http://www.hrc.org/issues/workplac/data.html>].

de Raimes, Joseph N., Boulder City Attorney. Memorandum "Gender Variance Anti-Discrimination Ordinance Considerations." December 20, 1999. [<http://www.ci.boulder.co.us/clerk/previous/list/000201/10.htm>].

Seattle Commission for Sexual Minorities. "Policy and Legislative Recommendations Concerning Transgendered Citizens in Seattle." May 1999 [<http://www.ci.seattle.wa.us/scsm/transgender.html>].

van der Meide, Wayne. *Legislating Equality: A Review of Laws Affecting Gay, Lesbian, Bisexual, and Transgendered People in the United States*, New York: Policy Institute of the National Gay and Lesbian Task Force, January 2000. [<http://www.nglftf.org/library/index.cfm>].

Xavier, Jessica. "TS Feminism and TG Politicization." [<http://www.tgender.net/ita/>].

Xavier, Jessica. "A Transgender Primer" and "Media Guide: Some Basic Guidelines When Covering Transgendered Individuals in Stories." Transgendered Nation and Washington D.C. PFLAG [<http://www.critpath.org/pflag-talk/tgprimer.htm>].

Walworth, Janis. *Transsexual Workers: An Employer's Guide*. Los Angeles: Center for Gender Sanity, 1998.

Walworth, Janis. *Working with a Transsexual: A Guide for Coworkers*. Los Angeles: Center for Gender Sanity, 1998.

Witten, Tarynn M and Eyler, A. Evan. "Anti-transgender Violence: The 'Invisible' Human Rights Violation." *Peace Review: An International Quarterly* (1999).

Whittle, Stephen. *The Transgender Debate: The Crisis Surrounding Gender Identities*. Garnet Publishing Ltd, 2000.

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## RESOLUTIONS AND STATEMENTS OF SUPPORT

The American Public Health Association (APHA) passed a resolution in support of transgendered and intersexed people at its 1999 national meeting the Governing Council of Governing Council. The full text of the resolution 9933 can be found in the March 2000 American Journal of Public Health, Vol. 90(3), pages 482-484 or at <http://www.apha.org/legislative/policy/99policy.pdf>, pages 34-36.

The National Association of Social Workers passed a resolution on "Transgender and Gender Identity Issues" at its annual meeting in 1999. This statement has been published in the fifth edition of Social Work Speaks.

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## ORGANIZATIONS & MEDIA

*This is a partial list of transgender and transgender-friendly advocacy organizations.*

American Boyz is "a support and social group for people who were born female but who feel that is not a complete or accurate assessment of who they are (FTMs) and our significant others, friends, families and allies (SOFFAs)." Also organizer of the annual True Spirit FTM conference 212A South Bridge Street, PMB 131, Elkton, MD, 21921. (410) 392-3640. At <http://www.amboyz.org/>.

COLLEAGUES "is an umbrella organization of workplace GLBT groups, which puts

on the Out 'n Equal conference each year,” the Out & Equal Leadership Summit. This summit brings “together HR professionals, LGBT workplace leaders, network group members and individuals to address the compelling workplace challenges and opportunities facing people in the workplace today.” At <http://www.outnequal.org/>.

The Federation of Statewide Lesbian, Gay, Bisexual, and Transgender Organizations, coordinated by the National Gay and Lesbian Task Force, “is an association of state groups focused on legislative reform and grassroots organizing.” At <http://www.nglftf.org/statelocal/federation.cfm>.

FTM International is “the largest, longest-running educational organization serving FTM transgendered people and transsexual men.” Publishes a quarterly newsletter. 1360 Mission St., Ste. 200, San Francisco CA 94103. (415) 553-5987. TSTGMen@aol.com. At <http://www.ftm-intl.org>

Gay & Lesbian Advocates & Defenders (GLAD) is a non-profit legal organization that advocates for lesbian, gay, bisexual, and transgendered people through education and impact litigation in the New England area. 294 Washington Street, Suite 740, Boston, MA 02108. Tel: 617-426-1350. Email: [gladlaw@glad.org](mailto:gladlaw@glad.org). At <http://www.glad.org>.

The Gay & Lesbian Alliance Against Defamation (GLAAD) “is dedicated to promoting and ensuring fair, accurate, and inclusive representation of individuals and events in all media as a means of eliminating homophobia and discrimination based on gender identity and sexual orientation.” Email: [glaad@glaad.org](mailto:glaad@glaad.org). Tel: 800.GAY.MEDIA. At <http://www.glaad.org>.

The Gay Lesbian & Straight Education Network (GLSEN) “strives to assure that each member of every school community is valued and respected, regardless of sexual orientation.” GLSEN National Office, 121 West 27th St., Ste. 804, New York, NY, 10001. Tel 212-727-0135. Fax 212-727-0254. E-mail: [glsen@glsen.org](mailto:glsen@glsen.org). At <http://www.glsen.org>.

Gender Education and Advocacy (GEA) is “a national organization focused on the needs, issues, and concerns of gender variant people in human society,” advocating and educating on behalf of “all human beings who suffer from gender-based oppression.” GEA is working to provide an array of information services, educational materials, advocacy training and technical assistance of the highest quality. The American Educational Gender Information Service (AEGIS), a nonprofit clearinghouse for information about transgender and transsexual issues that published the journal *Chrysalis: The Journal of Transgressive Gender Identities*, and *The Transgender Treatment Bulletin*, and various other materials, is now part of GEA. At <http://www.gender.org>.

GenderPAC is a national organization working on the federal level “to guarantee every American's civil right to express their gender orientation free of stereotypes, discrimination and violence.” At <http://www.gpac.org>.

GenderTalk Radio “is the only worldwide weekly radio program that talks about transgenderism in the first person. Each week we present news, information, and exciting new voices that challenge our traditional view of gender.” Hosted by Nancy Nangeroni. More information about GenderTalk Radio can be found on the internet at <http://www.gendertalk.com/>.



The Harry Benjamin International Gender Dysphoria Association, Inc. (HBIIGDA) “is a professional organization devoted to the understanding and treatment of gender identity disorders. HBIIGDA provides opportunities for scientific interchange among professionals through its biennial conferences and publications. HBIIGDA develops and publishes Standards of Care for the treatment of gender identity disorders. These standards are internationally accepted guidelines, designed to promote the health and welfare of persons with gender identity disorders.” For further information, contact Bean Robinson, PhD, Executive Director, 1300 South Second Street, Suite 180, Minneapolis, MN 55454 USA. Tel: 612-625-1500. Fax: 612-626-8311. E-mail: hbigda@famprac.umn.edu. At <http://www.hbigda.org/>.

The International Conference On Transgender Law And Employment Policy addresses legal aspects of gender identity, generally on the national level. P.O. Drawer 1010, Cooperstown, NY 13326. (607) 547-4118. At <http://www.abmall.com/ictlep>.

The International Foundation for Gender Education (IFGE) founded in 1987, is an “advocate and educational organization for promoting the self-definition and free expression of individual gender identity. IFGE is not a support group, it is an information provider and clearinghouse for referrals about all things which are transgressive of established social gender norms.” IFGE maintains a bookstore on the subject of transgenderism available and publishes Transgender Tapestry, “the leading magazine providing reasoned discussion of issues of gender expression and identity, including cross-dressing, transsexualism, FTM and MTF issues spanning health, family, medical, legal, workplace issues and more.” Email: [info@ifge.org](mailto:info@ifge.org). Tel: (781) 899-2212. Fax: (781) 899-5703. IFGE, P.O.Box 540229, Waltham, Ma 02454-0229. At <http://www.ifge.org/>.

The Intersex Society of North America (ISNA) is an education, advocacy, and peer support organization which works to create a world free of shame, secrecy, and unwanted surgery for intersex people (individuals born with anatomy or physiology which differs from cultural ideals of male and female). PO Box 3070, Ann Arbor, MI 48106-3070, Fax (734) 994-7379. Email: [info@isna.org](mailto:info@isna.org). At <http://www.isna.org>.

It's Time, America! (ITA!) is a grassroots civil rights group seeking to secure and safeguard the rights of all transgendered persons. At <http://www.tgender.net/ita>. Links to all the ITA state chapters and affiliates may be found on this site. See especially, It's Time, Illinois' website at <http://itstimeil.org/>, and It's Time, Massachusetts' site at <http://www.tgender.net/itma/>. Both have excellent advocacy resources.

The National Center for Lesbian Rights (NCLR) is a national non-profit legal organization that advocates for lesbian, gay, bisexual, and transgendered people through impact litigation and public policy advocacy. You may contact NCLR at 870 Market Street, Suite 570, San Francisco, CA 94102; at <http://www.nclrights.org>. Phone: 415-392-6257. E-mail: [info@nclrights.org](mailto:info@nclrights.org)

The National Gay and Lesbian Task Force (NGLTF) is “the national progressive organization working for the civil rights of gay, lesbian, bisexual and transgendered people. NGLTF's vision and commitment to social change is building a powerful political movement in the fifty states and the District of Columbia.” 1700 Kalorama Road NW, Washington, DC 20009-2624. (202) 332-6483. At <http://www.nglftf.org>.

The National Transgender Advocacy Coalition (NTAC) is a federal-level lobbying organization, founded 1999, that focuses at present on the inclusion of transgendered

people in the Employment Non-Discrimination Act. At <http://www.ntac.org/>.

The New York Association for Gender Rights Advocacy (NYAGRA) “is a membership organization that advocates at the state and local level for self-determination in gender expression and identity” in New York State. P.O. Box 524, Ithaca, NY 14851-0524. Email: [nyagra@nyagra.org](mailto:nyagra@nyagra.org). At <http://www.nyagra.org>.

Parents and Friends of Lesbians and Gays (PFLAG) is “a national non-profit organization with a membership of over 77,000 households and more than 425 affiliates worldwide. PFLAG promotes the health and well-being of gay, lesbian, bisexual and transgendered persons, their families and friends through: support, to cope with an adverse society; education, to enlighten an ill-informed public; and advocacy, to end discrimination and to secure equal civil rights.” 1726 M Street, NW, Suite 400, Washington, DC 20036. (202) 467-8180. At <http://www.pflag.org>.

Press for Change (PFC) “is a political, lobbying and educational [group] which campaigns to achieve equal civil rights and liberties for all transgendered people in the United Kingdom, through legislation and social change.” PFC’s website, at <http://www.pfc.org.uk/>, has very comprehensive resources and is a model of advocacy.

The Renaissance Transgender Association, Inc provides “comprehensive education and caring support to transgendered individuals and those close to them. This is accomplished through offering a variety of carefully selected programs and resources focused on the factors affecting their lives. “ This organization “publishes a monthly magazine, Transgender Community News, that provides an open forum for discussion of gender-related social, political and legal issues, as well as basic information about events within the transgender community.” At <http://www.ren.org/>.

The Survivor Project is a non-profit organization dedicated to addressing the needs of trans and intersex survivors of sexual assault, rape, or domestic violence through caring action, education, and expanding access both to resources for those in need and to opportunities for action. At <http://www.survivorproject.org/>.

Transsexual Menace International is “a growing group of transgendered (and non-transgendered) people who see problems and want to find solutions.” At <http://www.helenavelena.com/tsmenace/index.htm>.

Transgender Aging Network is a resource network and written materials about trans elders, including papers relating to abuse. 49 Canterbury Circle, Vallejo, CA 94591. Email: [LoreeCD@aol.com](mailto:LoreeCD@aol.com).

# Contributors

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## Thanks to our current Policy Institute Funders:

|   |                          |
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| Ford Foundation                             | Open Society Institute   |
| Gameworks                                   | Skip Paul                |
| David Geffen Foundation                     | James Pepper             |
| The Gilmour Fund                            | Tina Podlowski           |
| Joyce Mertz Gilmore Foundation              | Nancy Polikoff           |
| Gill Foundation                             | Steve Rabin              |
| Brook Glaefke                               | Paul Rapoport Foundation |
| Polly Howells                               | Anita May Rosenstein     |
| Billie Jean King Foundation                 | Allen Schuh              |
| Lesbian Equity Foundation of Silicon Valley | Ronald Schwartz          |
| Albert A. List Foundation                   | Jeffrey Z. Slavin        |
| Amy Mandel & Katina Rodis                   | Small Change Foundation  |
| The Mandel Family Foundation                | Jeff Soref               |
| Stanley Newman                              | Paula Sparti             |
| The NewPol Foundation                       | Ric Weiland              |
| New York Community Trust                    | Kevin Wendle             |
|   | Richard Winger           |

## Acknowledgements

*This publication would not have been possible without the contributions of many people: the trans activists and allies whose efforts animate the entire paper, the reviewers and editors who so kindly lent their time and advice, and the staff at the National Center for Lesbian Rights and the National Gay and Lesbian Task Force who supported this project. The authors especially want to thank:*

Penni Ashe, Monica Barrett, Brett Beemyn, Spencer Bergstedt, Marsha Botzer, Lori Buckwalter, Sean Cahill, Donna Cartwright, Cheryl Chase, F.M. Chester, Dan Farrell, Phyllis Frye, Robin Gilbrecht, Alexander Goodrum, Imani Henry, Mary Ann Horton,

Kim Coco Iwamoto, Kate Kendall, Susan Kimberly, Christa Kriesel, Kerry Lobel, Jennifer Levi, Gordene MacKenzie, Deirdre McCloskey, Barbara Metzger, Michael Mills, Nancy Nangeroni, Pauline Park, Joann Prinzivalli, Dana Priesing, Jason Riggs, Liz Seaton, Heather Shank, Courtney Sharp, Diana Slyter, Sen. Allan Spear, Miranda Stevens-Miller, Bob Summersgill, Urvashi Vaid, Wayne van der Meide, Hector Vargas, Riki Wilchins, Dawn Wilson, Kathy Wilson, Tarynn Witten, Billijo Wolf, Jessica Xavier.

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# Membership

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- An opportunity to join with tens of thousands of gay, lesbian, bisexual, transgendered people and friends who support the movement for freedom, justice and equality for all!
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## Did you know?

**1973**

NGLTF works to change the American Psychiatric Association (APA) classification of homophobia as a mental illness.

**1975**

NGLTF works on the introduction of the first gay rights bill in the U.S. Congress, sponsored by Representative Bella Abzug.

**1982-1984**

NGLTF creates a national organizing project to combat anti-gay violence, publishes reports, surveys and data on hate crimes, and gains major recognition of problem.

**1983-1982**

NGLTF's leadership on HIV and AIDS policy making at the national level contributes to passage of major funding bills, Ryan White AIDS Care Act, and scores of other national policies.

**1989**

NGLTF establishes the only national Campus Organizing Project to improve the quality of life for GLBT people on campus; publishes comprehensive manual on campus issues in 1997.

**1990**

NGLTF secures passage of Federal Hate Crimes Statistics Act.

**1980, 1984, 1988, 1992, 1996**

NGLTF promotes gay, lesbian, bisexual and transgender civil rights, visibility and participation in national elections.

## National Gay and Lesbian Task Force

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*bestsellers*

## Out and Voting II

THE GAY, LESBIAN, AND BISEXUAL VOTE  
IN CONGRESSIONAL ELECTIONS, 1990-1998

This report is an in-depth profile of the gay, lesbian, and bisexual (GLB) voting bloc and the first-ever analysis of the impact of this emerging constituency in national congressional elections. The report was authored by Dr. Robert Bailey of the Rutgers University School of Public Policy and Administration. Among the report's findings: out GLB voters comprise roughly 5% of the national electorate, 8.8% of voters in cities of 500,000 or more, 7.2% of the vote in cities of 50,000 - 500,000, 3.7% of the suburban vote, and 2.3% of the rural vote. (January 2000; 54 pp; \$10.00; [www.nglhf.org/pub.html](http://www.nglhf.org/pub.html))

## What's at Stake

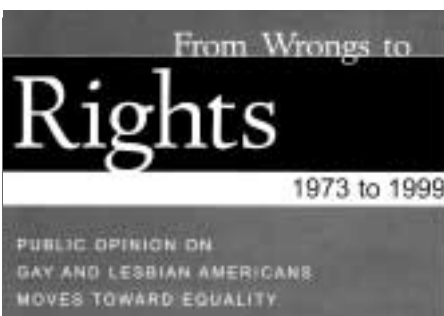
FOR THE GAY, LESBIAN, BISEXUAL,  
AND TRANSGENDER COMMUNITY  
IN THE 2000 PRESIDENTIAL ELECTIONS

The major candidates' statements and votes on 6 key issues—hate violence, discrimination, parenting, partnerships and marriage, health care, and military service—are presented along with data and research to contextualize these policy debates. Although in the past decade the US has become much more supportive of equality for GLBT people, many presidential candidates are acting as if the country hasn't changed a bit. Written by Policy Institute Research and Policy Director Sean Cahill. (January 2000; 56pp; \$10.00; [www.nglhf.org/pub.html](http://www.nglhf.org/pub.html))

## Legislating Equality

A REVIEW OF LAWS AFFECTING  
GAY, LESBIAN, BISEXUAL, AND TRANSGENDERED  
PEOPLE IN THE UNITED STATES

This comprehensive report, written by Policy Institute Research Fellow Wayne van der Meide, provides the most extensive description to date of local, county and state laws addressing GLBT equality. This report is an invaluable tool for activists, journalists and policymakers who require reliable facts on laws affecting GLBT people but lack the time, resources or desire to conduct primary research. (January 2000; 96 pp; \$10.00; [www.nglhf.org/pub.html](http://www.nglhf.org/pub.html))



This groundbreaking report, written by Alan Yang of the Department of Political Science at Columbia University, tracks public opinion trends over the last 26 years on various gay and lesbian rights issues including: employment and housing non-discrimination, family issues, marriage, adoption, and the military. (December 1999; 32pp; \$10.00; [www.nglhf.org/downloads/yang99.pdf](http://www.nglhf.org/downloads/yang99.pdf))



This manual, written by Policy Institute Research Fellow Sally Kohn, provides comprehensive information on what domestic partnership benefits are, why employers should adopt these benefits, and how employees and citizens organize effectively for policy change. Sample policies and lists of who offers domestic partnership benefits are included. (May 1999; 140pp; \$10.00; [www.nglhf.org/pubs/dp\\_pubs.html](http://www.nglhf.org/pubs/dp_pubs.html))

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## Income Inflation

### THE MYTH OF AFFLUENCE AMONG GAY, LESBIAN, AND BISEXUAL AMERICANS

This report, by Professor M.V. Lee Badgett, of the Department of Economics at the University of Massachusetts at Amherst, explores the pervasive and inaccurate notion that GLB people form an economic elite, insulated from discrimination by their wealth and disconnected from society at large by a special, privileged status. After examining data from seven different surveys, she finds that none support this stereotype. (November 1998; 23pp; \$10.00; [www.nglhf.org/downloads/income.pdf](http://www.nglhf.org/downloads/income.pdf))

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### HOW THE EX-GAY MOVEMENT SERVES THE RIGHT'S ATTACK ON DEMOCRACY

This report documents that the ex-gay movement serves as a camouflage for a retooled and reinvigorated assault by the religious right on legal anti-discrimination protections for gay, lesbian, bisexual, and transgender persons. Calculated Compassion is a joint publication of NGLTF, Political Research Associates, and Equal Partners in Faith. (October 1998; 30pp; \$6.00; [www.nglhf.org/downloads/calcomp.pdf](http://www.nglhf.org/downloads/calcomp.pdf))

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