
NON-TS TRANSGENDERED PEOPLE

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REPORT FROM THE WORKSHOP, NON-TS TRANSGENDERED PEOPLE

Workshop on special issues and legal needs of transgendered people who are not transsexual - crossdressers, female impersonators, and others whose apparent gender may differ from their physical sex.

Report on Panel Presentation

Panel Members:

Jennifer Ellsworth from the Royal, Sovereign and Imperial Court of the Single Star

Jackie Thorne of the Gulf Coast Transgender Community

Jane Ellen Fairfax, Tau Chi Chapter of Tri-Ess

Phyllis R. Frye, Attorney and Moderator

The panel was composed so as to provide a diverse range of non-transsexual transgendered people. Jennifer represented gay female impersonators, Jackie represented heterosexual female impersonators, Jane represented heterosexual crossdressers, and Phyllis provided the legal expertise and moderation of the panel.

By way of introduction, Jennifer mentioned the support the Imperial Court gives to the GLBT community, and the fund-raising work it does for AIDS. Jackie decried attempts to polarize the transgender community, and quoted from Benjamin Franklin: "We should all hang together, or surely we shall all hang separately." This concern with polarization in our community was to be a recurring theme of this session. Jackie also cited progress made in the relationship between our community and the police. In particular, she praised the efforts of Houston's former Police Chief Lee Brown and former Mayor Kathy Whitmire, who eliminated much of the problem with police officers harassing transgendered people.



Jackie Thorne, Gulf Coast Transgender Community

Jane described the heterosexual crossdressers as the Legal Conference's "black hole." "We are the folks," she stated, "who don't have any rights, and it's mostly our fault!" She attributed part of this sad state to a certain complacency caused by studies which indicate crossdressing per se to be non-pathological, and the new DSM-IV, which formalizes the results of those studies into the Manual for Psychological Diagnosis. This complacency is ill-justified, argued Jane, as she outlined the following basic issues of heterosexual crossdressers:

1) Even if ENDA goes into effect, it is still permissible to discriminate against crossdressers, as long as you don't discriminate on the basis of sexual orientation.

2) In the eyes of society, crossdressers are people without bladders or kidneys. They have no need to use the restroom when out in public. If they do, they are subject to legal sanctions.

3) Some employers are beginning to accommodate to the needs of transsexuals to transition on the job. Little, however, has been done to consider the needs of crossdressers who, to enjoy full freedom of gender expression, may want to "semi-transition" on the job.

4) We all remember the "sit-in" demonstrations blacks waged in previous decades in order to eliminate discrimination in public accommodations. Yet crossdressers can still be refused public accommodations, and are subject to discrimination in housing, just because they are dressed in the clothing of the opposite sex.

5) Government-employed crossdressers still face conflicts over security clearances. Some precedents have been set, but not nearly enough.

6) Because of social stereotypes that include crossdressing along with child abuse, crossdressers are subject to visits from Child Protective Service employees. In many areas, CPS workers are relatively untrained people who presume crossdressers guilty of child abuse until proven innocent. This has led to fears (in at least one Tri-Ess chapter), of allowing children at meetings. The behavior of Child Protective Service employees is poorly regulated.

To help themselves, Jane suggested that crossdressers get out more into the public, so that society will be forced to relate to them. She also urged that crossdressers' families, especially wives, become involved. Many wives believe that crossdressing is somehow "his thing." "It is also," Jane asserted, "your thing. The rights he does not have are rights you do not have." She also urged that if crossdressers do be-



(l) Phyllis R. Frye, Attorney, Executive Director, ICTLEP, Inc. and (r) Jane Ellen Fairfax, Tau Chi Chapter and Board Chair of Tri-Ess International

come involved in lawsuits against discrimination, they should set precedent rather than settle out of court. It is time to get IFGE, Tri-Ess, and other large support organizations involved in educating their members about obtaining legal rights. Further, Jane expressed the hope that all the Houston area support organizations could unite in a fund-raiser for this Transgen Legal Conference. Finally, hearing about the increasing number of "It's Time" organizations blooming in various states, led her to consider the possibility of an "It's Time, Tri-Ess" forming.

The Restroom Issue

Problem

In desiring to flesh out problems part-time people have, Phyllis opened discussion on the restroom issue. While many restroom laws have been stricken from the books, many still remain. These cause quite a number of conflicts. If entering the restroom of the opposite sex is illegal, how about the maintenance people who need to do upkeep on the restrooms? What about those who get permission from Building Management to use the restroom of the opposite sex? Some of these restroom laws carry a prohibition against entering a restroom in a manner "designed to create a disturbance." This language is vague, as was proved in the case of Denise Wells, a genetic female who faced a problem when her sex was not provided with sufficient restrooms at an athletic arena. Her acquittal was based on the fact that she entered the men's restroom out of need, and not in a manner designed to create a disturbance.

Proposed Solutions

How does one cope with these conflicting and often vague laws? Striking the central theme, Phyllis stressed that "the key is knowing what the law is. You don't want to get arrested." Further, she advised foresight. "Don't wait until the last minute. Go to the front desk and ask them which restroom to use, or where the restroom is."

The following means of coping were also suggested:

- 1) If you are in a group, go together en masse and use the men's room.
- 2) Women tend to use the restrooms in pairs. If you are married, use the ladies' room with your wife.
- 3) Go to a hospital supply store and get a urine bottle.
- 4) Help enact laws like the one in Denver cited by Diane Ciccotello, a law which protects against discrimination based on sex, sexual orientation, and gender. The effect of such a law is that no discrimination is allowed against anyone.
- 5) The question was raised as to why we need segregated restrooms. Transgendered people should work to break down this segregation.
- 6) Sometimes it pays to be assertive. Phyllis narrated her experience in which her university received complaints from five genetic women about her using the ladies' restroom. Phyllis replied that she would use only the three ladies' restrooms which were convenient to her study area and course work classrooms. The other five women could use all the other restrooms on campus.
- 7) Jackie suggested that public facilities have an obligation to provide for toilet needs. This is an area that might be litigated.

8) Sometimes explaining the problem will help. Jackie cited the instance of a club that did not allow transgendered people to use the ladies' room. When confronted, they modified the policy so that documented male-to-female transsexuals could use the ladies' room. To enforce the rule, this club had left two policemen outside the ladies' room. In accommodation, however, they had the policemen leave during designated "breaks."

Accompanying this discussion was an emphasis on the fact that transgendered people sometimes are their own worst enemies. Sometimes their actions make enemies of public facilities which otherwise might be willing to accommodate them. Sarah DePalma counseled against stupid behavior, such as ripping the wigs off others, extended bull shooting sessions with women at the mirror, and urinating with the feet pointed in the wrong direction. Jane cited multiple cases at transgender community events in which the hosting facility designated restrooms for the use of transgendered people. She advised that we follow the rules and avoid using these occasions for confrontation. If we behave in a mature and ladylike or gentlemanly manner, we will win friends and gain accommodation for our needs. Phyllis summed up the discussion by citing Right #4 in the Gender Bill of Rights, the right to a gendered space.

Divorce and Child Custody

Problem

What happens when a transgendered person and his/her spouse divorce? Often, the spouse's attorney attacks, using transgender behavior as a tool of intimidation to obtain a favorable property split or deny child custody and/or visitation.

Proposed Solutions

Phyllis stressed the importance of the first hearing, in which the judge enters a preliminary order for child support and visitation. You must, argued Phyllis, win at this level. Do not, she counseled, give up your right to visit or have custody of your children. A favorable outcome is very possible. To achieve it, however, the transgendered person will need to use some tactics that may go against the grain:

1) Come out of the closet. Phyllis puts the fact of transgenderism right into the pleadings. This tactic completely pulls the teeth of intimidation.

2) If you are going to have a custody fight over the children, the court will tend to rule on what is in the best interest of the child. It is highly advisable to hire an expert on transgenderism. It can work. Denying one wife's motion to disallow visitation rights, one judge remarked to the opposing counsel, "You'd better come up with a lot better evidence than this, if you are going to win."

Appearance Laws/Crossdressing Ordinances

Problem

Many in the transgender community believe that anti-crossdressing laws have been eliminated from the books just about everywhere. This is not true. While many have indeed been eliminated, there are quite a few places in which appearance laws still exist. Examples are: San Diego, some parts of Louisiana, and Salt Lake City. These laws have a rather checkered past, and some are rather

odd. Denver and Salt Lake City have criminal impersonation laws, which can define crossdressing as "disturbing the peace." In Tasmania, it is illegal to crossdress, but only after 8:00 PM. Vicki cited that some of the laws interpreted against crossdressing are actually old laws against masquerading. It is illegal, for example, in one state for a man to dress as a woman or an Indian. In this and many other such instances, the intent of the statute is different from its application. In Canada, pointed out Michelline, the situation is simple. Criminal law is entirely federal. Cities and provinces cannot create criminal laws. She also reports no problem in crossing the United States/ Canadian border.

Proposed Solutions

1) Go to the city library and look at the municipal code or, call the police to determine what the law is.

2) Call the District Attorney and ask to speak to the person in charge of battered women's cases. Get the name of the District Attorney's representative and ask him or her about the law concerning crossdressing in the community and the climate for crossdressers. Many anti-crossdressing laws are not enforced.

3) Work to get the law changed. Go to City Council meetings. Politic and lobby. Appearance and anti-crossdressing laws should be a tool for lobbying to strike down those laws. To be effective, transgendered people must find a common ground, unite and cease fighting among themselves. The It's Time! groups could mobilize grass roots support in this area.

4) One thing we have on our side is the ridiculousness of these laws. This is easy to point out. We can flood police with complaints about women in fly-front pants. In Tasmania, a strategic alliance between crossdressers, transsexuals, and the GLB community resulted in 150 crossdressed men descending upon Parliament at 8:01PM to demonstrate the absurdity of the Tasmanian law.

5) Kappa Beta Chapter of Tri-Ess has a letter from the State of North Carolina declaring there is no law against crossdressing in that state.

6) We should be about the work of educating law enforcement friends about transgender issues. We can speak to police and fire department sensitivity classes. These agencies want to hear from us.

7) Diane C. suggests that we buddy up to representatives of the media and educate them about transgender issues. The media understand the difference between stereotypes and real people.

Photo ID Requirement for Air Travel

Problem

In conjunction with the above discussion, two other issues emerged. The first involves the relatively new rules that when flying, passengers must present a picture ID.

Proposed Solutions

One solution is simply not to fly crossdressed. Dana reported that this policy is particularly wise at this time because we are at a high level of security alert worldwide. Second, one can obtain a government ID. In Texas, this can be done in accordance with the Department of Public Safety's issuance of Drivers' Licenses. In this way, you can hand the airport check-in person two docu-

ments. The first would be your regular Driver's License in your birth gender, and the other the transgendered ID stating that you are a transgendered person.

Transgender-Ignorant Emergency Personnel

Problem

Pointing up the need to educate law enforcement and municipal officials, Jessica Xavier brought up the need for diversity sensitivity training programs. Any one of us can be hit by a car and rendered unconscious. When emergency service personnel encounter unexpected physical features, they do not know what to do. Precious minutes can be lost. That can cost lives.

Proposed Solutions

This issue is so important that it is paramount that representatives of the GLBT community and transgendered people get involved together to coordinate a massive work of education of emergency personnel and municipal service officials.

What To Do If You Are Arrested

Problem

What can you do if you are arrested for any reason?

Proposed Solutions

1) Have someone you can call on who is loyal, close, and responsible. This person will be able to contact someone who can get you out of jail. Do not call your attorney, who probably does not want to post bond, and will not appreciate being called in the middle of the night. You may need to make contact with a bail bondsman.

2) The police go by genitals in determining sex. The transgendered person should avoid lying about their genitals. Eventually, jail personnel will determine your birth sex. They may start to process you in one wing of the jail, but when they learn the truth, they will reverse course and process you with those of your birth sex. This will make it difficult to find you when you are bailed out, and you may have to stay in jail for several more hours.

3) Rarely does a fine exceed \$500. Most major cities will let you post bond on your credit cards. If they do, you will not need a bail bondsman, provided you have no criminal record. It is advisable not to have all your credit "maxed out" on credit cards.

4) Transgendered people are exposed to being beaten or raped in jail. The transgendered person can sometimes get around this by telling jail personnel he is gay and/or HIV-positive. Then the jail will segregate and isolate you and you will be able to survive in jail.

5) A special case is journeying onto a military reservation. You and your vehicle are subject to search. It is very wise to avoid lying to military personnel.

6) There is a considerable amount of homophobia and transphobia among law enforcement personnel. No one will be doing a social deconstruction to determine who they discriminate against. It is wise for every transgendered person regardless of status to understand that the people who are

against them are the same people who are against gays, lesbians and bisexuals. This is another of many concerns we hold in common.

Hate Crimes

Problem

According to Sarah DePalma, it is a surprising fact that most transgendered people who are victims of hate crimes are crossdressers or female impersonators. Female impersonators may be beaten because their assailant is fooled into thinking they are women, and flies into a rage when he discovers otherwise. Crossdressers can be "read" and are subject to persecution when they do not "pass." Many crossdressers are reluctant to file police reports because of fears for their jobs or marriages. There is justification for these job-related fears, for in many companies, being a crossdresser and getting caught in public is prima facie evidence justifying job termination.

Proposed Solutions

Here again is another instance in which opposite ends of the community have the same problems. This includes the female impersonation community, which has one foot in the GLB community and one foot in the transgender community. It is important that all transgender organizations build coalitions. Hate crimes are a subject we all know about and experience in common. Therefore, they are a menace we should fight together.

Victims' fears that they will be "outed" account for much difficulty in prosecution of attack crimes. Especially in large cities, these fears are largely groundless. Except in unusual cases, the

press does not cover these crimes. District Attorneys want us to come out and serve as witnesses. If we are to see these crimes prosecuted, we must file charges, and we must step forward to serve as witnesses. Even otherwise prejudiced people will usually put their bigotry in abeyance when they see a person injured. There is more compassion around than we might think possible. Diane C. narrated the account of a judge who took responsibility to find a safe jail situation for a trans-



(l) Jackie Thorne, Gulf Coast Transgender Community, and (r) Jennifer Ellsworth, Royal, Sovereign and Imperial Court of the Single Star

gendered person convicted of statutory rape.

This is yet another area where transgendered people must help themselves. One method of self-help is to get involved with gay and lesbian legal groups. Many of these are transgender friendly. It also helps to get involved with gay and lesbian community centers. Sometimes the gay and lesbian community is more interested in helping prosecute attack crimes than transgendered people themselves.

Youth Sex and Gender Education

Problem

What about the emerging adolescent crossdresser or gay? If transgender or gay support organizations try to help, they may be accused of child molestation and of contributing to the delinquency of minors. Also, our community is not geared to serving transgendered youth. Often we are too busy fighting among ourselves. What can be done to help?

Proposed Solutions

1) Jackie narrated her own experience as the parent of a female-to-male person. Said Jackie, "We're going with the male!"

2) Deal with PFLAG. This organization is going through major changes concerning transgender inclusion. Parents of transgendered youth should make contact with individuals who are plugged into PFLAG. A list of youth contacts includes Maggie Heineman, Sharon Stuart, Jessica Xavier, Diane Ciccotello, Emily Singleton, F to M International, and Vicki Kolakowski, Deborah Brady and Kurt Buis.* [See Appendix to this Report.] These youth contacts will refer parents to PFLAG chapters. The parent should inform the PFLAG chapters, "I understand you include the parents of transgendered youth." If they refuse inclusion, the parent should call PFLAG National, who will then counsel with that chapter. Nancy Sharpe particularly emphasized the importance of working with PFLAG committees. This is an excellent way to build bridges in a non-confrontational manner.

3) Diane Ciccotello discussed an organization called Outright, which has built legal protections that enable them to work with transgendered youth. Diane's organization refers calls from parents of transgendered youth to this organization.

4) All gay and transgender organizations should work in cyberspace, and network together. In this way they can be a resource for the whole GLBT community.

5) Transgendered people can get into college GLB organizations and support the idea that they be transgender inclusive.

Sex and gender education is all-important for youth. Currently there is next to nothing in sex education programs about alternative life-styles. The real focus of our attention should be School Boards. School Board members are quite concerned about sexual practices and do not want to see children get HIV, or committing suicide because of conflicts about their sexual or gender orientation. The religious right is also targeting schools. Participating in these battles enables us to find friends for our community.

Summing Up

Several themes appeared to emerge from this seminar.

1) Fear of exposure is the single factor that most inhibits non-transsexual transgendered people from achieving their civil rights.

2) We can accomplish much if transgendered organizations of all persuasions and GLB organizations will end their internal squabbling and find ways to network and cooperate to overcome the many problems we have in common.

3) Many government personnel, law enforcement officers, and District Attorneys want to help us. We must "come out" and let ourselves be helped.

4) To avoid legal problems, the most important thing a transgendered person can do is to know what the law is.

5) Mature, responsible behavior will win us friends.

6) Appearance laws and anti-masquerading laws are not dead. It is the responsibility of our entire community to work to kill off the rest of them.

7) Spouses must become involved. The struggle for our civil rights is their struggle, too.

8) If we want a change for the better in our legal status, we must work with organizations and governmental entities capable of getting the laws changed. We can't do that sitting in secrecy.

9) Non-transsexual transgendered people are still in sad legal shape. Each of us must adopt the motto,

"IF IT IS TO BE, IT IS UP TO ME."

Appendix:

Resource persons for transgendered youth

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