

# "YOUR RIGHTS" WORKSHOP REPORT

Saturday, June 17, 1995

*Speakers:*

- Sharon Ann Stuart, Attorney, Rights Director, ICTLEP
- Dee McKellar, Director, Secretary, ICTLEP
- Tere Frederickson, Vice-President, Gay, Lesbian, Bisexual Veterans of America
- Evelyn Lindenmuth, Parent of Transgendered Child

By Sharon Ann Stuart:

My name is a Sharon Ann Stuart. I'm the director of the conference's Gender Rights Project. This project encompasses the International Bill of Gender Rights, known as the IBGR, a military law project, a prisoner rights project, and now as we will learn today, a student's rights project. We will move through those four areas beginning with the International Bill of Gender Rights project.

The International Bill of Gender Rights was first drafted at the 1993 annual meeting and adopted as a restatement. Two earlier documents, one prepared by JoAnne Roberts, of King of Prussia, Pennsylvania, and one prepared by me, were extensively revised and merged into this one document. At subsequent meetings over the past several years, there have been further revisions and additions and our drafting work goes on. The document that we have before us now in final draft, dated June 16th, 1995, will be presented formally this evening at our banquet, read to the assembly by members of the conference and adopted by voice vote. The conference's board of



Sharon Ann Stuart, Attorney  
Rights Director, ICTLEP

directors will also adopt this in a formal sense as our statement for this coming year.

Copies of that draft will be disseminated this evening. If any of you wish to look at it now, it is on green paper. Alice, a member of our drafting committee, is to my right at this table inserting one last comma on the photocopies. I would like to acknowledge Alice's work. Alice has been a key member of the drafting group and is our expert grammarian and provides a great deal of input regarding the punctuation, the wording and the formatting of the document, and I'm very grateful to her for the work that she's done this year, as well as the previous years.

If any of with you want to look at the document now, feel free to get up and get a copy of it. We're not going to distribute them to everyone in the room just now, but if any of you have a particular interest in following the discussion now, please feel free to do that. They will be distributed to everybody present at the banquet tonight.

The International Bill of Gender Rights encompasses ten statements of what we believe are fundamental rights, drafted from a gender point of view, but we regard these as fundamental human rights, or civil rights. We feel that anyone, any human being, can claim these rights. Although many might not exercise them, we feel these are rights that should be of interest to anyone. If you read through the document, you will notice that you will not see the words that we are so commonly familiar with appearing in the document, the words transsexual, transgendered, crossdressers, transvestite. None of that verbiage appears in this document. These are not special rights, but human rights, and in many ways they are similar to other human rights documents, documents that have been adopted or considered by the United Nations and by various other societies and groups.

This is our version. There are, in effect, human rights from a gender point of view, but again, human rights that we feel pertain to everyone. A fundamental distinction that can be drawn in this field is that a right can be annunciated, but individuals have the option and effect of exercising that right, or not exercising it. For example, the right to bear arms, which is enshrined in our United States Constitution, Bill of Rights and so on, is not a right that everyone chooses to exercise. How that right is exercised, of course, may be subject to interpretation and to restriction and so on.

When that right was drafted, it was not uncommon in this country for younger children, sometimes as young as the age of 12, to bear arms and to use them for hunting and self-protection in the society of the 1700s. Today we have many questions in this society about guns in the hands of children. Rights, in our view of them, have a way of changing and evolving over time and history. And, of course, the United States Constitution has been evolving in a sense for 200 years. The verbiage remains the same, but the interpretation of the constitution in the courts, and to some extent in our legislative bodies, is essentially the growth, and the evolution occurs in that way.

Since this document is not the product of a legislature, not a constitutional document, but an expression of rights emanating from a group of people, the evolution comes in other ways, and this document will continue to evolve over time, also. We feel, however, that we're getting to a point where we have no further major clauses to add. We're beginning to feel that we have covered all

of the basic areas of concern to this particular segment of humanity from a gender point of view. So the major gender issues have now, we feel, been addressed. The section that has been added for the first time this year is now the fourth right, titled the Right of Access to Gendered Space and Participation in Gender Activity.

That clause reads, "Given the right to define one's own gender identity and the corresponding right to free expression of a self-defined gender identity, no individual should be denied access to a space or denied participation in an activity by virtue of a self-defined gender identity which is not in accord with chromosomal sex, genitalia, assigned birth sex or initial gender role." That was the preamble of the statement of the right which is proposed, "Therefore, no individual shall be denied access to a space, or denied participation in an activity, by virtue of a self-defined gender identity which is not in accord with chromosomal sex, genitalia, assigned birth sex or initial gender role."

The right of access to gendered space and participation in gendered activity, and the language proposed for that right, of course follows the same format and pattern that you find in some of the other statements. Definitional language is being developed in support of the International Bill of Gender Rights and that will probably be the focus of next year's conference. For purposes of understanding the right to gendered space and activity, I might add that we regard a gendered space as a physical enclosure or geographic location, access to which may or may not be limited to members of one gender identity or role or limited to individuals perceived to be of one gender identity, men or women but not both, and similarly an activity that would be so limited would be a gendered activity.

Public rest rooms have been cited as probably the most prominent example of a gendered space; an area which the society sets up for the use of the members of one gender or the other. Gendered activities can be sports events or athletic pursuits; such things as cancer screening clinics can be denominated by male or female and so on. There is a privacy versus public access issue involved in this, implicit in this, and the right does not really address that issue in its language. There is a concept in our culture and in our laws that certain activities are entitled to private parameters; in other words, the right of privacy. There is an invasion of privacy concept, and so we distinguish between public facilities and private facilities. This right does not address that, but implicit in our statement is the understanding that these matters and these concerns might very well limit the exercise of this right in certain situations.

We're not talking about every rest room in the world. For example, those in private homes are necessarily available to everyone. There are situations where people have a right to control access and space and we recognize that right. We've chosen not to articulate those kind of exceptions in these types of statements. So the right to privacy intrudes on this particular right, and encroaches on it to some extent.

There are some interesting cases. We did not have an opportunity to talk about this in our study time and presentation time. I wanted to cover it now to a certain extent. There are interesting laws and case law developing around shopping malls. The shopping mall has become the town square

of the 20th century. It's a commercial space which we're all familiar with. It has become part of our culture. It's a place where virtually everyone goes to acquire clothing, shoes, and other services, and a great deal of law is being developed about the public and private measure of those premises. Many of them now are enclosed spaces, the stores fronting on an enclosed common area where people walk by, and then they enter the retail spaces from that enclosure. So we're seeing a number of cases revolving around what exactly can occur in those enclosures, and what kinds of activities are permitted. It's no secret that there are occasions when members of this community may or may not have difficulty accessing those spaces, or using them.

Essentially, laws or court cases in many jurisdictions in this country give shopping mall proprietors the right to exercise some control and discrimination as to what kinds of activities go on in those spaces, and what sorts of people might be discriminated against. Public nudity or lewdness, for example, is clearly an area where a shopping mall proprietor might exclude anyone not properly dressed, hence, the familiar sign, "No shirt. No shoes. No service." Those kinds of issues are examples of areas where retail proprietors, for purposes of public health and enforcing health regulations, can enforce a discriminatory policy.

What the law seems to require in this area as we study it, is consistency. If, for example, a shopping mall proprietor wants to exclude people whom he perceives to be crossdressed, he has to do that in a reasonable and consistent way. He can't pick and choose. An interesting group of cases involving political activities and access to shopping malls for political activity has attracted my attention in studying this problem. Theoretically, you might have a shopping mall that would systematically and consistently exclude crossdressers, or people perceived as crossdressing.

Assume that they can do that on a reasonable and equitable basis for members of both sexes, — I don't know why they would want to do that — but let's just say for the sake of argument that that was their objective, and so anyone who appeared to be wearing clothing pertaining to members of the opposite gender would be asked to leave, and they had a security force that was attuned to doing that, and they did that effectively over a period of time.

There are some cases that suggest that if those individuals were indeed engaged in political activity, then they would have to be permitted access to the common areas of the retail space, not to the stores themselves, because once you get into the realm of political expression, then the standards change. So, if you came there just for retail purposes, that would be one basis for your being there. If the shopping mall owners and retail store owners said, "We don't want anyone here that's crossdressed," the laws in some states would permit that exclusion if it were exercised in a reasonable and consistent manner. On the other hand, the laws in those same states provide that if those same individuals came into the common areas of the shopping mall to engage in public education and political activity, to have petitions signed, let's say, to overturn an ordinance that permitted discrimination against crossdressed people, they would have to be permitted to do that. They might not be able to crossdress while they were doing that, but it's a sort of ironic result that they would be able to engage in political activity supporting their cause, but not be permitted to use the shopping mall for its intended purpose, which is as a retail space. So you can reach some rather odd results, constitutionally speaking, in these areas, at least on a hypothetical basis. I want to

emphasize that there is no caselaw that I'm aware of as yet, that involves the exclusion of crossdressers from shopping areas, but it's an area to watch as we go forward.

Very often the rest room issue arises in the shopping mall context. We have a number of reported cases where people had been asked to leave shopping malls, or have been asked not to use the public rest room facilities in shopping malls, because they were transgendered, transsexual or so on. And that remains a problem, although I think it's getting better. Most shopping malls are adopting more sensible policies, and it's not a major area of concern. We have no particular caselaw on it at this point, but we'll be watching the field for that.

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## INTERNATIONAL BILL OF GENDER RIGHTS UPDATE

Sharon Ann Stuart continues:

We will be presenting the International Bill of Gender Rights this evening at the banquet and various members of the conference have been asked to read sections of it, so we won't read through it now for that reason.

The International Bill of Gender Rights is moving into a new area of work. Over the next year we



**Tom Heinz (a.k.a. Sharon Ann Stuart), Rights Director, ICTLEP  
and Phyllis Randolph Frye, Executive Director, ICTLEP**

will be concentrating on developing a bibliography of resource materials that can be distributed

along with the basic document. We will be developing definitional language defining some of the terms used in the bill. There were probably about 40 or 50 definitions, definitions of phrases like "chromosomal sex", "genitalia" and so on. We need supporting language to make the document more understandable, and to allow people to study it in greater detail. We need to define the terms in the context of the bill of rights, so we will be working on that language.

We also are working on developing narrative expositions and analyses of these rights, so that we have a page or two of supporting information. Eventually we're heading for a publication of probably 40 or 50 pages of material. It may take us several years to evolve to that point, but we have moved past the basic drafting stage, and we're getting into the supporting material more. Much of our work in the future will be concerned with that.

Before I leave this area, I just I want to share with you a quote from one of the resource documents that I've used. It's a wonderful article that we found in the *American Archivist*, Volume 57, Winter of 1994 at Page 86. Under the general heading, *Social and Cultural Trends*, an article entitled "Decolonizing the Body." "Kinship in the Nation" is the subtitle. It's K-i-n-s-h-i-p, Kinship in the Nation by Ramón, R-a-m-o-n, A, alpha, initial, Gutiérrez, G-u-t-i-e-r-r-e-z.

Mr. Gutiérrez is a professor of ethnic studies in history and the founding chair of the ethnic studies department, and director of the Center for the Study of Race and Ethnicity at the University of California in San Diego. He is a trained historian of colonial Latin America and the U. S. Southwest, and has numerous publications to his credit.

In this article he talks about ethnic populations and their identities and the shifting politics of ethnicity and its impact on international law and development. He talks about relations between the genders and sexes, and the inequities between men and women. And a long section of the articles deals with the transsexual phenomenon. The article obviously is too long to read into the record, but I wanted to read you this one part which I feel is quite interesting.

After describing the transsexual phenomenon and comparing it to other areas of interest that he has raised, he addresses the issue of gender and equity. And a post operative transsexual is the subject of this passage.

...Asked by a curious friend, "Did it hurt when they cut off your testicles?"

"No," she replied "not really."

"Did it hurt when they split open your penis to fashion a vagina?"

Again she replied, "No. What really hurt," she continued, "was when they cut my paycheck in half."

...

I think that little story sums up much of what we're about here. That's why this conference is called the International Conference on Transgender Law and Employment Policy. Our economic vitality

in this modern society is absolutely central to our existence. If we cannot work productively, if we can't share our talents with the rest of the society, if we can't support ourselves and our dependents by the dignity of work and the respect that that affords, we really have been marginalized to the extent that we are no longer useful members of society and no long useful to ourselves. So our employment, and our capacity for employment, is central to our vitality as people.

Much of this article is about that issue. Of course, in the International Bill of Gender Rights last year, we inserted the right to employment and the right to retain and receive just compensation. "The Right to Secure and Retain Employment and to Receive Just Compensation" is the correct title of the right in our document that pertains to that.

The International Bill of Gender Rights has been disseminated to some degree. It has not achieved a great deal of exposure. We haven't sent this out in volume to thousands and thousands of people. It has been disseminated among gender community organizations. It's been published and commented upon in documents, in periodicals such as "Crosstalk", in the "Femme Mirror," in various community organization newsletters. We received some wonderful feedback in the mail from various people and suggestions and questions and so on. We need more of that, and in the next year I hope to see the document circulated in this country and internationally to a greater extent than it has been in the past.

To some extent, our efforts have been directed more at drafting than at promoting the document. We didn't feel we were ready to have it disseminated widely. We're getting to a point now where the document is more finished and we're ready to have it exposed to the world more and critiqued. We will be moving into that phase more this year.

Is Dee in the room? Dee McKellar? Yes. Come up Dee. I want to tell you about one interesting initiative that this conference took. I want Dee to take a few minutes to acquaint you with her trip to Finland to an international meeting at which this document was discussed, and I want Dee to tell you in her own words what transpired there.

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## **REPORT ON INTERNATIONAL GAY AND LESBIAN CONFERENCE: HELSINKI**

By Dee McKellar:

Last December, the International Lesbian and Gay Association held their European regional conference in Helsinki. I was privileged to attend. There was a second conference held in conjunction with it, sponsored by the local transgender support center, which is a part of the Finnish National Gay and Lesbian Support Organization. These guys get government funding. Can you believe that?

Anyway, the way it was set up was that Tuesday through Friday were the ILGA conference

workshops and plenary sessions. The Transgender Pride Conference was on Thursday. That was a Thursday, Friday, Saturday thing, and mostly in a different venue. But on Thursday the workshops were combined. Well, I obviously attended those workshops. I went into one and it turned out that the whole subject of that workshop was the Bill of Gender Rights. The folks at the Trans support center had picked it up. They have a library. They get a lot of publications from all



**Sharon Ann Stuart, Attorney  
Rights Director, ICTLEP**

over. Well, they picked it up and they got excited. They thought this was something really neat. So we had that workshop, and ended up producing a resolution for the European Region of ILGA to consider, and it basically said we want to urge ILGA and its member organizations to consider adopting the International Bill of Gender Rights.

When that hit the floor at the Friday plenary, there was some opposition. Two kinds of opposition. First of all, a lot of folks said, "I'm a delegate, but my organization did not give me authority to vote on something this sweeping." Having sat through quite a bit of the plenary at that point, I understood. They dealt with a heck of a lot of trivia, but they were not prepared to take a stand on something this important. Plus, they have a very strong male/female split. There's a lot of quota-counting within ILGA. On the feminist side of that organization, some elements were very concerned that this meant that guys wearing dresses were going to take over what was properly the women's side of the organization. Nobody put it in quite those terms, but I'm sure that's what they're worried about.

Anyway, there was a prompt amendment, and the whole thing was tabled for consideration at the Saturday plenary. Well, that was pretty clever. Friday morning was really the start of the separate Trans conference and I ended up missing a tour of Helsinki. I could tolerate that, but I could not miss the remaining workshops, particularly the ones on Saturday morning. So they very cleverly put the consideration at a time when none of the proponents of the motion would be there. Parliamentary tactics are wonderful.



At any rate, what finally got accepted was the resolution as amended. It said, "We, Euro-ILGA, the European region, will conduct a two-year study of whether or not to adopt this document, and a vote will come at the 1996 conference, which is scheduled to be held in Madrid." I don't know that they've even selected dates yet, but they have seen the bill. Some people are excited about it, some people are excited negatively, but it is getting circulation, and the Finns really are pushing it. So it's been pretty interesting.

By Sharon Ann Stuart:

One of the things I would like to point out is that we have our wording of the document. This conference adopts a particular wording. It's quite all right from my point of view, and I don't think there's any problem from the Transgender Law Conference's point of view, if any organization in the world wants to take this language and modify it in some fashion, add to it, delete from it. If they can adopt the document *in toto*, there really is nothing we can do about that. I would prefer that they do so. I think we have a good document, and I don't accede to any changes other than those that we make. But the reality is that people do take these documents, and do modify them and so on. And I just want to alert you to that.

There may be instances when that's done, and we may see the International Bill of Gender Rights in some other form. From my point of view, that's okay as long as it retains its essential identity. I don't want it to become something that it is not, but there may be people who prefer a different wording. There may be people who see the issues differently. They may want to reorder the rights and prioritize them in some way. And I'm prepared to see that happen, although I don't accede to those changes from the standpoint of the International Conference On Transgender Law.

So, we're seeing some progress there, and the fact that an international group can take this document and discuss it and even table it, I think it's a significant development for us, and I hope to see more of that as time goes on. And I hope to be able to go to Madrid and defend the document.

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## **MILITARY LAW UPDATE**

Saron Ann Stuart continues:

We're going to move on now from the International Bill of Gender Rights, and I want to talk briefly about the military law project. I have enlisted the help of Cissy Conley, who has been my ally in this work for several years. Cissy is going to take over the task of disseminating and working with our study of military personnel who are transgendered.

A pilot study concluded two years ago yielded some interesting results. Dr. George Brown, who is well known to many in this community, is a psychiatrist working in the field, who has agreed to work with us from the scientific point of view in interpreting the information gathered. We spent

a good deal of time a year or so ago reconstructing our initial questionnaire. It needs to be reviewed again. We hope to begin disseminating that some time before the end of this year. The questionnaire is quite extensive, and there's a good deal of cost involved in printing it and mailing it.

The strategy that we're going to try initially, is sending master copies to gender community organizations, and asking those organizations to help us by duplicating them locally and disseminating them to their membership, and then the people responding can mail them in.

I want to indicate to you on the record what Cissy's mailing address is. Information about the study of transgendered personnel in the military should be directed to Cissy Conley, Gulf Gender Alliance P. O. Box 5085 Biloxi, Mississippi 39534-5085. The hot line number at the Alliance is (504) 523-5203.

We ask that you use that mailing address. Use that mailing address and hot line number if you need to contact Cissy about the Military Law Project study.

The Military Law Project at one time drafted a sort of legal do's and don'ts for service personnel who were transgendered. That document has fallen by the wayside in light of the "don't ask, don't tell" issues which have arisen in the military regarding gay, lesbian, and bisexual people. We are waiting in the Military Law Project to see how the military laws and regulations will shake out on the "don't ask, don't tell" policy. That is going to give us a great deal of direction, and I think we will be able to see more clearly how issues involving transgendered people will evolve in the future. But the plain fact of the matter is: the "don't ask, don't tell" policy is now up for grabs. It's in the courts. There are a number of cases proceeding. We have one federal district court that has said the policy is unconstitutional on its face, and unenforceable against a particular individual. They're not in a position at the district court level at this time to strike the entire policy down. They can only decide cases with regard to one individual at a time.

There was another federal district court decision issued on June 14th or 13th that upholds the "don't ask, don't tell" policy, which characterized it as constitutional. So we now have opposing findings at the district court level in different circuits. I think it won't be long before we have some conflicting decisions at the federal court of appeals level, and I think without any question, this is an issue that is going to have to be resolved by the U. S. Supreme Court. It may take a year, possibly two years, to reach that level. In the meantime, the military is free to continue with the "don't ask, don't tell" policy, but they have to be able to defend it in particular cases, and they're losing some and winning some.

We continue to have difficulties and to observe abuse of transgendered people in the military. For the most part, I have no instances in which a transgendered person was confused with a homosexual person and processed in that way. In fact, there is some training material where they're talking about what constitutes evidence of being gay, where they say that crossdressing, in and of itself, does not indicate that you're gay. So the military is reaching a level of awareness here that they didn't have before. If nothing else, all of the uproar over the homosexual question has

served as a means of educating the military establishment about these issues in general. And I think that's a positive thing on a whole.

We continue to counsel with people in the military service who are experiencing abuse. At one time the Military Law Project had an 800 number, but the cost of maintaining that was such that we had to dispense with it. I am available to counsel with people in the military who are experiencing legal problems or have concerns about the effect of their transition. For the record, I can be reached at this phone number: (607) 547-4118. That telephone number will take your messages. You can leave messages, or you will get my voice if I'm there to answer it directly.

I have a separate fax number now; you can no longer fax to the 4118 number. There was a time when you could, and on some of the older literature you will see that listed as a fax number. The new fax number is (607) 547-2198. And that is only a fax machine. My America On Line address for E-mail is STUCOMONE, S-T-U-C-O-M-O-N-E. It's sort of a derivative of Stuart Communications, which is my home business. STUCOMONE@AOL.COM. The customary AOL address and STUCOMONE@AOL.COM.

I want to share with you one of my counseling cases. I have remarked upon in previous years, and read various things into the proceedings regarding it. This is an Army enlisted man, a one time Army enlisted man whose name is now Karen. Karen was in an artillery unit in Germany some years ago, in a first enlistment situation, and was a transgendered individual or wanting to become transgendered; she began to see an army psychiatrist, who treated Karen with respect and counseled with her, but did not report her to Command. Karen was then transferred to Fort Hood, Texas, toward the end of her first enlistment. She then reported to a psychiatrist at Fort Hood, disclosed the fact that she had transgendered desires, and was immediately reported to Command.

Command then processed her for administrative discharge as unfit, and that discharge was accomplished. There were about six months remaining on her enlistment, however. Instead of executing the discharge papers and processing her out of the service within a reasonable time, Command let the papers sit in the commanding officer's basket and proceeded to harass and abuse Karen in various ways, giving her menial assignments physically, and verbally abusing her, and allowing her to be abused by other soldiers.

This became so intolerable that Karen went, as they say in the Army, over the hill, or AWOL, and she remained in that status for over ten years.

Legally speaking, the discharge should have been executed and Karen could have gone into federal district court seeking a writ of mandamus forcing the military to discharge her properly. She could not afford to do that. At one point while crossing the U. S.-Mexican border she was apprehended as a deserter, and they made an attempt at that point to return her to military control, but the military system misfired and she was left to her own devices after being in custody for about a week. They delivered her to a base, but no one was there to meet her. She was unable to get any military authorities interested in her situation, so she simply went home again.

In recent years, the strain of being in AWOL status has weighed considerably upon her. She recently returned to the military voluntarily, essentially to seek her discharge at long last. Now, you have to understand at this point that she has transitioned. Her hair was down to the middle of her back. She was considerably feminized, and she lives with a partner in Los Angeles now. She wrote on May 18th about her experiences in returning to the military after ten years.

"Dear Sharon,

Sorry about the letter; I would have much rather called you, but after the ordeal I've just been through, it will be a little while before I'm back on my feet financially. It sounds silly, doesn't it, that I can't even afford my phone bill, but all that time off work has taxed my resources to the very limit.

So on April 10th I walked into the provost marshal's office at Fort Irwin, California. Looking back on it now, it seems almost comical, but at the time I was scared half out of my wits. I'm so glad my wife was with me. I walked right up to the desk sergeant. There were lots of soldiers around. It seems as though there was a change of shift going on. 'My name is Kevin' I told them. 'I deserted from the Army ten and a half years ago, and I'm here to turn myself in.' The first reaction was shock, not that I was turning myself in, they apparently get a fair amount of that, but at the length of time I had been gone.

After a thorough search of my person and baggage, I was permitted 15 minutes to say goodbye to Heather, after which I was put in a tiny, smelly, cold, noisy detention cell where I would spend the next three days without opportunity to wash, without access to ample food, and not a sip of water. I told anyone who would listen that I absolutely did not eat meat or drink milk. [Karen is a vegetarian.] It became a point on which to test me. All I really got to eat for three days was meat and potatoes with meat sauce poured all over it, and shelf stable milk. I simply did not eat or drink while I was there.

At the end of that challenge, I was escorted in chains to an airport three hours drive away, where I was chained to a bench at the airport to wait for my plane. I spent my time reasoning with my escorts. I explained that I had turned myself in and had no intention of running, and we were all going to the same destination. That if I had known the treatment I was going to receive, I would have paid my own way to Fort Sill, and that their posturing was macho, dull, and misplaced. Fortunately, we made the rest of the trip without the chains, but with these two boneheads flanking me as though they thought I was going to break into a run across the tarmac.

Once I made it to Fort Sill, things got much mellower. Nobody there was nearly as intense as they were in Fort Irwin. Not to say I didn't have to put up with a certain amount of abuse, but it was more bark than bite. I just kept my mouth shut and did what I was told.

I was stationed at a barracks in the oldest station of Fort Sill. The quarters stank something awful, and all the cleaning in the world wasn't going to improve things. All the people in the unit (there were 18 others when I arrived) were also deserters. I immediately established a certain amount of

celebrity status because of the length of my desertion. Many of the guys were not bathing, and we weren't really provided with adequate facilities for washing our clothes. We were each issued one set of BDUs, and that's what we had to wear. All that uncleanness had a lot to do with the stink.

Anyway, we didn't do a whole lot besides sit on our butts. It really depended on who our guard was. Some of the guards had us cleaning the barracks again and again, and mowing lawns over and over, just to make us feel punished or to flex their authority. Others just wanted to be left alone and left us alone in return. I got sympathy and understanding from a couple of guards when they heard the details of my case. They knew that I had been wronged, but they also knew there was not much to be done about it. Towards the end of my stay, I had to report to a captain to request that he sign my appeal for a Chapter 10 general discharge under other than honorable conditions. He was pretty gruff with most of the other deserters; most of them left because they simply hated the Army, and who could blame them. With me, he was very sympathetic. He felt terrible about what had happened to me and wanted to hear the whole story. He encouraged me to fight for an honorable discharge. But in the time I'd been there, I discovered that to fight for anything other than a Chapter 10 was to spend a minimum of 30 days, or as long as 76 days there. And they made it as difficult as they could. I told the captain that all I wanted to do was get home to my wife and job. He agreed to recommend me for the Chapter 10. As it was, I spent two weeks. Those two weeks were two of the most difficult weeks of my life.

But now it's nearly over. When I left, they issued me leave papers and told me that I'll remain in the Army for 45 days. They told me to stay out of trouble; that if I were to get arrested for anything, they would snatch the discharge out from under me and prosecute me to the fullest. So now I'm just waiting for the discharge to come in the mail.

It sure does feel good to have this almost behind me. Sometimes when I'm doing the most ordinary things, shaving my legs or putting on perfume or just about anything, the thought will suddenly come to me that I never need worry about anything I do with my life again. I never need worry about being dragged into that unsafe environment and being scrutinized and put into the position of having to explain why I do what I do, or maybe having to hide what I do for my own safety. I never again need to go into an environment I don't feel safe in. I'm free to go where I want, when I want, for the rest of my life.

I'm not explaining myself very well. I'm so exhausted. I've really been pushing myself since I've been back. I feel as though a new era is opening up in my life. I'll be signing up for summer classes at the local community college, and my job is sending me to computer training for the summer. If someone were to ask me what I hope to accomplish, I'm not sure I could answer, because I'm just not sure. I don't know where I'm going, but here I go."

I have a picture of Karen the day she was married to Heather, and I'd like to pass that around so you can see exactly who she is. She's an absolutely beautiful person. That's just one of the cases that we've tracked over the last few years. I wish I had time to give you the details of some of the others.

I want to move on. I would like Tere Frederickson to come to the podium and tell us about the Gay, Lesbian and Bisexual Veterans of America organization and related matters and take a few minutes to do that.

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## **GAY, LESBIAN AND BISEXUAL VETERANS OF AMERICA**

By Tere Frederickson:

In February of 1994 I participated in the redrafting of the national constitution for the Gay, Lesbian, Bisexual Veterans of America. And very quickly I'd like to read into the record the very first paragraph of that, which I think says it all.

"Throughout the history of the United States, gay, lesbian, bisexual and transgendered Americans have defended the principles of the Declaration of Independence and the Constitution through service in the United States Armed Forces. We, the members of the Gay, Lesbian, Bisexuals Veterans of America firmly believe that the inalienable rights secured to all Americans by those documents, the sentiments they represent, and the historic record of their defense by countless selfless citizens, include the right to privacy in our lives, the right to live free open lives within the American society irrespective of race, creed, ethnic, cultural or place of national origin, age, economic or marital status, gender or gender identification, sexual orientation and actual or perceived differences in physical or other ability."

With this document, this organization at a national level, recognizes each and every one of us, and has pledged to support us within their organization. It is primarily a veterans' support organization, also providing support to the active duty. People, we're tied into the service members legal defense network, and of course Sharon Ann, with the Military Law Project, is also coordinating with the service members legal defense network. Through these common ties, the Gay, Lesbian, Bisexual Veterans of America is indirectly linked already. However, we'd like to continue to build this link and build the support that we have available to us as veterans.

At this time, I'd like to ask all the veterans to please raise their hands. I think Phyllis would like to pass around some stuff. Phyllis has already joined. She put "transgendered" on the application form in other interest areas. The national vice president for membership services is used to this. Phyllis has trained her well.

Cari, C-a-r-i, Bausone, B-a-u-s-o-n-e, is the national vice president for membership service. I'm going to read her address into the record. It's The GLBVA Membership Services 7716 West 26th Street North Riverside, Illinois 60546.

Cari may also be contacted through the internet at CARI 1, that's CARI, space 1, the arabic numeral, @AOL, dot COM. You may also contact Nancy Russell through the internet at NAR10@AOL.COM. You may contact me, Tere Fredrickson, through the internet at TEREf, T-e-r-e- f@AOL.COM.

It was significant, because not only have the gay, lesbian, bisexual Veterans of America pledged support for us, but we also have full representation on the executive committee. In March 1995, I was elected national secretary of the organization.

In 1997, the spring of 1997, if we have enough people joining, we will be able to make a noise to establish a name change, I am sure.  
Thank you very much.

By Sharon Ann Stuart:

Thank you, Tere. Before we leave military law there is one other matter that I wanted to acquaint you with. One of the major concerns that transgendered people have is security clearance. When Phyllis and I and others attended the National Lesbian Gay Law Association meeting in Portland, a gentleman there who was a security clearance practitioner, essentially, in Washington D. C. gave a very extensive, very interesting presentation. I'm sorry I did not bring his name to the podium with me, but it was probably the most valuable seminar that I attended there.

He had been practicing primarily with gay, lesbian people faced with security clearance issues. Among some of the interesting things he said, was there really has been no major case in the military context involving a security clearance violation involving homosexual personnel. All of the major cases, the Ames case, the Locker case, others, have related to heterosexual conduct. The military establishment's assumption that homosexuals are less to be trusted doesn't seem to be borne out by experience.

There have been no major cases involving crossdressers or transgendered people that we are aware of. It remains a concern for people in transgendered status; in the security investigative regulations, from Department of Defense regulation 5200.D and then the description is also given in parenthesis



**Tere Fredrickson**  
**Vice-President, Gay, Lesbian and Bisexual Veterans of**  
**America**

DOD 5200.2-R. I guess that's the official cite, that is titled Reporting of Nonderogatory Cases. "...Background investigation and special background investigation shall be considered as void of significant adverse information unless they contain information listed below..."

And then there are six paragraphs of information which would be considered derogatory. In Paragraph No. 2 of that section, the following language occurs: "All indications of moral turpitude, heterosexual promiscuity, aberrant, deviant or bizarre sexual conduct or behavior, transvestitism, transsexualism, indecent exposure, rape, contribution to the delinquency of a minor, child molestation, wife swapping, window peeping and similar situations from whatever source." So we're in some pretty interesting company there. What they're saying here, in effect, is that if their investigative report indicates that you've engaged in some transvestitism or transsexualism, whatever that is, that that information is derogatory. It would not necessarily lead to the revocation or suspension of your clearance, but it would go a long way in that direction in all likelihood, depending on what level of clearance we're talking about and the relative sensitivity of the information you're working with. People in our situation continue to be confronted with this, as civilian employees of Department of Defense, as active duty personnel, and in the reserves.

So, it's a continuing concern and problem. There has been, in recent months, a tightening up and a more oppressive, perhaps more restrictive, approach taken to security regulations and their enforcement in the wake of the Ames case. I think if anything right now, the mood is more punitive and more strict than it was just a few years ago. We now have a successful defense of a security clearance in this community, which many of you are familiar with; Cissy Conley is in the audience and has told her story here several times. I won't go into it now, but there is some question in my mind whether similar circumstances today would find the same result. There's been a shift, a very perceptible shift in the military defense establishment over security matters, and unfortunately the news in that respect is not good.

We'll leave that subject. We're going to do prisoner rights last. Right now I want to go on now to a new area for the gender rights project, and that is student's rights. We have discussed in the past, from time to time, the problems of young people. The International Bill of Gender Rights does not establish any chronological age within its verbiage as to when a person acquires the rights that we're talking about in the IBGR. We've simply left that question open, but I think it's quite apparent that we're saying in the IBGR that at some point in a person's development, they find themselves with the right to redefine their own gender identity, just as they might elect to speak another language, or change their name, or to take other measures in regard to their personal identity.

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## **STUDENT RIGHTS UPDATE**

There is a problem in this country with our treatment of children in the school systems. We are seeing this in the gay, lesbian, bisexual area as members of P-FLAG. As a counselor for P-FLAG, I've been contacted by school districts in my sector of New York who have no information, no educational background, no experience with younger gay children, children who are coming out



in some cases as early as the age of 13 and 14. We have a corresponding need in the transgender community to address these issues from an educational standpoint. Where we're headed with this is to find a set of guidelines and standards to give a general framework to efforts in this area, so that school districts have some standards by which they can measure their response to the presence of a transgendered child in the school system.

We'd also like to be able to disseminate with that information enough resource information and contact information so that guidance counselors, school principals, teachers and parents of these children can find help from us or in their local communities. This is an effort that will be spearheaded by a person attending the conference. Evelyn, would you like to come up? Evelyn Lindenmuth is a mother of a transgendered child, and I am inviting Evelyn to tell her story and to acquaint you with her concerns, and what she has been doing on her own. We hope to assist her in her efforts and to enlist her help. She really is at the cutting edge and has a marvelous story to tell.

By Evelyn Lindenmuth:

When my child told me last summer, 4th of July weekend, my child told me that she needs to be a girl, she's a woman inside, I had suspected all the time that my youngest son was going to be gay and that was okay with me, and I had some friends in the gay community. Fortunately, they knew to send me to the gay counseling center and they did have one counselor there who was knowledgeable about transsexuals, and who could give me information that I needed. One of my biggest needs was to talk to other parents and they weren't easy to find. And I would hope that in the future we can be easier to find.

My next need was, What are we going to do in school? I talked to my now daughter and I said, "You know, we can move to another school. Do you want to move to another school and go dressed as a girl?"

She says, "No, I'll just kind of muddle through as a boy, and I'll do it later on." About three days later after she shaved her legs and put on makeup and started wearing girls' clothes, she made a transition in about three days; she was a girl. She came back to me. She said, "You know, I couldn't go back to school as a boy. There's just no way I can be a boy again."

I said, "Okay. So we'll find another school." We did find a counselor, and I kept asking people, "Do we have any contacts in the school district? Are there any officials in the school district who are friendly towards gay, lesbian students or transsexual students? Have they dealt with this matter? Does anybody have any information?" And nobody knew. The counselor said one student he had dealt with several years previously, had gotten a medical excuse from P.E. from a doctor who was willing to say the child had heart problems. And they didn't involve the school at all. The parents just sent this child to school and that worked okay. They had talked to the principal, and the principal said, "Please go to the school where you want to go, and talk to the principal and see if he would work with you on this situation." This is in the middle of summer, no principals are around, and I need to move to wherever this new school is before school starts in September, and I was

really frustrated.

I went to the school district. I thought I shouldn't have to hide about this. They have all of these departments on self esteem and student wellness and human rights and race relations. Somebody should be able to deal with this problem on an open basis. So I went down to the school district, and unfortunately the person I needed to talk to, I had dealt with on a previous issue, and I'm afraid I'd burned a few bridges, and I was afraid he would remember me, but I went anyway. And he wasn't there. They said, "You need to call and make an appointment." Okay. Fine. So I called and I got a secretary, and "Yes, Mr. so and so isn't here. He's on vacation." I said, "Well, maybe you could help me. What is your policy on transsexual students?"

She said, "Well, just a minute. Let me ask my boss." She came back, she says, "Our policy is we cannot discriminate."

I said, "Okay. That isn't a lot of help; yes, that's a good idea, but I need more help than that."

"Well, I'm sorry. That's all can I say is we cannot discriminate."

"Okay. Thank you."

And I got to thinking that they really don't want to tell me that because that means my child who is a cute 16 year old then could go and change in the boy's locker room and they couldn't stop her because they cannot discriminate. And they really don't want that to happen. And they really don't want her changing in the girl's locker room and showering in the girl's locker room because it would be quite upsetting, I think, to the girls, and they really don't want that to happen, so they really need to accommodate. Yes, they shouldn't discriminate, but they really need to help out and there's some issues that really need to be accommodated in the school district, and one of them is P. E.

When the man who I needed to speak to came back from vacation , he had a heart. He didn't remember me, and he was helpful. He said, "We've had one other transsexual in the school district and she went to an alternative program, which is kind of a laid back program. P. E. isn't required. If they had do have P. E., they just change their tennis shoes", which I thought was a real good idea. And in fact it would kind of be a good idea for all the students, because if you're working on self-esteem, this changing in front of other kids is just a killer.

So, I said, "Well, that's great. This sounds good. This is easy."

And he said, "Sure, we'll try to get her into that program."

He called me back that afternoon. He said, "Well, there's a two- year waiting list to get into that school."

I said, "Oh, great, so what should I do?"

"Well, maybe you need to find another school and start talking to the principals." And of course the principals aren't back yet. I started investigating and found out that at this alternative school that I wanted my child to go to, there was a lot of teacher's kids and I wondered how long had they been on the waiting list. And maybe I could cause some trouble here. I talked to my older son and said, "Oh, I'm just going to go down there and say I want so see the waiting list and see how many months these people have waited." And my older son said, "Mother, Mother, Mother." Go down there and cry and tell them 'I just don't know what to do, about my poor child -I'm afraid she's going to commit suicide and I'm just' . . . - just be a basket case and you're going to get farther." So I did. And it worked.

But parents should not have to do that. There should be some policy to go by, so that the next person that comes along, the next parent wouldn't have to go down and cry also. So I just thought in my mind, what is the policy that I would have liked to have seen, the help that I would have liked to have received instead of hearing, "We cannot discriminate." In my own little way, I'm not a writer, have written down a few ideas of how I thought they ought it treat our children, how they ought to accommodate us, some of the things they can do. I highly recommend that the child change schools. One other teenager that we did meet in San Diego eventually tried to go back to her same school, and it just caused all sorts of trouble, and the principal asked eventually for her to leave or be placed somewhere else.

This other teenager is having trouble just being a teenager, has gotten into some destructive behavior, and is having a hard time. Fortunately, my teenager has not. There's a big push right now to prevent teenage suicide, and part of that is accommodating them, making them comfortable in the school system so they don't feel like outcasts, so they can cope, and promote them to get a good education because they're going to need the money later on.

That's my story. My emphasis is on trying to get education to the school counselors and to the schools, and on what issues need to be handled with these students.

One other thing before I go; we're talking about shame and we're talking at this conference about "in the closet" and "out of the closet", and I would just like to suggest that people who stay in the closet not be looked down upon; that that's a choice like non-operative and operative. And we appreciate the brave wonderful people who it is right for, to come out of the closet when it was right for them to come out of closet. But don't pass on shame to the people who are still in the closet; that's the way they need to handle it. We don't want to lose the individual for the cause of the greater good, although I can see it would be a great cause for my child to let everybody know, but for her right now, she doesn't want people to know, and I need to respect that. And so maybe just a little bit of thought on that.

By Sharon Ann Stuart:

I wanted to read Evelyn's contact information into the record. That's Evelyn, E-v-e-l-y-n, A. as in alpha, initial. Lindenmuth, L-i-n-d-e-n-m-u-t-h. The mailing address is: 6755 Mira Mesa Boulevard No.123-197 , San Diego, California 92121. The telephone contact is: (619) 975-1291.

We hope to develop a brochure handout and set of guidelines with resource materials sometime as we go forward this year. And I'm happy to report that James Green, a member of the conference who was in attendance here but has departed, has agreed to work with Evelyn on the West coast in developing that material, and that will be the principal project for this working group this year.

Thank you very much for your participation, Evelyn. We have prisoner rights left; however, we are out of time. They are beginning to prepare the room for lunch. We will try to get the prisoner rights report to you this afternoon. We may be able to fit it in at the end of one of the other presentations. And at this time, this report session for Your Rights is concluded.

Thank you very much.