

**DISCRIMINATION AGAINST THE EMPLOYMENT OF HOMOSEXUALS**

**A Statement Prepared By:**

**The Mattachine Society of  
Washington  
P.O. Box 1032  
Washington 13, D.C.**

**Presented To:**

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## DISCRIMINATION AGAINST THE EMPLOYMENT OF HOMOSEXUALS

### I. Introduction

#### A. Premises

The homosexual is one whose direction of choice of a sexual partner differs from that of the majority of the citizenry in what he is attracted to and chooses partners of his or her own sex.

Homosexuality is neither a sickness, disease, neurosis, psychosis, disorder, defect, nor other disturbance, but merely a matter of the predisposition of a significantly large minority of our citizens.

Homosexuals are a minority group, no different, as such, from others; and their problems are those of prejudice against minorities -- prejudice and discrimination as unreasonable and as ill-founded as those directed against others of our minorities.

#### B. Statistical Background

Lest this be considered an area too small and unimportant for this committee, a very brief background survey is in order.

While estimates of the number of homosexuals vary, and (unlike the cases of the Negro, the Jew, and others) exact figures are impossible to obtain, an informed reading of the Kinsey Report, combined with intelligent observation, leads to an estimate of at least 10 per cent of the non-juvenile population of the country (both men and women).

There is a strong tendency for homosexuals to migrate from rural to urban areas, and from small urban areas to large ones. Therefore, as a reasonable figure with which to work, one may say that 10 per cent of the total population of a large metropolitan area such as Washington is homosexual.

Thus some 15,000,000 American citizens, and some 250,000 residents of the Washington area, are homosexuals. This makes the homosexual community one of the largest of the national and the local minority groups.

#### C. General Employment Situation

The general employment situation for homosexuals can be summed up very briefly: Virtually anyone known to be a homosexual is unemployable, regardless of all other aspects of his background,

training, and character, to a degree far beyond anything encountered by the Negro. Whereas the Negro, at worst, has had the mere indifference of the Federal Government, and, at best, its active assistance, the homosexual has had the active hostility of the Federal Government and finds the Government to be the center and source of some of the most virulent discrimination directed against him.

This is the last remaining major area of discrimination and of deprivation of civil liberties in this country, and one in which not only is almost no significant effort, public or private, being made to change the situation, but one in which the official policy -- the enforcement and perpetuation of existing discrimination -- is totally inconsistent with officially expressed policies of equal employment opportunity for all, of making the best use of available manpower, of eliminating discrimination on the basis of non-quality measures.

In short, there is not only no official support for an easing and improvement of this situation, but there is active official opposition to any relaxation of present discriminatory attitudes and practices.

Because of the universality of exclusion of known homosexuals from employment, case histories will not be noted in this statement. Suffice it to say that any employer who does knowingly employ homosexuals, or who does NOT discriminate against them, is considered by the homosexual community to be unique.

The only factor which saves the country from having 15,000,000 unemployed homosexuals, and the Washington area from having a quarter-million, is the indistinguishability of most homosexuals from their fellow citizens, so that relatively few are known as such to actual or potential employers.

## II. The Federal Government

### A. Introduction

It is relevant to discuss in this statement the employment policies of the Federal Government -- of the U.S. Civil Service Commission -- for three reasons: (1) the Federal Government is the largest employer in the Washington area and its policies and practices are, therefore, of major concern to the labor force in the area; (2) the Federal Government, by its policies, sets the example and the direction for other employers: when the Federal Government does not discriminate private employers may or may not,

but when the Federal Government does discriminate, virtually all private employers will do likewise; and (3) Federal policies and practices govern employment practices of the District of Columbia.

#### B. Policy

The policy of the Federal Government is simple and straightforward: total exclusion.

In substantiation of this, a copy of a letter from John W. Macy, Jr., present U.S. Civil Service Service Commission Chairman, is appended to this report. In addition, we have a statement dated May 24, 1962, from I. L. Risen, Chief, Personnel Management Section, U.S. Civil Service Commission, that: "The evidence of homosexual conduct would disqualify, in spite of otherwise strong qualifications." A similar statement from Mr. Macy is in the possession of the National Capital Area Civil Liberties Union.

This policy is based, with dubious legality and constitutionality, upon 5 C.F.R. 2.106(a)(3), under which "immoral conduct" is ground for a finding of unsuitability for Federal employment. Despite room for vast areas of legitimate difference of opinion upon what is moral and what is immoral, "immoral conduct" is nowhere defined in writing by the Civil Service Commission.

Offers and attempts to confer on this question with the U.S. Civil Service Commission have been fruitless. They seem to consider it a permanently closed, settled matter. Requests to the Commission by the Mattachine Society of Washington for a statement of the findings of fact upon which this discriminatory policy is based have not been replied to. A similar request by the National Capital Area Civil Liberties Union was met and evaded by quotation and citation of relevant and supposedly relevant laws and statutes, but by no attempt at all to justify the exclusion.

The Civil Service Commission is relentless in its efforts to exclude and to ferret out homosexuals, to the extent that one-third of its budget is devoted to investigation, while a mere one-sixth is devoted to recruiting and selecting.

That the Commission is so unwilling, despite its uncompromising efforts in this direction, to provide factual justification for these policies and efforts can only mean that no such justification exists and that they are acting upon the basis of political expediency and pressure, vested interests, blind prejudice, or other unworthy motives.

### C. Results of Federal Policy

Because the homosexual is not easily recognizable, the Federal Government has had minimal success in its policies of exclusion. It is probably not far from correct to say that some 200,000 to 250,000 Federal employees are homosexuals -- close to the 10 per cent which applies to the population at large.

Nevertheless all of these live with a Sword of Damocles hanging over them. There is a constant, unnecessary turnover of personnel, with all of the human waste and administrative inefficiency which this implies. While statistically the turnover may be small, numerically it is large, and in view of the virtual impossibility of finding satisfactory employment after a dismissal on grounds related to homosexuality, regardless of job performance, competence, or impeccability of deportment, the waste in human resources and the number of human tragedies is great.

For these reasons, many competent people who have much to offer -- particularly those in professional fields -- will not consider Government employment, to the detriment of the nation.

The overall effects of such policy are (1) to deprive the government of the services of many highly competent individuals; (2) to waste vast sums of money in the ferreting out of homosexuals and in their replacement; (3) to create a large number of totally unnecessary human tragedies; (4) to further extend conformity and the suppression of dissent -- particularly social conformity and the suppression of social dissent -- which many find increasingly offensive; (5) to set the example for similar discrimination everywhere.

### III. Private and Semi-Private Employment

#### A. The Professions

The Mattachine Society of Washington has not yet formally polled the various professional groups -- the American Medical Association, the bar associations, etc. Informal discussion with homosexual lawyers, doctors, and others indicates that there is a belief that had their homosexuality been known to the professional groups at the time of the accreditation they would not have been accredited.

## B. Teaching

### 1. Public Schools

Although, contrary to popular belief, homosexuals are no more likely to molest or adversely affect their pupils than are heterosexuals, and although there are many homosexual teachers doing excellent jobs in our local school systems, any evidence of homosexuality is taken as sufficient ground for dismissal.

### 2. Universities

In general, universities will neither hire nor retain a known homosexual on their faculties, despite professional qualifications, although little positive effort is made to hunt homosexuals out, and, on occasion, a blind eye will be turned toward a well-established professor.

## C. Private Employment

There is a small number of private occupations -- hair-dressing, interior decorating, etc. -- in which homosexuals find comparatively less discrimination than elsewhere. These do not employ many people. Other than these, it may generally be assumed that if the employee's homosexuality be known, he will be neither hired nor retained, regardless of competence, training, performance, personal conduct at work, or appearance. This is true whether the position is a menial one, or whether it requires a highly skilled and trained worker.

Thus while most homosexuals are employed, many have jobs which do not make proper use of their abilities and virtually all of them are without job security, on account of their homosexuality.

There seems to be little likelihood -- although the possibility may exist -- of changing this situation of discrimination in private industry, as long as the Federal Government continues to set its present example.

## IV. Effects of Present Security Clearance Policies.

A significant number of jobs in the Washington area require security clearances. Executive Order 10450 and its successors indicate that "sexual perversion," not otherwise defined, may be grounds for denial of a clearance. In practice this criterion is applied exclusively to homosexual acts, never to similar heterosexual ones, and, in practice, IS, not "may be" grounds for denial of clearance.

Only the Atomic Energy Commission spells this out further and explicitly denies clearance to homosexuals.

Discussion with the highest Defense Department security officials indicates that they base their policies upon the assumption that ALL homosexuals are unstable and unreliable, a generalization as sweeping and as untrue as any of the generalizations and stereotypings used as the bases for discrimination against Negroes, Jews, and other minorities.

In terms of effect and effectiveness, the results of these policies are similar to those of the Civil Service Commission's employment policies -- the overwhelming number of homosexuals having or applying for clearances, get and retain them.

They are nevertheless placed in a position of constant insecurity, subject to loss of job at any time, and in this area, too, there is a constant toll of human tragedies.

In addition, in a number of professional and semi-professional fields -- the sciences, engineering, etc. -- it is now virtually impossible to find jobs which do not require security clearances. As a result, a significant number of very highly trained people -- often with Ph.D.'s -- are without jobs, or are forced into positions in which their abilities and training go largely unused.

The blanket denial of clearances to homosexuals, per se, with no attempt being made to assess the reliability of the individual involved, on an individual basis, is in no way different from similar refusals, elsewhere, to hire Negroes, as such, or Jews, as such. The waste of human resources and the toll in human lives effectively destroyed is as great.

#### V. Effect of Present Policies of the Armed Forces

Not only is the policy of all branches of the Armed Forces one of exclusion of homosexuals (see, for example, AR 635-89) but homosexuals entering the service (as, for reasons indicated below, virtually every male homosexual does, policies of exclusion notwithstanding) and discovered to be such, are given less-than-fully-honorable discharges, regardless of the nature and quality of their performance in the Service, thereby blighting the remainder of their lives and sharply limiting the employment available to them.

The homosexual facing the draft is presented with an intolerable choice. He may tell his draft board that he is a homosexual, thereby avoiding service but running the permanent risk

of having to tell a prejudiced employer the reason for his deferment, or of having the information obtained by the employer from the draft board or "leaked" by draft board officials, resulting in unemployability; or, most usually, in order to avoid this possibility and, as often as with the citizen at large, out of a desire to serve his country, he will take the gamble presented to him, perjure himself to his draft board, be inducted, and run the constant risk of exposure, of less-than-honorable discharge, and of unemployability. There seems to be no way, at present, for the draft-eligible homosexual to escape this choice. The overwhelmingly large majority choose the latter alternative.

The Armed Forces, like the Civil Service Commission and the security authorities, detect a relatively small percentage of the quarter-million homosexuals currently in uniform, but in terms of actual numbers affected their policies result in a steady stream of totally unnecessary personal tragedies which are virtually irreparable, since a less-than-honorable discharge follows one throughout his life, and is one of the most effective of the factors producing unemployability.

## VI. Summary and Conclusions

1. The homosexual minority is one of the largest in the greater Washington area, consisting of about 250,000 persons.
2. Exclusion of known homosexuals from all areas of employment, public and private, is, to all intents and purposes, complete and absolute. Only the fact that most homosexuals are not known to their employers prevents the entire group from being unemployed.
3. Discrimination against the homosexual is based upon the same kind of prejudice, misinformation, ignorance, and erroneous stereotyping as is discrimination against other minorities, and is therefore equally invalid.
4. This minority is unique in that discrimination against it is accepted at all levels, and that no significant voices are being raised even to question the validity of such discrimination.
5. Discriminatory attitudes among private employers are reinforced by the firmly discriminatory policies of the Government and are quite unlikely to change until the Government alters its position.

## VII. Recommendations

In view of the above conclusions, particularly the last item, it is recommended that a formal re-examination, reassessment, and re-evaluation of Federal Government policy on, and approach toward, this question be made. The particular areas to be considered should be (1) employment (i.e., U.S. Civil Service Commission policy); (2) the attitudes and procedures of the Armed Forces; (3) policy on security clearances; and, possibly, (4) laws on homosexuality.

A White House conference of the type which has been held from time to time, to deal with a variety of narrowly specific problems and including representatives of the homosexual community, would seem to be in order.

Specific consideration by both the Commission on Civil Rights and the Commission on Equal Employment Opportunity is strongly and urgently called for.