



# City Manager's Report

The City of  
**OKLAHOMA CITY**

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**NO.** 4343

**DATE** January 4, 1995

**TO THE MAYOR and MEMBERS OF THE CITY COUNCIL**

**SUBJECT** Human Rights Resolution

A majority of the Oklahoma City Human Rights Commission approved a resolution encouraging the introduction of a Human Rights Ordinance at its regularly scheduled meeting of November 28, 1994. The Commission respectfully requested that this resolution be forwarded to the City Council for review and consideration.

Currently, amendments to Chapter 25 of the Human Rights Ordinance have been submitted to the Council's Judiciary Committee.

Please contact me if you have any questions.

A handwritten signature in cursive script, appearing to read "Donald D. Bown".

Donald D. Bown  
City Manager

Attachment

## **RESOLUTION**

### **A RESOLUTION ENCOURAGING THE INTRODUCTION OF A HUMAN RIGHTS ORDINANCE BEFORE THE OKLAHOMA CITY COUNCIL.**

**WHEREAS**, it is the policy of the Human Rights Commission of The City of Oklahoma City that prejudice, intolerance, bigotry and discrimination and disorder occasioned thereby threaten the rights and proper privileges of the inhabitants of the City and are a menace to the institutions and foundations of freedom; and

**WHEREAS**, The City, in re-activating the Human Rights Commission in 1988 has proven its commitment to a policy of non-discrimination, and should reaffirm its commitment that no person shall receive a benefit or be discriminated against in a manner inconsistent with the Constitution of the United States and the Constitution of the State of Oklahoma; the laws of the United States or the State of Oklahoma; The City Charter of The City of Oklahoma City, the adopted ordinances, resolutions, policies, rules or regulations of the City of Oklahoma City; and

**WHEREAS**, if the City Council approves a Human Rights ordinance which will protect the rights of all its citizens, our City will be enhanced and respected as a City which allows the free exercise of all human rights.

**NOW THEREFORE, BE IT RESOLVED** by the Human Rights Commission of The City of Oklahoma City, that this Resolution of Support for the introduction of a Human Rights Ordinance by the Oklahoma City Council, be adopted.

**ADOPTED** by the Human Rights Commission and **SIGNED** by the Vice  
Chair of the Oklahoma City Human Rights Commission in Oklahoma City  
this 22 day of December, 1994.

THE CITY OF OKLAHOMA CITY  
HUMAN RIGHTS COMMISSION

By   
C.E. Waddle, Vice Chair  
Human Rights Commission

APPROVED as to form and legality this 28<sup>th</sup> day of November  
1994.

  
Assistant Municipal Counselor

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# City Manager's Report

## The City of OKLAHOMA CITY

**NO.** 4121

**DATE** October 5, 1993

### **TO THE MAYOR and MEMBERS OF THE CITY COUNCIL**

**SUBJECT** Human Rights Ordinance

At the City Council meeting on September 28, 1993, the Mayor and City Council requested additional information regarding changes to Chapter 25 of the Oklahoma City Municipal Code as requested by the Oklahoma City Human Rights Commission. Questions raised by Council members concerned the Commission's enforcement powers, the expansion of protected groups, current investigation procedures, and whether or not the ordinance revisions sought by the Commission were already covered by federal and state regulations. The Human Rights Commission and City staff have prepared responses to inquiries of each Council member pertaining to the proposed Human Rights Ordinance.

As background, in 1992, the U.S. Supreme Court decided in *R.A.V. v. the City of St. Paul* that ordinances which prohibit speech are unconstitutional. The City ordinance regulating "hate crimes" in St. Paul is considered very similar in content to that of Oklahoma City's Article IV of Chapter 25. The Municipal Counselor's Office issued a legal opinion at the request of the Human Rights Commission which stated, "if challenged on First Amendment grounds, the Oklahoma City Hate Crimes Ordinance would likely be held unconstitutional as attempted content discrimination on the part of the government". Subsequently, the Human Rights Commission drafted the ordinance amendments for your review and consideration.

A later U.S. Supreme Court case, *Wisconsin v. Mitchell*, did not reverse the 1992 decision of the court, as had been anticipated by some civil rights lawyers. Therefore, consistent with the opinion of the Municipal Counselor, the Commission administratively closed eight pending private employment discrimination complaints. The Commission is now without authority to receive complaints.

The Director of the Oklahoma Human Rights Commission, and the Director of the U.S. Equal Employment Opportunity Commission will be present to answer any further questions, or provide technical assistance pertaining to their regulations concerning discrimination in private employment.

Staff will be available to answer any additional questions.

  
for Donald D. Bown  
City Manager

Attachments

City Council Inquiries Regarding the CURRENT  
and NEW Proposed Human Rights Ordinance

**MAYOR RONALD J. NORICK:**

**1) Are the changes in the definitions conforming with federal law?**

Federal law does define age, disability, and familial status, but does not address "sexual orientation".

**2) What caused this to get to where we are today with this?**

Chapter 25, Article IV of the Oklahoma City Municipal Code is the Human Rights Commission's enabling ordinance. This Article was determined to be unconstitutional due to a recent Supreme Court case *RAV v. City of St. Paul*, and as a result of the U.S. Supreme Court's ruling, eight private employment complaints received by the Human Rights Commission were administratively closed. There is currently no valid ordinance under which the Commission may consider any type of discrimination complaint. However, the Commission may continue to conduct educational forums.

The Federal Fair Housing law includes disability and familial status. The proposed amendments would bring the Oklahoma City Municipal Code into compliance. The Metropolitan Fair Housing Council will continue to hear housing discrimination complaints.

**3) What are we doing that the Federal Government is not doing?**

The Human Rights Commission investigated complaints under Chapter 25, Article IV, based on intimidation or harassment, "because of a person's race, color, religion, creed, ancestry, age, sex, sexual orientation, ethnicity, national origin, or disability, . . ." The Federal Government does not address sexual orientation.

**4) Where do we get involved at the local level?**

Since 1988, the Human Rights Commission mediated disputes between citizens, i.e., private employers-employees not covered by State or Federal laws and the protected groups in Article IV.

**5) Does this change what the enforcement is? Would we have to enforce now what is being enforced at the Federal level?**

Yes. The new proposed ordinance would expand protection against discrimination because of age, disability, familial status, and sexual orientation.

The Ordinance would duplicate Federal and State laws pertaining to race, color, religion, creed, ancestry, age, sex, national origin, ethnicity, familial status, and disability.

The Human Rights Commission enforcement authority would continue to exist under Section 25-23 of the current and proposed ordinance which would direct any violations to the Municipal Counselor's Office for prosecution.

**MAYOR RONALD J. NORICK: (Cont'd)**

The violations and penalty changed from "an amount not to exceed five hundred dollars (\$500.00) and/or imprisonment in the City jail not to exceed ninety (90) days", to:

"an amount not to exceed five hundred dollars (\$500.00), plus costs, and/or imprisonment in the City jail not to exceed ninety (90) days".

**COUNCILWOMAN FRANCES LOWERY:**

- 1) Does the Human Rights Commission have the power and authority to sentence anyone on this if they are convicted of discrimination?

The Commission has the authority to refer a violation to the Municipal Counselor's Office for prosecution under Section 25-23 of the existing ordinance, and the new proposed ordinance.

- 2) Does the City need to get involved in private industry/private businesses in telling them what they can and cannot do?

Most complaints regarding discrimination that have been received by the Commission have involved private employers-employees. The Commission has investigated only private employment complaints since 1988 based on intimidation and harassment of a person because of race, color, religion, creed, ancestry, age, sex, sexual orientation, ethnicity, national origin, or disability. The Commission cannot hear complaints against city officials or city employees.

**COUNCILMAN JERRY FOSHEE:**

- 1) Is this already covered under the 1964 and 1991 Civil Rights Acts?

It is partially covered. The Equal Employment Opportunity Commission indicates employment discrimination is prohibited based on race, color, religion, sex or national origin under Title VII of the Civil Rights Act of 1964. Title VII covers private employers, state and local governments, and educational institutions that have 15 or more employees. The federal government, private and public employment agencies, labor organizations, and joint labor-management committees for apprenticeship and training also must abide by the law. Sexual Orientation is not a protected group under federal law. (See Attachment on "Information For the Private Sector and State and Local Governments")

The Civil Rights Act of 1991 amended the Civil Rights Act of 1964, in which, according to the Employment Discrimination Handbook, awards of compensatory damages for violations of federal employment discrimination laws are the rule rather than the exception. "Such damages have traditionally been available only in cases alleging race or national origin discrimination, but are now also available in cases alleging intentional race, color, religion, sex, or national origin discrimination or retaliation against opponents of such discrimination under Title VII of the Civil Rights Act of 1964 or alleging intentional discrimination or a failure to provide reasonable accommodation to disability under the ADA or the Rehabilitation Act of 1973".

**COUNCILMAN JERRY FOSHEE: (Cont'd)**

The Equal Employment Opportunity Commission indicates, "Title I of the Americans with Disabilities Act of 1990 took effect July 26, 1992, and prohibits private employers and state and local governments with 25 or more employees (15 or more after July 26, 1994), employment agencies, and labor unions from discrimination against qualified individuals with disabilities. The Age Discrimination in Employment Act (ADEA) of 1967 is for persons 40 years of age or older."

**COUNCILWOMAN BEVERLY HODGES:**

- 1) If someone feels like they have been discriminated against what is the procedure?

The Coordinator of the Commission receives the complaint of discrimination, and forwards the complaint to the Municipal Counselor's Office for a recommendation on whether the Commission has jurisdiction to investigate the complaint.

The Human Rights Commission's Investigation Committee makes a determination to schedule an interview with the complainant regarding the complaint. The Committee makes a recommendation to the full Commission. If the Commission determines that the complaint appears to have merit, the investigation is continued, and the respondent is notified that a complaint has been filed. If the Commission determines that the discrimination complaint is not warranted, the complainant receives notice that the complaint is not a violation of the existing ordinance. The complainant signs a statement advising them they have an option to file with the State or Federal agency. All original files are confidential and remain with the Municipal Counselor's Office.

**COUNCILMAN JACK CORNETT**

- 1) Would like to know the comparisons between Federal, State, and Local laws. Who is not covered, and who is covered?

The Federal law covers discrimination based on race, color, religion, sex, national origin, the American with Disabilities Act (ADA), Age Discrimination in Employment Act (ADEA), and the Equal Pay Act (EPA).

The State law covers discrimination because of race, color, religion, sex, national origin, age, or handicap. The State Commission may refer a matter of discrimination to a local commission for investigation, study and report.

The Oklahoma City ordinance under Article IV prohibits discrimination based on sexual orientation in addition to the groups protected by State and Federal law. The proposed ordinance expands the protection against discrimination to age, disability, familial status, or sexual orientation.

- 2) Is this duplication?

No. The Oklahoma City Municipal Code would be updated to conform with Federal and State laws by including age, disability, and familial status. The Federal and State laws do not address sexual orientation. The 1988 Council mandate included sexual orientation within the protected groups under Article IV. The proposed ordinance does not duplicate State, Federal, or Local laws pertaining to enforcement based on prosecution as a criminal act, or in the assessment of penalties for a violation of the laws against discrimination. The State and Federal agencies have the right to sue, issue subpoenas, and assess punitive and compensatory damages for violations of laws against discrimination.

# Oklahoma City Human Rights Commission

Room 302 Municipal Bldg.  
200 North Walker  
Oklahoma City, OK 73102  
Phone (405) 231-2569



## RULES AND REGULATIONS OF OKLAHOMA CITY HUMAN RIGHTS COMMISSION

### PURPOSE

The fundamental purpose of the Oklahoma City Human Rights Commission is the elimination of discrimination in all forms and to uphold the rights of everyone without distinction as to race, creed, sex, color, national origin, age, handicap, or ancestry, and to do this through hearing and investigating complaints; cooperating with city, state and other agencies concerned with human rights, studying institutionalized discrimination and seeking solutions that might lessen the potential dangers in such situations.

### ORGANIZATION

The Commission shall elect a Chairperson and Vice Chairperson; and

- a) Officers shall be elected by and from the Commission in June of each year for a term of one year.
- b) Officers shall take office on the first day of July following their election, when new terms begin, and shall serve until their successors take office.
- c) No officer shall be permitted to serve in the same office for more than two full terms consecutively.
- d) Whenever a vacancy shall occur in an officer's position, the Commission shall elect a member to fill such office for the unexpired term.

### MEETINGS

- a) Meetings shall be conducted according to Robert's Rules of Order.
- b) Meetings shall comply with the Oklahoma Open Meeting Law.
- c) Three (3) consecutive unexcused absences shall result in a recommendation to the Mayor that the position be declared vacant and a new commissioner appointed.
- d) Regularly scheduled meetings shall be held on the 4th Monday of each month.
- e) Evening meetings shall be held as necessary.

### POWERS AND DUTIES OF THE COMMISSION ON HUMAN RIGHTS

The Commission shall have the power and it shall be its duty to:

- a) Receive, investigate and seek the satisfactory adjustment of complaints charging discrimination.



- b) Study and investigate by means of public hearings or otherwise any conditions having an adverse effect on intergroup relations in the City of Oklahoma City, to study the problems of prejudice, intolerance, bigotry and discrimination as they affect the public safety and general welfare of the City of Oklahoma City.
- c) Institute and conduct educational and other programs to promote the equal rights and opportunities of all persons, regardless of their race, creed, sex, color, national origin, age, handicap, or ancestry, in order to promote understanding among persons and groups. In the performance of its duties, the Commission may cooperate with interested citizens, private agencies and agencies of the federal, state and local governments.
- d) Assist in the enforcement of fair practices in City contracts.
- e) Recommend ordinances to promote and insure equal rights and opportunities for all persons regardless of their race, creed, sex, color, national origin, age, handicap, or ancestry.
- f) Adopt such rules and regulations as may be necessary to carry out the purposes and provisions of this Ordinance.

#### Procedure

- a) A complaint alleging discrimination may be filed on the official form available in the City Manager's Office, Monday through Friday, 8:00 a.m. - 5:00 p.m.
- b) The complaint shall be in writing, signed, sworn or affirmed, including name and address of the person or persons alleged to have committed the discriminatory practice; and the particulars thereof and such other information as may be required by the Commission. The Commission shall take no formal action in any proceeding until such time as a sworn or affirmed complaint is filed by the complainant.
- c) A complaint charging that any person has engaged or is engaging in discriminatory practices as set forth in this Ordinance may be made by the Commission, by an aggrieved person, or by an organization which has as one of its purposes the combating of discrimination or the promotion of equal opportunities, and any complaint may be amended by the complainant or the Commission at any time before final action has been taken by the Commission, in accordance with such rules and regulations as the Commission shall prescribe.
- d) A properly filed complaint will be forwarded to the Commission Chairperson. The Commission Chairperson shall designate a Commissioner to make a prompt preliminary investigation of the complaint. The designated Commissioner shall submit a recommendation to the full Commission based on findings from the preliminary investigation. A preliminary investigation shall mean a designated Commissioner shall call all involved parties and attempt to obtain a sworn or affirmed statement in writing to determine whether a discriminatory practice has occurred.

- e) If the Commission determines that a basis exists for the allegations made in the complaint, after preliminary investigation, the complaint will be placed on the agenda and all parties will be notified in writing as to the date of the hearing. The complainant and respondent shall receive not less than (7) days notice by certified mail of the date and time of the hearing.
- f) If upon all evidence presented, the Commission finds that the Respondent has not engaged in any discriminatory practice, it shall state its findings of fact in writing and recommend to the City Council that the complaint be dismissed. The complainant and respondent shall receive not less than seven (7) days notice by certified mail in writing of the recommendation, and of the date the City Council will act on the recommendation.
- g) If upon all the evidence presented, the Commission finds that the Respondent has engaged or is engaging in discriminatory practices, it shall state its findings of fact in writing and shall forward a recommendation in writing to the City Council as the facts warrant to effectuate the purposes of this Ordinance.

Approved by City Council 7-22-80  
Amended and Approved by Human Rights Commission 7-28-80

# STAFF REPORT TO CITY COUNCIL

NO. 1410



To the Mayor and Members of the City Council

Date 8/15/80

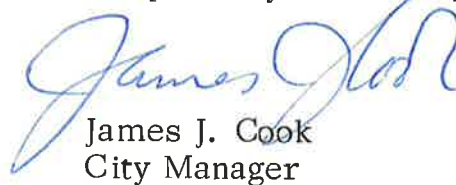
Subject : Human Rights Commission

As requested by Council, the Human Rights Commission amended its rules and regulations on July 28, 1980 to include under procedure (e) and (f) that the complainant and respondent shall receive not less than (7) days notice by certified mail of the date and time of the hearing.

Also, deleted from the complaint form was the request for a social security number.

Staff will be happy to provide any additional information upon request.

Respectfully submitted,

  
James J. Cook  
City Manager

Attachment