

## A City Divided Takes the Anti-Discrimination Debate to City Council Chambers

JORDAN GASS-POORE<sup>1</sup> on 29 August, 2013 at 08:41



The line to attend City Council's "B" Session rarely stretches outside the Municipal Building into Main Plaza downtown. Yesterday, however, more than 400 citizens lined up beyond the length of the Plaza to hear the first full-Council discussion of the proposal to update and unify the San Antonio's non-discrimination ordinance (NDO). People began to form a line as early as 10:30 a.m. – more than three hours before Council members took to the dais.

The proposed update consolidates non-discrimination policies from across city code into one chapter and adds sexual orientation, gender identity, and veteran status to the City's current list of protected classes – race, color, religion, national origin, sex, and disability. Exemptions to this rule continue to include religious entities and are applied to the same City jurisdictions, including city employment, public accommodation, fair housing, city contracts, appointed officials, boards and commissions.



*Those opposed to the NDO ordinance cheer and wave at Councilwoman Chan as she approaches the dais.*

*Photo by Iris Dimmick.*

Tensions steadily rose throughout the day, culminating in applause, jeering and shouting in and outside council chambers, which reached capacity soon after roll call – as did two nearby overflow rooms. Combined, 700 people were allowed inside at a time, even as more than 100 others waited outside for a chance to enter.

The reasons for and against **District 1 Councilman Diego Bernal**'s proposed inclusion of the non-discrimination ordinance ran the gamut during yesterday's meeting and the obligatory citizens to be heard session that immediately followed.

During the meeting, council members mainly focused on discussing the legality, spirit, and wording of the ordinance.

The most recent version of San Antonio's proposed amendment to its non-discrimination ordinance, having gone through multiple revisions since its first release three months ago, was released Tuesday after Bernal, the author of the proposal, met with local religious leaders and other residents.

[[Download the most recent draft here.](#)]

"I'm not saying this discrimination is (a) rampant problem ... but I see it as part of my job to protect vulnerable populations," Bernal said.

Although the ordinance does not change the law beyond adding three classes, Bernal's version attempts to clarify certain aspects of the amendment. For example, it stipulates that a religious organization does not violate the non-discrimination policy limiting employment or giving preference to members of the same religion, "as determined solely by the religious corporation, association or institution."

Another clarification states that the amendment does not require "any person or organization to support or advocate any particular lifestyle or religious view, or advance any particular message or idea."

Mayor Julián Castro acknowledged last night that the amendment's wording is dated and needs to be reworked, but that its intention is to make clear that when a person is acting as a city representative, they cannot discriminate.

"Granting rights to one group doesn't mean we're taking away from another," he said.

**District 10 Councilman Carlton Soules** cited possible constitutional and civil litigation as a result of the NDO passage.



*Councilman Bernal (left) and Mayor Castro listen while City Attorney Michael Bernard explains the NDO. Photo by Iris Dimmick.*

**City Attorney Michael Bernard** said that, to his knowledge, of the more than 100 other cities that have similar ordinances – including Houston, Dallas, Austin, Fort Worth, El Paso – none have encountered subsequent litigation.



"I'm not worried about cities across the U.S.," Soules said to applause from the blue-clad opposition to the NDO. "I'm worried about (San Antonio,) Texas ... each ordinance is different."

Soules also pointed out that removing the "prior discriminatory acts" may open up the City to hire "known racists," weakening existing non-discriminatory precautions.

Bernal had removed that particular section after meeting with religious groups that expressed concern that a person's personal religious beliefs could be used against them when running for office. A pastor telling its congregation that homosexuality is a sin, for instance, could possibly be defined as "prior discriminatory acts."

Bernard assured the council that the removal of this section would not remove all avenues of preventing racists from the City's employment rolls.

*Councilman Soules during the citizens to be heard session.  
Photo by Katee Boyd.*

Soules and **District 9 Councilwoman Elisa Chan** are expected to vote against the ordinance. The recent exposure of Chan's recorded conversation by the Express-News of her comments calling gays "disgusting" and disapproving of same-sex couples adopting children wasn't far from Chan's line of questioning yesterday for Bernard.



*From left: Mayor Castro, Council members Soules, Chan, Nirenberg, and Medina discuss the NDO. Photo by Iris Dimmick.*

"At what point in time does (a conversation) become a discriminatory comment versus my personal opinion?" Chan asked Bernard. "If the meeting has not yet started ... is that considered an official capacity?"

"I don't think so," Bernard said.

Chan cited this ambiguity as a "good reason to write (more clarification) in(to the ordinance)," called for more research into potential unintended consequences and to instead issue a city-wide ballot. Soules and newly-elected **District 3 Councilwoman Rebecca Viagran** also voiced concerns over what they saw as Bernard's lack of specificity.

"There are a lot of statements from you saying, 'sure' and, 'I believe,'" Viagran said to Bernard. "I need something more concrete

..." she said into a wave of "blue" applause.

District 4 Councilman Rey Saldaña said he found their concerns were mere distractions from the real issues that the ordinance addresses.

"There have been deliberate attacks on this ordinance to confuse folks," he said. It shouldn't matter if the City has found one, 10, or 100 reports of discrimination based on sexual orientation or gender identity, "we have LGBT (community)members and we'd like them to be protected."

This was one of several cues for citizens wearing red in support of the NDO to start to cheer. Their numbers were dwarfed 50 to 450 by those in blue during the council meeting in chambers, but evened out and overcame blue by the end of the evening. Both sides traded-off clapping, booing, and shouting when their respective viewpoint was highlighted by council members or fellow citizens.

"You can call these folks 'disgusting,'" he continued, referencing Chan's recording, "But that (opinion) cannot affect those people in your (capacity as a city council member)."

Seven votes are expected in support the ordinance: Bernal, Saldaña, **District 6 Councilman Ray Lopez**, **District 7 Councilman Chris Medina**, **District 8 Councilman Ron Nirenberg**, **District 5 Councilwoman Shirley Gonzales**, and Mayor Julián Castro.

Viagran and **District 2 Councilwoman Ivy Taylor** have not announced a clear opinion either way.

Those in support all asked for clarification and examples from Bernard, both for their own uses and for that of the increasingly rambunctious audience. "The spirit" of the ordinance was what they cited as paramount to San Antonio's societal success.

"At the end of the day there will never be second-class citizens in San Antonio," Castro said. "We will have an ordinance that accomplished that and also respects the individual beliefs of its people."

Bernal agreed. Blue shirts rolled their eyes and scoffed.

"No one will be required to host or endorse a group or event ... (businesses) will not be forced to do anything" as a result of the passing of this ordinance, he said. "If we're being honest with ourselves ... do you believe it should still be legal to discriminate against them for being who they are? My answer is, of course not."

Bernard assured the council that the ordinance is within its legal jurisdiction, does not remove any First Amendment freedoms, and if the ordinance passes by council vote next week on Sept. 5, "people are going to use the same bathrooms they did two weeks ago ... no one (will be) checking (people's) 'plumbing'."

Supporters aren't the only ones that understand and respect "the spirit" of the ordinance.

"No one is talking about discriminating (against) anybody," Chan said to another bout of applause and jeering from the audience. Just because some are opposed to the NDO, it doesn't mean "we condone discrimination – so do not put those words in our mouth(s) ... everybody agrees in spirit ... but this is law."

Then, however, Chan received the loudest protest from red shirts in the audience.



*Councilwoman Viagran listens to citizens to be heard on the non-discrimination ordinance. Photo by Katee Boyd.*



*Councilman Saldaña at the NDO citizens to be heard session. Photo by Katee Boyd.*



*People wore red and blue shirts to show respective support or opposition to the NDO during City Council's meeting. Photo by Iris Dimmick.*

"I don't believe we should categorize the LGBT group with race," Chan said, citing the theory that sexual orientation and gender identity is a "choice".

"I'm an Asian American, I cannot change my race ... there are theories from both sides ... and some theories that say that people are born genetically (gay)," she said between shouts from the audience. "It's not wrong – you can believe either way ... but you can still choose that lifestyle."

That's when the conversation started to spiral towards questions of personal morality, scientific studies, and human nature – but that's about when the Council adjourned to prepare for the largest NDO citizens to be heard session yet.

## HEATED CITIZENS TO BE HEARD

About 500 people registered to speak for up to nine minutes – some citizens donated their time to others – and speakers were still being heard past 10 p.m.

The opposition to the NDO – again, counterintuitively in blue – had arguments ranging from those similar to those express by the City Council minority, an increase in San Antonio's AIDS rate, the fear of Christian businesses closing and the negative effect speakers allege the ordinance will have on elementary school curricula.

Phil Savilla, co-founder of the [Texas Leadership Coalition](#), a Catholic evangelical and education organization, also called into question the proposed amendment's constitutionality.



*Opposing the ordinance changes are Phillip Sevilla of the Texas Leadership Coalition, a Catholic men's organization, and Pastor Gerald Ripley of Voices for Marriage. Photo courtesy of QSanAntonio.com.*

Savilla said he has met with state and national conservative and faith-based leaders to discuss the proposed amendment, specifically its effects on families, businesses and the First Amendment.

The self-described “cultural warrior” believed there will be negative backlash if the amendment passes and suggested that the city set aside money for legal expenses.



“We have been advised to not accept any part of the ordinance,” he said. “In any state or form (it) is wrong.”

High-profile opponents to the proposed amendment have attempted to tread lightly on the issue, some, like Pastor John Hagee, founder of San Antonio’s Cornerstone Church, a best-selling Christian author and television minister, discussed the proposed amendment’s wording with Bernal to find a middle ground.

City Attorney Michael D. Bernard said violation of the non-discrimination ordinance is a class C felony, resulting in up to \$500 fines per infraction.

Bernard said there is a “mediation provision” in the ordinance that can take place before punishment, “that’s always been true for non-discrimination claims.”

## “THE SAME ARGUMENTS THEY MADE THEN (THAT) YOU HEAR NOW.”

Blood, sweat and dust.

This is how Dan Graney, co-founder of [Community Alliance for a United San Antonio](#) (CAUSA), describes the efforts of the nonpartisan coalition of volunteers since its founding in 2011.

But Graney remembered a time when the San Antonio lesbian, gay, bisexual and transgender communities were not organized. The fear of having their sexual orientation known by the general public – including employers – kept some silent and hidden in the shadows.



Citizens opposed to the non-discrimination ordinance gather in City Council Chambers. Photo by Iris Dimmick.

“The Christian Right scared them,” Graney said.

It was January 1998. The cultural and political climate in San Antonio had proven to be icy toward the rights of LGBT people when Green and other supporters first “quietly lobbied” for an amendment to the city’s non-discrimination ordinance. Graney described these first attempts at amending the city’s non-discrimination ordinance like a trek into uncharted territory, trying to learn how to navigate his way through prejudice and bigotry.

A VHS tape he titled “Uncivil Rights” captures the protest outside of the San Antonio City Council Chambers in January 1998. The tape was given to him by someone whose name he can no longer recall, but the arguments by those who then opposed the amendment to the city’s non-discrimination ordinance still echo in his mind.

“These are the same arguments they made then (that) you hear now,” he said.

More than a decade later, some of the same people who were at that January 1998 protest, and many more, Graney said, have returned to the streets, some with posters in hand and wearing red as a show of solidarity. For months the coalition has urged people to contact their district’s council member and to share their experiences and thoughts during the public forum.

“This ordinance has enough votes to pass,” he said, remembering the six-council member vote in 1998 that eventually failed to amend the city’s non-discrimination ordinance. “... It should have been done a long time ago.”

These efforts hope to give voice to those that cannot or do not wish to speak about their experiences with discrimination, like Graney’s late partner, Robert Flores, who supported LGBT rights until his death.

According to CAUSA, passage of the city’s first non-discrimination ordinance to include sexual orientation and gender identity would “protect and safeguard the right and opportunity of all person’s to be free from all forms of arbitrary discrimination” in employment, housing and public accommodations, allowing those to be judged on their merits instead.

“A lot of people still live in fear here of retaliation if they complain,” said Graney, adding that the “vitriolic language” used by some of the proposed amendment’s opponents during the public meeting are examples of the abuse lesbian, gay, bisexual and transgender people face in San Antonio.



Daniel Graney, co-founder of CAUSA.  
Courtesy photo.

Last year, the Human Rights Campaign compiled its [Municipal Equality Index](#), evaluating state, county and city laws in the nation based on sexual orientation and gender identity discrimination. San Antonio scored 48 out of 100 total points on its index.

[GetEQUAL Texas](#), a statewide grassroots social justice organization, issued a “travel alert” to any LGBT person planning a trip to San Antonio in response to the proposed amendment’s repeated delays for a vote and resident experiences of discrimination based on their sexual orientation and gender identity.



*Revelers gather with GetEQUAL Texas in front of the Bexar County Courthouse to celebrate the Supreme Court decision finding DOMA and Prop 8 unconstitutional. Photo by Iris Dimmick.*

Travelers are advised by the organization to take the following precautions: avoid traveling alone in the city, stay at hotels that have policies prohibiting discrimination on the basis of sexual orientation and gender identity, visit only LGBT-friendly establishments, adopt appropriate safety measures and to report any incidences of discrimination to the organization's hotline.

Jennifer Falcon, San Antonio lead organizer for GetEQUAL Texas, said family members refuse to visit San Antonio because of experiences with discrimination she has witnessed firsthand and others she has heard about.

"I have an uncle who is gay who will not give \$2 to a city that discriminates," she said.

The Bay Area native moved to San Antonio three years ago and became involved with GetEQUAL Texas, a coalition partner of CAUSA, shortly thereafter.

"I was just so shocked at the discrimination with LGBTQ friends," said Falcon. "(It's) so different from the Bay Area."

Falcon recalled an experience when two of her friends were kicked out of the Wild West Nightclub in San Antonio because of their sexual orientation.



*Emotions are high on both sides of the non-discrimination ordinance debate. Supporters and the opposition*



She said another patron, who was not asked to leave the dancehall, shoved one of her friends and used homosexual slurs.

Other instances of discrimination in San Antonio include a teacher who detailed the events that surrounded her termination in an email to GetEQUAL Texas after her students' parents protested against her sexual orientation.

"San Antonio has a history of being a scary place for LGBT to live," Falcon said.

Without a city department that registers complaints, it may be difficult to determine the rate of discrimination in San Antonio. CAUSA has proposed a city Human Rights Commission to monitor and address instances of discrimination.

"It takes a lot of courage to speak," Falcon said.

That is why organizations like GetEQUAL Texas and CAUSA exist, to provide a support and information system, she said.

*Jordan Gass-Poore' is an English/mass communication senior at Texas State University- San Marcos. She began her work as a paid intern for The Rivard Report in June 2013. Her previous and current intern experience includes the New Braunfels Herald-Zeitung, The Austin Chronicle, Slackerwood and the Austin American-Statesman, among others. If she's not writing or sitting outside of her favorite local coffee shop drinking a Shyster (a delicious espresso-sugar-dairy concoction), you can catch her watching episodes of her favorite television series, "Battlestar Galactica." Contact Jordan via [jgasspoore@gmail.com](mailto:jgasspoore@gmail.com) or follow her on Twitter@[@jgasspoore](https://twitter.com/jgasspoore).*

*Iris Dimmick, managing editor of the Rivard Report, attended the council session and contributed to this article. Follow her on Twitter @viviris or contact her at [iris@rivardreport.com](mailto:iris@rivardreport.com).*

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131

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**JORDAN GASS-POORE'**

A former Rivard Report intern, Jordan Gass-Poore' is now interning at The Los Angeles News Group in California. She is an English/mass communication senior at Texas State University. She has also worked as a paid intern for LMG Communications. AT&T is a client of LMG Communications. Jordan's previous and current intern experience includes the New Braunfels Herald-Zeitung, The Austin Chronicle, Slackerwood and the Austin American-Statesman, among others. Contact Jordan via [jgasspoore@gmail.com](mailto:jgasspoore@gmail.com).

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**THERE ARE 4 COMMENTS**[ADD YOURS](#)**TX1** on 29 August, 2013 at 09:27[Reply](#)

The tide has turned on this issue.

Polls of Texans show that 63% of voters support at least civil unions to only 31% who are opposed to any sort of legal equality. 72% of Democrats, 70% of independents, and even a 51% majority of Republicans support either gay marriage or civil unions in Texas.

\*\* When it comes to employment discrimination based on sexual orientation, only 14% of Texans think that should be an allowable practice compared to 75% who believe it should not. \*\*

Even among Republicans just 21% believe employment discrimination is acceptable to 62% who think it is unacceptable.

To our City Councilpeople, especially Ivy Taylor and Rebecca Viagran, don't let a noisy small group of closed-minded individuals sway your opportunity to do the right thing.

So many of City Council votes are procedural, uncontested, placeholder votes. When you look back at what you accomplished on City Council, this will be one of the few times where you can say that you actually made a difference. What side of justice are you going to be on, when you tell you kids and grandkids about your years of service? How would you explain that you voted for discrimination against a portion of the population?

Polling Source: <http://www.publicpolicypolling.com/main/texas/>

**GAY VIET NAM ERA VET** on 29 August, 2013 at 09:30[Reply](#)

Thanks to Jordan Gass-Poore' and the Rivard Report for providing such thorough coverage of Wednesday's

council session. San Antonio is drawing yet more negative national attention, this time due to its blatantly expressed small-minded attitudes. As for “choosing” to be gay. I’ve became aware of my gay feelings just before I hit adolescence. I never recall choosing my orientation. However, people do choose to join a religion. Why does that choice warrant the special right to impinge on the rights of others? As for Chan’s not chosing to be Asian American. Well, how about a person with one black parent and one white parent? Such people are considered black. I am a typical looking “white guy.” However, I have an Ethiopian great-grandmother. In the Civil War era, that would be sufficient to make me black. Did I “choose” to be white? I would love to hear the reaction were Pres. Obama “chose” to use the race of his (white) mother for his own. Why can’t he? As for Chan’s homophobic comments and the First Amendment. Sure, she can say whatever she wants. Let’s hope free-thinking voters Bexar County (and Texas, should she run for higher office) remember her propensity to get disgusted over how some of her consenting adult constituents live their lives. There are a lot of things people in SA do that I consider “disgusting” but I fully endorse their right to do those things. (If you are curious what I find disgusting, Sorry, but that’s my business, not anyone else’s.) As for transgendered people using public bathrooms. If you are at least 40 years old and have used a public bathroom (at school, work, shopping, etc.) at least twice a week, then I bet \$1000 that you obviously have shared one of those public bathrooms with at least one transgendered person and — surprise! — nothing happened. Nothing. Nothing. It is a non-issue. Transgendered people are part of the fabric of humanity. In fact, in some cultures, they were respectfully revered.

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RONNIE on 29 August, 2013 at 11:58

Reply

A sexual appetite does not a person make. An alternative lifestyle is not the very seat of one’s own personhood. LGBTs define their very personhood around their sexual preferences.

How can a tiny subset of society demand special rights on the basis of a condition or trait that has zero distinguishing merits or proof to even validate it? Researchers have constantly failed to locate biological indicators for homosexuality. Blacks and women can objectively verify their personhood, gays can’t. American Justice demands tangible, objective evidence to merit policy change. And since there’s no distinguishing merits, how can there ever be any reliable research done to prove they are being victimized for that invisible trait? So for them to say they’re being excluded for “who they are”, is yet another Big Lie.

Temporary, transient and subjective traits do not merit policy change.

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GAY VIET NAM ERA VET on 29 August, 2013 at 22:54

Reply

You’re right, Ronnie, appetites do not a person make. A person is a person is a person.

As for LGBT defining themselves around their preferences...yeah, that’s right...and society defines LGBT the same way – often with discrimination and persecution thrown in.

“Tiny subset”? Hardly. Besides, hasn’t science proven that size doesn’t matter? So if a racial minority was represented by only a “tiny” number of individuals, would the small size of that racial population disqualify it for protection from discrimination?

“Tangible, objective evidence”? If it walks like duck, quacks like a duck, and is attracted to other ducks of the same gender, then...guess what?...it’s a gay duck. Do you need someone to define lesbian, gay, bisexual or transgender for you? These are quite common terms in modern vernacular.

So it’s a “big lie” that LGBT are being excluded [from legal protection]? Explain that to the lesbian moms who have lost their children purely due to their sexual orientation (it happens, Ronnie), to the parents of young gay people who were brutally injured or killed in homophobic attacks (happens often, Ronnie), and to the long-term partners (sometimes very long-term) who are unable to visit their partners in an ICU, be exempt from spousal inheritance taxes (like heterosexual married spouses are), or claim co-ownership of community property on the death of one’s spouse.

“Temporary, transient and subjective trait”? Except for the “tiny subset” of ex-gays (whose credibility was squashed when Exodus – the group claiming to cure gayness – confess that curing away the gay does NOT work and then apologized for messin’ with perfectly normal folks – the vast majority of LGBT people are “that way” for the duration of their adult lives.

The bigger question is, Ronnie, why really does it bug you that LGBT are standing up for protection from the discrimination we regularly encounter? Is that discrimination imaginary? It’s not, Ronnie. It’s not

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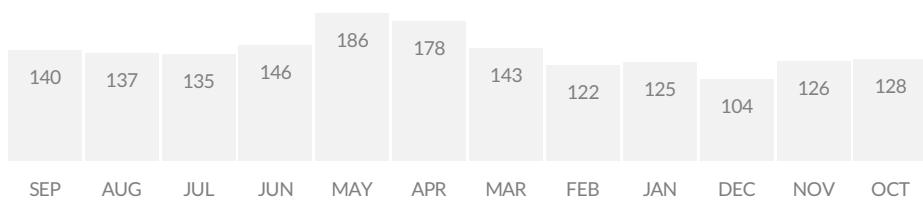
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