

## ***A Brief Introduction to the Mattachine Society's Cache of Civil Service Commission Documents***

By Rick Vallery\*

For a decade, from 1965 to 1975, the Civil Service Commission – the precursor to today's Office of Personnel Management – faced unremitting legal, judicial, and advocacy group pressure to abandon its policy of discriminating against gay men and women. The policy was first internally formulated in 1945 but did not become fully operational until the Eisenhower era, when Dwight D. Eisenhower instituted the Cold War security clearance system and ordered its application to all federal agencies. Although the Supreme Court voided the executive order's application to all federal agencies within a few years the Commission nonetheless continued to discriminate against gay men and women. It did so on the basis of the prohibition against employing people who engage in "infamous conduct" that Congress wrote into the original Civil Service Act of 1883 (even though Congress hardly meant to include homosexuality since the word – and the historic conceptualizations behind the word's invention -- did not exist then.)

In the early 1960s the Mattachine Society of Washington and the National Capital Area Civil Liberties Union (not then formally affiliated with the ACLU) developed, in effect, a litigation strategy for challenging the Commission's policy. They soon discovered – and the Commission soon discovered – that the United States Circuit Court of Appeals for the District of Columbia Circuit agreed that the discriminatory policy was untenable. Ultimately the Court declared it unconstitutional.

The discovery and reproduction of National Archives documents from the Office of General Counsel take one deep inside the bureaucratic conversation about how to respond to the sharp challenges erupting around them in the decade between 1965, when the Court first signaled its disagreement with the Commission's policy, and 1975, when an announcement in the Federal Register disclosed the Commission's abandonment of its historic policy. These documents track several years of a conversation among a Commission chair, John Macy, the Director of Personnel Investigations, Kimbell Johnson, and the General Counsel, Anthony Mondello.

Reading the documents one sees that Macy and Johnson believe that they are protecting the Commission's public image and further believe that their discrimination against gay men and women is essential to the Commission's standing among the public. They traffic in bigoted stereotypes, to put their animus in the mildest possible terms. They have no sense that they are persecutors – that they are engaging in "administrative evil." Mondello, for his part, seeks to navigate between compliance with the federal courts and the views of Macy and Johnson. A particularly startling turn in the documents occurs when Macy, after meeting with Frank Kameny and other Mattachine Society members, issues an official statement rife with fantastic speculation to the effect that dropping the discriminatory policy would utterly disrupt the Commission's work and allow all federal agencies to be overrun by homosexuals unable to regulate their behavior.

If Macy thought that his "Mattachine Society statement" would satisfy federal judges he was gravely mistaken. By the time that Court issues its ruling invalidating the Commission policy – *Norton v. Macy* (1969) -- Macy has exited the Commission and has been replaced by Robert Hampton, a liberal Republican. But even with Macy gone the Commission simply defied the Court's ruling. When *Society for Individual Rights v. Hampton* (1973) resulted in an injunction to the agency from a federal district court in San Francisco, holding that it simply could no longer evade the *Norton* ruling, General Counsel Mondello saw the writing on the wall – and the documents allow one to trace how the agency came into compliance with the federal courts. The statement of compliance was issued on July 4, 1975 by Mondello's successor, Carl Goodman, who is still alive and though retired after a distinguished private sector career teaches part time as an adjunct professor at Georgetown University Law School.

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There are some documents, as well, that reveal the thinking of the Office of Personnel Management, the Commission's successor, about continuation of and adherence to the 1975 policy change. The documents show that OPM was, ca. 1980, aware of continued discrimination in "excepted" agencies, such as the CIA and the FBI – and OPM's studied neutrality raises questions about whether the workplace experience of gay men and women in the federal government's "covered" agencies was demeaning in subtle ways. Gay and lesbian federal workers did organize themselves, first in California and then in Washington, DC. The timing and the history suggest that the founders of workplace advocacy organizations in the 1980s and 1990s believed that there were issues to be discussed but also thought that the legitimacy of their advocacy would be accepted.