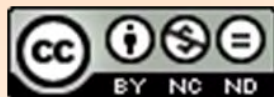


Does the Government Need to Know Your Sex?



Laurie Shrage

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lshrage@fiu.edu

<http://www.fiu.edu/~lshrage/>



Click on hand tool in tool bar and then scroll over or click on note in top left corner for text.

Legal Race

- Calvin Trillin, *American Chronicles: Black or White*, NEW YORKER, Apr. 14, 1986
- Susie Guillory Phipps, b. 1934
- Sued state of Louisiana (1977) in order to change her racial classification on her birth certificate
- She had lived as a “white” woman, her birth certificate recorded her as “colored or black”
- District and Appeals Courts denied request

1 PLACE OF BIRTH		TEXAS STATE DEPARTMENT OF HEALTH BUREAU OF VITAL STATISTICS STANDARD CERTIFICATE OF BIRTH			
STATE OF TEXAS		County of <u>Zavala</u>		Register No. _____	
City or Precinct No. <u>Crystal City</u>		No. _____		Street _____	
If in an institution, give name of institution instead of street and no.					
2 FULL NAME OF CHILD <u>Tomás Rivera</u>					
3. Sex <u>Male</u>		4. Twin, triplet, or other _____	6. Premature _____	7. Legitimate _____	8. Date of birth _____
If plural births _____		5. Number, in order of birth _____	Full term <u>yes</u>	mate <u>yes</u>	
9. Full Name FATHER <u>Florencio M. Rivera</u>			18. Full maiden name MOTHER <u>Josefa Herman</u>		
10. Residence (usual place of abode) (If nonresident, give place and State) <u>Crystal City, Texas</u>			19. Residence (usual place of abode) (If nonresident, give place and State) <u>Crystal City, Texas</u>		
11. Color or race <u>Mexican</u>		12. Age at last birthday <u>32</u> (years)		20. Color or race <u>Mexican</u>	
21. Age at last birthday _____		13. Birthplace (city or place) (State or country) <u>Mexico</u>		22. Birthplace (city or place) (State or country) <u>Mexico</u>	
OCCUPATION	14. Trade, profession, or particular kind of work done, as spinner, sawyer, bookkeeper, etc. <u>Laborer</u>		23. Trade, profession, or particular kind of work done, as housekeeper, typist, nurse, clerk, etc. <u>Housewife</u>		
	15. Industry or business in which work was done, as silk mill, sawmill, bank, etc. <u>Cafe</u>		24. Industry or business in which work was done, as own home, lawyer's office, silk mill, etc. <u>Own</u>		
	16. Date (month and year) last engaged in this work <u>December, 1932</u>		17. Total time (years) spent in this work <u>4</u>	25. Date (month and year) last engaged in this work <u>December, 1932</u>	26. Total time spent _____
27. Number of children of this mother (At time of this birth and including this child) <u>2</u>		(a) Born alive and now living <u>1</u>	(b) Born alive but now dead <u>1</u>		
28. If stillborn, period of gestation _____		months _____	29. Cause of stillbirth _____	Before _____	
or weeks _____				During _____	
I hereby certify that I attended the birth of this child, who was <u>born alive</u> at <u>4⁴⁵</u> a.m. on the day _____					
*When there was no attending physician or midwife, then the father, householder, etc., should make this return. A still-born child is one that neither breathes nor shows other evidence.					
(Signature) <u>Kay B. Urban</u>					



Possible reasons for including sex with “vital” records

- Individuation
- Identification
- To enforce some laws
 - opposite-sex only marriage
 - sex-segregation
 - sex-based privileges or entitlements
 - sex-discrimination violations
- Count and track sex ratios for scientific or medical studies



Why change is needed in the government's management of "sex" information

1. As with race, there is no medical or scientific consensus regarding what the criteria of membership for each category should be, or even what categories should be recognized
2. Government's current practice deviates from established norms of protecting the privacy of medical records and sensitive information
3. Government's current practice violates the equal protection rights of sex-ambiguous and transgender individuals



Lack of consensus

- “real sex” (objective sex)
 - karyotype (sex chromosomes)
 - gonads
 - internal and external genitalia
 - fertility/reproductive capacities
 - secondary sex characteristics
- lived sex/gender (sex presentation)
- subjective sex/gender
- intersubjective sex/gender



Government should defer to medical and scientific experts

- Government should not substitute the uninformed opinions of courts and legislatures for that of scientists and medical doctors when adjudicating individual cases or evaluating the constitutionality of laws regulating sex assignment
- Liberal, democratic societies should not impose unchangeable social statuses that are socially created



Privacy

- Fundamental right or liberty: control over sensitive personal information
- Compelling governmental reason for infringement?



Privacy and scientific research

- Population sex ratio
 - Anticipate social problems
 - Anticipate population growth
 - Track changes in birth rates of females and males
 - Track rates of sex-selected abortion or conception
 - Understand factors behind different birth rates and ratios



Equal treatment

- Violation of equal treatment
 - Is practice based on a theory of inequality and inferiority, like the practices of racial segregation or anti-miscegenation?



Conclusions

- Provide adults and parents of minors control over sex designation on official records and documents
 - Diminishes social pressure to undergo medically risky treatments aimed at bodily conformity
 - Minimizes infringements of privacy and equal treatment
 - Allows for recognition of social groups subject to past and ongoing oppression
 - Permits tracking of sex ratios for legitimate scientific and governmental purposes



Transsexual charged with falsely obtaining marriage license

The Associated Press

March 22, 2004

"When Gast filled out the application for the marriage license Feb. 27, she wrote that she was female, but Leavenworth County Atty. Frank Kohl said that court records, including a divorce record from 1999, identify Gast as male..."

"Gast, who was born Edward Gast, said she never intended to deceive anyone. She said she has known since she was 7 that her gender was female and not male. She has been undergoing psychotherapy to prepare for a sex-change operation since 1999 and legally changed her name to Sandy Clarissa Gast in September.

She also had her driver's license and birth certificate changed to reflect her female identity. She provided documents to that effect when the couple applied for the marriage license..."



Boy wants to return to school as a girl

written by: [Nelson Garcia](#) , Reporter

created: 2/7/2008 6:14:17 PM

Last updated: 2/9/2008 3:57:03 PM

"The issue of being transgender usually pops up with students in high school. However, a 2nd grade biological boy wants to dress as a girl and be addressed with a girl's name..."

"Wong [Douglas County Schools spokesperson] says the staff at one of Douglas County's schools is preparing to accommodate the student and answer questions other students might have..."



The New York Times

New York Plans to Make Gender Personal Choice

By [DAMIEN CAVE](#)

Published: November 7, 2006

“Separating anatomy from what it means to be a man or a woman, New York City is moving forward with a plan to let people alter the sex on their birth certificate even if they have not had sex-change surgery...”



March 16, 2008

When Girls Will Be Boys

By ALISSA QUART

"Barnard, like many women's colleges, has an admissions policy of accepting only "legal" women . . . women's colleges now find themselves . . . caught between wanting to embrace a campus minority that their own interrogation of gender roles has helped to shape and defending the value of institutions centered on the distinct experience of being female . . ."

"While some alumnae have readily accepted the presence of trans students on their campuses, others . . . see it as a betrayal of the foundational principles of their alma mater. ...when a student no longer identifies as a woman, the privilege to attend these schools is lost. Men have lots of schools they can go to – why must transmen go to women's schools? . . ."

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Dreger, A. D. (1999). *Intersex in the Age of Ethics* (Hagerstown, MD: University Publishing Group).

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