

Chapter 15

Mixed Reviews on Lesbian and Gay Rights for Bush's First Year

by Lou Chibbaro Jr.*

Introduction

Since taking office one year ago, this President has amassed a record on gay and AIDS issues that is historic for his party. His administration has made four openly gay appointments, including a gay ambassador who moved into the U.S. Embassy compound in Bucharest, Romania, with his same-sex partner.

A popular political operative who worked closely with gay political groups during the Presidential campaign became White House counselor to the President and a high-level adviser to the Vice President, whose lesbian daughter brought her partner to the inauguration.

The President signed a bill allowing domestic partners to register their relationships in the nation's capital, ending a nine-year federal policy blocking this local, District of Columbia ordinance from taking effect.

The anti-gay Family Research Council responded to these and other developments by denouncing the White House for embracing a "homosexual political agenda" and "imparting legitimacy to the homosexual political cause."

Was this the first year of the Clinton Administration? To the dismay of many of the nation's anti-gay political groups, and to the surprise of a number of gay Democratic activists, these developments took place dur-

ing President George W. Bush's first year in office.

"President Bush has not only confounded his many gay detractors but has also enraged the far right, stood down their criticism, and moved ahead with his inclusive agenda," said the national gay group Log Cabin Republicans (LCR), in a written review that unabashedly gloats over the President's gay rights record.

"Remember how every other gay organization was predicting disaster for the nation and the beginning of an 'extremist' anti-gay era?" Log Cabin states in an essay in its January 2002 newsletter. "What a difference a year has made."

But as Bush ends his first year at the nation's helm, officials with non-partisan gay political groups, like the National Gay and Lesbian Task Force (NGLTF), are far less complimentary in their assessment of his record.

"The President's gay appointments are on the positive side of the balance sheet," said NGLTF Executive Director Lorri L. Jean. "But they may be the only significant positive things he's done, unless you decide to list the fact that he didn't do something bad as a positive."

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NGTLF, for example, notes that Bush has appointed a number of high-level officials from the Republican party's socially conservative wing who have anti-gay records. Among them is Attorney General John Ashcroft, an outspoken opponent of gay rights during his tenure as a U.S. senator from Missouri.

The Human Rights Campaign (HRC), the nation's largest gay political organization, argues that while Bush says he will hire without regard to sexual orientation, he won't say whether he would sign the gay civil rights bill pending in Congress known as the Employment Non-Discrimination Act, which would enact that policy into federal law.

HRC political director Winnie Stachelberg said the administration has not responded to HRC's request that it endorse ENDA and another bill that would give the federal government authority to prosecute anti-gay hate crimes. Both bills have received at least some Republican support in the House and Senate, and HRC claims to have a majority ready to vote for their passage.

"Many questions remain unanswered," Stachelberg said about the administration's gay rights positions.

Stachelberg and officials with other gay civil rights groups acknowledge that while Bush has yet to make major policy advances on gay issues, he has so far chosen not to roll back the advances made by the Clinton Administration.

Bush has left in place two key executive orders issued by President Clinton. One prohibits job discrimination against gay federal workers and the other bans government agencies from denying security clearances to an individual based solely on sexual orientation. Bush has ignored requests by anti-gay groups that he repeal the two orders.

The administration has also continued to allow gay federal workers' groups to meet in government buildings and has continued a Clinton policy of allowing these groups to

use government meeting facilities to hold events commemorating Gay Pride week.

However, the White House announced last June that Bush had discontinued a Clinton practice of issuing annual Presidential proclamations designating June as Gay Pride month.

I. Gay Appointments Rile Right Wing

Most gay activists view Bush's gay appointments as a positive development, although some note that Bush hasn't appointed nearly as many gays as Clinton to high and middle level administration jobs during the former President's first year in office.

In June, Bush nominated gay State Department official Michael Guest for the position of ambassador to Romania. The Senate confirmed Guest by a unanimous vote. Secretary of State Colin Powell drew attention in the press when he recognized Guest's domestic partner during a swearing-in ceremony, which Powell administered.

Anti-gay groups were especially angry over the Guest appointment. The Family Research Council opposed the nomination on the grounds that his sexual orientation would be unacceptable to Romanians, but government officials there have dismissed the concern, praising Guest for his experience and knowledge of Eastern European affairs.

When asked by reporters about the gay appointees, White House press secretary Ari Fleischer said Bush bases his appointments on a person's qualifications for the job. Fleischer said Bush considers a person's sexual orientation a private matter that has no bearing on the President's decision to appoint someone to a government job.

II. Anti-gay Appointments

While Bush angered social conservatives by appointing gays to administration posts, the opposite is also true: Gay activists rattle off a number of key appointments they say went to people with right-wing ties who oppose gay rights.

The Ashcroft appointment drew strong opposition from most gay political groups. During his confirmation hearing, Ashcroft, a longtime opponent of gay rights, pledged to uphold existing policies banning discrimination against gay federal workers.

Yet in a development that surprised some political observers, Ashcroft invited officials with Log Cabin Republicans to meet with him immediately after the Senate confirmed his appointment. Log Cabin officials called the meeting a historic development, saying Ashcroft's decision to pick a gay group to be among the first civil rights oriented groups he would invite to his office indicated Ashcroft was moderating his views on gay rights.

Other gay leaders, such as openly gay U.S. Representative Barney Frank (D-Mass.), said they did not believe Ashcroft was sincere in his friendly overtures to gays during his confirmation hearing.

On the plus side, gay activists praised Bush for appointing a number of other top officials who have long-standing records in support of gay civil rights. Among them was pro-gay Republican political commentator and campaign adviser Mary Matalin, whom Bush named as a White House counselor to the President. Vice President Dick Cheney also named Matalin as one of the political advisers to the office of the Vice President.

Bush drew praise from gay activists and strong criticism from anti-gay religious right groups in December, when he named former Montana Gov. Marc Racicot as the new chair of the Republican National Committee.

As governor, Racicot issued an executive order banning discrimination against gays working for the Montana state government and backed a state hate crimes bill that included protections for gays. He is credited with helping to defeat an anti-gay bill introduced into the Montana legislature.

"The Racicot appointment is a message of inclusiveness and tolerance in the Republican party," said HRC's Stachelberg.

Log Cabin Republicans spokesperson Kevin Ivers called the Racicot appointment a turning point in the Republican party's handling of gay issues. Ivers noted that Racicot is the first RNC chairperson with a solid record of support on gay issues.

III. Tacit Domestic Partnership Support?

HRC joined Log Cabin in praising Bush for not opposing a decision by Congress to remove language from the D.C. appropriations bill that prohibited the city from implementing its domestic partners law. Political insiders, including anti-gay groups, interpreted Bush's action as a gesture of tacit support for the domestic partners program.

Gay legal groups, meanwhile, expressed only cautious optimism over the Bush Administration's handling of a federal compensation program to assist survivors of the victims of the September 11 terrorist attacks.

Joe Grabartz, an official with a New York State gay organization that has advocated for same-sex survivors of the terrorists attacks, called the program "groundbreaking" for at least allowing same-sex couples to apply for victim compensation.

2001 Executive Review

A look back at the actions, appointments, and decisions affecting gays during the first year of the George W. Bush Administration

January 20

Bush nominates John Ashcroft to be U.S. attorney general. Ashcroft, a strong opponent of gay rights while serving in the U.S. Senate, promises during his confirmation hearing to comply with existing rules barring anti-gay discrimination against federal workers. He pledges to allow a gay group at the Justice Department to continue to operate and meets with Log Cabin Republicans during his first week in office.

Bush appoints Mary Matalin as White House counselor to the President. Matalin has worked closely with gay Republicans while serving on the Bush Presidential campaign. Religious right groups criticize her for being too supportive of gay rights.

Bush nominates Christine Todd Whitman as head of U.S. Environmental Protection Agency. Whitman brings a strong record of support on gay and AIDS issues as governor of New Jersey.

Bush nominates Massachusetts governor and gay civil rights supporter Paul Cellucci as U.S. ambassador to Canada. Cellucci's support on gay and AIDS issues prompt several religious right groups to oppose his ambassadorial appointment.

April 9

Bush's first budget calls for significant increases in funds for AIDS research at the National Institutes of Health, modest increases for AIDS prevention programs, and no increase for the Ryan White CARE Act program, which assists states and cities in treatment and social services programs related to AIDS.

Bush appoints Scott Evertz, an openly gay Republican and head of a private-sector AIDS program in Wisconsin, as director of the White House National AIDS Policy Office.

April

Secretary of Defense Donald Rumsfeld appoints openly gay business executive Stephen Herbits as temporary consultant on Pentagon civilian personnel matters. Rumsfeld brushes aside criticism from conservative groups that denounce the appointment.

The U.S. Department of State retains Clinton Administration guidelines banning sexual orientation discrimination against gay Foreign Service employees.

May 25

Bush nominates Timothy Tymkovich, the Colorado state's attorney who argued the case for retaining an anti-gay ballot measure Amendment 2, for a seat on the U.S. Court of Appeals for the 10th Circuit, which has jurisdiction over Colorado and other Western states.

June 2

Bush discontinues Clinton practice of issuing a Presidential gay pride proclamation in June to commemorate the nation's gay pride festivals.

July 11

The Senate confirms Bush nominee Kay Coles James as director of the Office of Personnel Management. James, a 52-year-old conservative Republican and evangelical Christian from Virginia, has ties to the anti-gay Family Research Council. James angers gays in December when she decides that OPM will not make same-sex domestic partners eligible for long-term health care insurance under a new federal program. Sources familiar with OPM say James was concerned that adding another category could subject the program to legal challenge.

July

The White House denies reports that it has cut a deal with the Salvation Army to exempt the charitable group from complying with local and state gay civil rights laws in exchange for the group's support for President Bush's faith-based initiatives legislation. Critics charge that the White House backed away from the deal after the Washington Post ran stories describing private meetings between Salvation Army officials and chief White House political adviser Carl Rove.

August 22

Bush appoints Donald Capoccia, an openly gay real estate developer, as a member of the U.S. Commission on Fine Arts.

September 18

Michael Guest, an openly gay U.S. Foreign Service officer, begins serving as U.S. ambassador to Romania after Bush nominated him for the post in June. Secretary of State Colin Powell administers the oath of office to Guest at a State Department ceremony attended by Guest's domestic partner and parents.

October 1

Bush appoints Robert Reilly, a conservative who called homosexuality a 'morally disordered' condition in a National Review article in 1996, to the post of director of the Voice of America. Reilly vows to uphold anti-discrimination policies pertaining to gay federal workers under his charge.

October 11

Bush, through his budget director, Mitch Daniels, informs Congress that he has no objection to an appropriations bill that allows Washington, D.C., to implement its domestic partners law. The appropriations bill, which Bush signed this month, lifts a nine-year-old federally imposed restriction that prevented the city from putting the domestic partners law into effect.

November 30

Secretary of Health & Human Services Tommy Thompson names Patricia Funderburk Ware, a longtime proponent of sexual abstinence as a means of curtailing AIDS, to be executive director of the Presidential Advisory Council on HIV/AIDS. The 35-member council's chairperson and members, not the executive director, set the panel's priorities and positions. Some view Funderburk's appointment as a signal that the Bush Administration may replace current members, including several openly gay members, with conservatives similar to Funderburk.

December 5

Bush announces the appointment of former Montana Gov. Marc Racicot as chair of the Republican National Committee. Racicot supported a Montana hate crimes bill that included protections for gays and is credited with helping to defeat an anti-gay bill introduced in the Montana legislature. Religious right groups had said he was unacceptable to them at the time Bush considered Racicot for the U.S. attorney general's post.

December 20

The Justice Department (DOJ) decides to allow same-sex partners of victims of the September 11 terrorist attacks to apply for federal victim compensation funds. But in a set of detailed regulations, the DOJ delegates authority to local and state probate courts to decide whether surviving same-sex partners would be eligible to receive compensation, turning down a request by gay advocacy groups that an appointed federal master, rather than state or local probate courts, make such decisions.

IV. AIDS Record

Some AIDS activists said Bush's appointment of Scott Evertz as director of the White House AIDS office was an important symbolic development because it recognized the strong interest in AIDS issues within the gay community. Evertz was head of the Log Cabin Republicans of Wisconsin and an official with an AIDS service agency when Bush tapped him for the White House post.

But groups such as the National Association of People With AIDS (NAPWA) called Bush's record on AIDS mixed, saying Bush has retained the Clinton Administration's overall policies, which some AIDS activists have called adequate but not sufficient to address the AIDS epidemic.

NAPWA Executive Director Terje Anderson noted that Bush's first budget included no funding increase for the highly acclaimed Ryan White CARE Act program, which assists states and cities in providing medical care and social services to people with HIV and AIDS.

In a pattern begun with the Clinton Administration, Anderson noted, Congress added more Ryan White funds, even though Bush did not ask for an increase. The Bush budget office did not oppose the increase.

Bush has been credited with promoting a newly created Global AIDS Trust Fund, which is aimed at helping people with AIDS in developing countries. But the President's decision to allocate only \$200 million as a "start-up" for the program has been viewed by AIDS advocacy groups as inadequate.

Bush retained a Presidential AIDS advisory panel created by Clinton, relieving fears by some AIDS activists that he would abolish the panel. However, he drew criticism from some of those same activists by appointing Patricia Funderburk Ware, a longtime proponent of sexual abstinence as a means of curtailing AIDS, as the panel's new executive director.

The panel, which included a number of openly gay members, distanced itself from Clinton in 1998, when it issued a vote of "no confidence" against Clinton for his refusal to provide federal funds for needle exchange programs aimed at stopping the spread of AIDS among injection drug users. Bush's secretary of Health and Human Services, Tommy Thompson, has been replacing the panel's Clinton appointees as their terms expire.

"For the most part, the new administration has continued the policies of the Clinton Administration," said NAPWA's Anderson. "To many of us, that's OK, because some people feared they would pull back from what we have now."

Log Cabin officials say the Bush Administration has given Evertz the green light to work closely with a wide variety of constituencies, including gay and AIDS advocacy groups, to help shape the administration's policy on AIDS in the next three years.

V. "Stealth Approach"?

Political science professor Larry Sabato of the University of Virginia, a recognized expert on U.S. electoral politics, said Bush's handling of social issues, including gay rights, has been considerably more moderate during his first year in office than his campaign rhetoric would have suggested.

Sabato said Bush's decision to appoint gays to his administration and his decision to retain the Clinton gay rights executive orders is due, in part, to a genuine desire to oppose discrimination, but most likely a sign of pragmatic politics. "He can count votes," said Sabato, who points to Bush's narrow Electoral College victory over Democrat Al Gore and Gore's popular vote victory over Bush.

"Andy Card [Bush's chief of staff] and Carl Rove [the White House chief political advisor] most likely convinced him that he will

need millions of more votes in 2004 just to stay even with his Democratic opponent," said Sabato. According to Sabato, changing demographic trends among the nation's voters, including a greater prominence of immigrants, favor the Democratic party.

"There just aren't many more white male votes to mine," Sabato said. "So he has to do better with women, African Americans, Latinos, and gays. He must cut into that vote to stay competitive."

"They know they have a lot of contradictory elements within their big tent," said Sabato. "They want to please both sides if they can. But the President has already tipped his hand. He wants it to be known that he has no desire to be prejudiced against gays or Arab Americans, or a whole host of other groups."

But Chad Johnson, executive director of the gay group National Stonewall Democrats, said the administration's record on gay civil rights and AIDS is not as strong as some activists are making it out to be.

"They talk and do different things," said Johnson. "They talk about being compassionate conservatives and try to put on a nice face. But when it comes to issues of interest to our community, they are as far right as the religious right. They use a stealth approach to doing this."

Martín Ornelas Quintera, executive director of the national gay Latino group LLEGÓ, said his group is concerned that the administration's crackdown on terrorism

will ensnare innocent immigrants, including gay immigrants, who are seeking entry into the United States to find employment.

"As a community of color, we sometimes appear Middle Eastern," Quintera said. "We are at risk of being stopped, just because of how we look."

Campbell Spencer, the national lesbian and gay outreach director for the Democratic National Committee, said Democratic party leaders are "profoundly disappointed" in Bush's first-year record on gay civil rights. Spencer said the Democratic party was about to adopt a resolution calling on same-sex domestic partners to be eligible for the same Social Security benefits now available to married couples.

"Were we to have a Democratic leader in the White House, the gay and lesbian community would be moving forward and building on the incredible successes of the Clinton years," Spencer said.

But Log Cabin officials say the administration's overall record on gay rights and AIDS is positive.

"We're proud to report that one year later, President George W. Bush has governed exactly the way he promised he would," Log Cabin's newsletter states. "He won LCR's endorsement on the promise to be an inclusive Republican President and to lead a new, more inclusive Republican party. And our President has come through in his first year. Promise made, promise kept."