

The Washington Blade

THE GAY WEEKLY OF THE NATION'S CAPITAL

Executive order may be a first President set to ban anti-Gay bias in security clearances

by Lou Chibbaro Jr.

President Clinton is expected to issue an executive order within the next two months that prohibits government agencies from denying security clearances to applicants solely on the basis of their sexual orientation.

A draft copy of the order includes the sexual orientation language as part of a major revision in the government's procedures for protecting classified information. *The Washington Blade* has obtained a copy of the draft.

Experts who have reviewed the draft order said the president called for the revisions, in part, as a means of preventing another breach of U.S. secrets similar to the 1994 CIA scandal involving Soviet spy Aldrich H. Ames.

Among a wide ranging list of provisions, the draft order declares, "The United States government does not discriminate on the basis of race, color, religion, sex, national origin, disability, or sexual orientation in granting access to classified information."

If Clinton retains this language in the final version



By Kristi K. Gasaway

President Clinton is expected to issue an executive order within the next two months that prohibits government agencies from denying security clearances to Gays.

of the order, it will mark the first time a U.S. president has included a pro-Gay clause in an official, presidential executive order.

Under provisions of the U.S. Constitution, presiden-

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tial executive orders carry the full weight of law. "This is a big victory for us," said U.S. Rep. Barney Frank (D-Mass.), one of the nation's two openly Gay members of Congress.

Frank said White House officials told him President Clinton plans to retain the sexual orientation language in the final version of his executive order.

White House sources have told the press that Clinton expects to issue the order within the next two months.

Gay civil rights attorney Chai Feldblum said the order's language barring sexual orientation discrimination in the security clearance process is very similar to language already adopted by individual federal agencies, including the FBI and the Department of Defense.

"What makes this significant," Feldblum said, "is it is in the form of an executive order. It's a public document that applies to all agencies."

But D.C. Gay activist Frank Kameny, who is recognized as an expert on security clearance issues involving Gays, said the draft order includes a "contradictory" clause that could nullify all of the benefits described by Frank and Feldblum.

The clause mentioned by Kameny states that "no prior executive orders are repealed by this order." Although the clause states that the new order would supersede all previous orders in the event of a conflict, it adds, "this order shall not diminish or otherwise affect the requirements of Executive Order No. 10450."

Executive Order 10450, issued by President Dwight Eisenhower in 1953, became notorious for its use to expel Gays from government service. The order, among other things, prohibits the granting of security clearances to persons who en-

gage in "sexual perversion."

"That has been used since 1953 to drum out Gays," said Kameny.

James X. Dempsey, deputy director of the Center for National Security, a nonprofit group that monitors security related issues, said he was "baffled" over why the Clinton draft order includes the provision retaining Executive Order 10450.

Dempsey, a former legislative aide to Rep. Don Edwards (D-Calif.) said he is uncertain whether Kameny's interpretation is correct.

"He certainly raises a question that should be pursued," Dempsey said of Kameny's concerns.

A key provision in the draft order calls for all persons applying for or wishing to retain security clearances to sign a waiver allowing the government to investigate their personal finances. According to the draft order, the investigation could include inquiries into bank statements, credit history, and foreign travel of the person holding or seeking a clearance as well as that person's spouse and children.

"In determining eligibility for access under this order," the draft document states, "agencies may investigate and consider any matter that relates to the determination of whether access is clearly consistent with the interests of national security."

The draft order adds, "No inference concerning the standards [concerning eligibility] of this order may be raised solely on the basis of the sexual orientation of the employee."

Dempsey said this latter sentence could be used to bar discrimination against Gays applying for clearances even though the Clinton draft order leaves the "sexual perversion" language of Order 10450 in place. ▼