

## Introduction

### *Sex Stickers*

It was another day of using a city bus to get around Philadelphia. The Southeastern Pennsylvania Transportation Authority runs public transportation in this city of a million and a half. People here just call it SEPTA. And everyone has a SEPTA story to share, or maybe two or three. The buses, trains, and trolleys that crisscross the city are notoriously late and crowded. The company slogan, “We’re getting there,” says it all. It’s as if the ad writers knew they had to keep it real in this city of grit.

Charlene Arcila, an African American transgender woman who lived and died in this city, was no stranger to grit.<sup>1</sup> For her it was another day of dealing with the snickers and sneers of the people she passed on sidewalks and interacted with in stores and restaurants. On top of all that, there were the sex stickers. She swiped her monthly public transit pass marked with an F to signify a female sex sticker, and braced for what might come. She hoped that she could quietly find a seat, and ride to where she needed to go. That today would be one of the good days in the “city of brotherly love.” It was not. Arcila tells her story in a weary voice.

The driver was like, “You cannot use this pass.” After I had swiped it, and as I was walking to my seat, he called me back to the front and I said, “Well, why can’t I?” He said, “Because you are not a female.” And I was like, “Well, I am a transsexual.” And he’s like, “What’s that?!” And I’m like, okay, I do not feel like educating this man right now. I just want to get to my destination. So I pulled out two dollars, and I put the two dollars into the meter.<sup>2</sup>

On a subsequent bus trip, Arcila tried to use an M for male transit pass. It, too, was rejected, this time on the bus driver's pronouncement that she was not a male.

From 1981 to July of 2013, SEPTA mandated that all of its monthly transit passes bear a male or female sticker that matched the sex identity of its purchaser and user. SEPTA's employee handbook instructed bus operators to verify each monthly pass for the correct date and the correct sex marker. But the handbook gave no guidance about the criteria that bus drivers should use to verify the sex of riders as they carried out their many other stressful duties. Consequently, individual bus operators were free to use their own subjective sex-identity judgments to determine which pass holders could access the buses under their control.

Having had both her female and male sex-marked passes rejected, Arcila, a longtime activist for transgender and gay rights in Philadelphia, filed a formal legal complaint with the city of Philadelphia. The complaint alleged that SEPTA's sex sticker policy violated her civil right to be free of "gender identity" discrimination. The city added "gender identity" to its lengthy list of legally protected identity categories in 2002. The ordinance defines gender identity as "self-perception, or perception by others, as male or female," which includes "an individual's appearance, behavior, or physical characteristics, that may be in accord with, or opposed to one's physical anatomy, chromosomal sex, or sex assigned at birth; and shall include, but not be limited to, individuals who are undergoing or have completed sex reassignment."<sup>3</sup>

The discrimination being pinpointed here, in my view, is more accurately described as *sex-identity* discrimination because it involves judgments about whether a person belongs to the sex categories of male or female. By contrast, traditional sexism is based on judgments about what we can and cannot do *because* we are male or female. These "scripts for identity" are what we commonly refer to as *gender* stereotypes.<sup>4</sup>

SEPTA instituted the sex sticker policy in 1981 as a fraud-prevention measure aimed to deter the swapping of passes between husbands and

wives sharing a household.<sup>5</sup> Fraud prevention is a legitimate business goal. But the male or female stickers were not rationally related to that goal because females could share their passes with other females, and males could share their passes with other males, both within and without heterosexual households. Some commuter railroads such as New York's Metro Transit Authority Long Island and Metro North Railroad sex-mark their passes, but SEPTA was the only noncommuter transit authority to sex-mark its monthly passes. Like SEPTA, the MTA cites fraud prevention as the reason for its sex marker policy.<sup>6</sup>

Why did SEPTA riders tolerate this irrational practice, and why do MTA riders in New York continue to tolerate it? But when you think about it, maybe the policy is not so unusual. After all, most of us carry other sex-marked identity documents in our pockets and purses—be it a driver's license, state identification card, or passport.

### Ripple Effects

Arcila was not the first or only person to have her sex-marked transit pass rejected by a bus operator. Other bus riders whose appearances also challenged prevailing gender norms reported having been questioned and harassed by bus operators when they attempted to use their transit passes. SEPTA and Philadelphia's Commission on Human Relations, the official body charged with enforcing the city's Fair Practices Ordinance, had received numerous complaints about SEPTA's gender sticker policy.

In 2009, a local grassroots organization called R.A.G.E. (Riders Against Gender Exclusion) sprouted to bring public attention to the invidious impact of SEPTA's sex-identity sticker policy. The organization solicited and compiled its own catalogue of sex-identity discrimination stories from SEPTA bus riders. R.A.G.E. used social media to collect and publicize stories that vividly portrayed the widespread harm done by the stickers. The stories flooded in both from people who self-identified as transgender and those who did not, as well as from riders who self-identified as queer and those who did not.