

**RELIGIOUS SUPPORT FOR  
INCLUSIVE DEFINITIONS  
OF "FAMILY" AND  
"DOMESTIC PARTNERSHIP"**

*TESTIMONY AND BACKGROUND MATERIALS*

**PHILADELPHIA CITY COUNCIL  
HEARING ON DOMESTIC PARTNERSHIP BILLS**

**APRIL 22, 1998**

**THOMAS F. COLEMAN  
EXECUTIVE DIRECTOR  
SPECTRUM INSTITUTE  
P.O. BOX 65756  
LOS ANGELES, CA 90065  
(213) 258-8955**

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# **Philadelphia City Council**

## **Hearing on Domestic Partnership Bills April 22, 1998**

### **Testimony of Thomas F. Coleman Executive Director, Spectrum Institute**

It is not necessary for the Philadelphia City Council to engage in a religious debate over the domestic partnership bills being considered here today. Looking west to the City of Detroit, and even further west to the State of California, the council can find model programs that are immune from moral criticism because they are ethically and legally inclusive.

Just two weeks ago, the Detroit city council adopted a resolution to provide health benefits to “extended family members” of city employees. The measure did not spark a religious controversy because it used a broad definition that showed respect for family diversity by encompassing a wide variety of household relationships.

Under the Detroit definition, which was modeled after Bank of America’s new benefits program, an employee may designate one adult member of his or her household to receive health and other benefits, so long as the beneficiary is either: (1) a spouse; or (2) a domestic partner of the same or opposite sex, as defined; or (3) a parent, grandparent, sister, brother, or adult child who is under age 65 and is a dependent of the employee as defined by the IRS.

The Bank of America definition has received the blessing, so to speak, of San Francisco Archbishop William J. Levada. Since the bank had copied, and slightly refined, the approach used by Catholic Charities to comply with San Francisco’s far-reaching domestic partnership law, the Catholic Church had no problem praising Bank of America’s program.

The current definition of “life partner” in the Philadelphia bills is so narrow that some religious leaders, such as Cardinal Anthony J. Bevilacqua, view them as an attempt to create a substitute form of local “marriage” for gay couples. Such moral objections should evaporate if the bills would protect a larger class of people, including unmarried senior citizens who often live together for companionship, safety, and economic necessity.

A group of 11 ministers in California -- Catholic, Lutheran, Methodist, Episcopal, and Presbyterian -- recently endorsed statewide legislation to make health coverage more available to domestic partners. They told the legislature that the biblical concept of family is much broader than the modern family which is characterized as husband, wife and children. The biblical concept centers around the obligation one has to one’s household.

The ministers pointed out that a biblical family includes persons related by blood or marriage, as well as unrelated persons who are members of the household. As a result, they told California's legislators: "Those who are living together in domestic partnerships are certainly one icon of what it means to be a family."

The conference of Roman Catholic bishops in California said they would not oppose laws giving health benefits to domestic partners, so long as the definition of domestic partnership is inclusive. If blood relatives are excluded, as they are from civil marriage on the theory that marriage is a sexual relationship, the bishops oppose domestic partnership legislation. But if blood relatives can be domestic partners, the bishops would withdraw their objections.

Of course, the Philadelphia city council would be justifiably concerned about the potential cost of using an inclusive definition for employee benefits. There is no need to worry. Bank of America just reported that enrollment increased by only 1.4% as a result of its inclusive "extended family" benefits program. About 1% were domestic partners of either sex, while .4% included dependent blood relatives.

A short historic anecdote provides an example of how the Catholic Church supports an inclusive definition of family, at least when it benefits the church.

In the late 1960's, a group of nuns wanted to live in a large house in a single family zone in Miami. The city objected because, since the nuns were not related by blood, marriage, or adoption, officials argued they were not a "family" as that term is commonly understood.

Bishop Coleman F. Carroll sued the city. The District Court of Appeal of Florida agreed with the bishop that, so long as a household functions as a family unit, the law should consider the members to be a family, even though they are not related. The nuns were allowed to live together in harmony with other families in the neighborhood.

Some 30 years later, the definition of "family" arises again, only this time in Philadelphia.

Limiting the definition of "life partners" to gay and lesbian couples has created an unnecessary religious debate. If council members would broaden their vision, and adopt the more inclusive Bank of America definition, opposition from the clergy should disappear.

National polls show that the public believes in "equal pay for equal work." Most people also believe that a family is "a group of people who love and care for each other" and not merely persons related by blood or marriage.

While employees should receive health benefits for a same-sex life partner, adopting a broader definition that includes opposite-gender partners and dependent blood relatives would be morally just, politically prudent, and fiscally sound.

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DETROIT FREE PRESS  
freep/news/wayne

# Detroit council suggests domestic-partner benefits

April 9, 1998

BY DARCI MCCONNELL  
Free Press Staff Writer

The Detroit City Council on Wednesday passed a resolution urging Mayor Dennis Archer to extend benefits to city-employed domestic partners.

But Archer said he will only make such an offer if the legislative body puts it into law. The resolution the council passed has no legal standing.

Council members Nicholas Hood III and Kay Everett voted against the resolution, which urges the mayor to offer health insurance and sick and funeral-leave benefits to nonunion employee domestic partners.

"I'm not going to implement the resolution because it does nothing," Archer said. "It's important that the council work through and pass an ordinance, and I will sign it."

Jeffrey Montgomery, interim executive director of the Triangle Foundation, called the resolution a first step toward implementing laws that offer better protection to gays and lesbians. But he criticized both the mayor and council for delaying and sidestepping that process.

"It certainly appears as though people are trying to take positions which will lay the responsibility at other people's feet," Montgomery said Wednesday. "It's all very cumbersome. The mayor's made his position clear that he would prefer the ordinance, and council has chosen, for what they perceive to be their own political safety, to do a resolution."

Two ordinances have been in the works for more than two years, but have not been acted on by council. The ordinances face opposition from many city religious leaders.

Everett said Wednesday her 'no' vote was based in part upon her religious beliefs and in part on the measure's cost to the city.

"This is America, and everybody has a right to do what they want to do in terms of their sexual beliefs," Everett said. "It's just that within my own religious belief, I could not support that."

The resolution says the council supports a policy that would permit employees to designate a domestic partner to receive health benefits. The definition of domestic partner in the resolution includes:

- A spouse.
- A domestic partner of the same or opposite sex, provided that the employee or their partner have lived together for at least six months and are responsible for each other's welfare on a continuing basis;
- A parent, grandparent, sister, brother or adult child who is under 65 years of age, lives in the employee's household and is the employee dependent as defined by the IRS.

Montgomery said the resolution's definitions for domestic partners, based on a similar one used by Bank of America also acknowledges a broader view of family.

Still, he said many of those persons are already afforded some very basic protections, while gays and lesbians are not.

"To remedy the fact that gays and lesbians explicitly are not covered in so many laws, it's essential that actions be taken that explicitly extend the benefits," Montgomery said.





**Bank of America**

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Thgomas F. Coleman  
Spectrum Institute  
Family Diversity Project  
PO Box 65756  
Los Angeles, CA 90065

To: tomcoleman@earthlink.net@inet  
cc: Laurie Profilio-Sass  
From: CTC-SMTP01  
Date: 04/14/98 08:47:19 AM  
Subject: Re: Msg from E-Mail an Expert (Comments and Other Inquiries)

So you were the one who had Detroit contact us! (I spoke with the person working on it, so I'm aware of the situation.) As I told them, we had an enrollment of 1.4% -- 1% domestic partners and .4% others. Numbers came in lower than projected.

Also, as I'm sure you're aware, NationsBank has indicated that they will implement the BofA program throughout their organization sometime post merger.

Let me know if you have further issues I can help with. You can reach me at 415-241-3958, or e-mail me at sherrie.matz@bankamerica.com.

Thanks, Sherrie

**Subject: Msg from E-Mail an Expert (Comments and Other Inquiries)**  
**Author: tomcoleman@earthlink.net at Internet**  
**Date: 4/10/98 8:24 AM**

Name submitted: Thomas F. Coleman  
E-Mail Address submitted: tomcoleman@earthlink.net  
State of Residence: California  
Subject submitted: domestic partner benefits  
Message text submitted: B of A started giving its employees an "extended family

benefit beginning January 1, 1998. This includes health and other benefits for domestic partners and some dependent relatives.

I am the executive director of a nonprofit corporation that promotes fair and inclusive domestic partner benefits. We always praise the B of A approach and recommend it to others.

Two months ago, I was contacted by a Detroit city council member's office, asking for advice on how to define domestic partnership. I recommended the B of A definition. Two days ago, the Detroit Free Press reported that the Detroit city council overwhelmingly endorsed the B of A definition for the city to use in expanding its own benefits program.

I am currently recommending the same definition to the Philadelphia city council which will consider this matter on April 22.

The issue has arisen as to what percentage of the workforce signs up for this benefit when this definition is used. The only company with the answer to that question is B of A, since more than three months have passed since your new policy started.

I imagine your Human Resource director would know the answer to this question. Since B of A is being viewed as a model, I would hope that the bank would share this information.

Originally, the bank estimated that 3% of the workforce would sign up. But that was just an educated guess. I would like to know the actual percentage, so that I can pass it on to Detroit, Philadelphia, and others who would like to emulate B of A. I suspect that it may be closer to 2%, but that is also just a guess.

Could you please inform me whom I should contact about this. The name, address, phone number, fax number, and e-mail address of this person would be most helpful.

Also, I would appreciate it if you could pass this e-mail message along to the Bank president and/or the Human Resource director.

Thank you for considering this request.

Thomas F. Coleman  
Spectrum Institute  
Family Diversity Project  
P.O. Box 65756  
Los Angeles, Ca 90065  
(213) 258-8955  
tomcoleman@earthlink.net

## EMPLOYERS PROVIDING DOMESTIC PARTNER BENEFITS TO SAME-SEX AND OPPOSITE-SEX PARTNERS: COST ANALYSIS

Employer	Year DP Plan Began	Total in Workforce	Number Signed Up as DPs	% signed Up as DPs	Information Reported Regarding Costs including portion paid by employer, and experience with DP benefits plan
Berkeley City (CA)	1984	1,475	116	7.9%	DPs constitute only 2.8% of total health costs
Blue Cross of Mass. (MA)	1994	6,000	78	1.3%	Cost information not reported by research source
Borland International (CA)	1992	1,200	49	4.1%	Cost information not reported by research source
Cambridge City (MA)	1993	500	4	.8%	Cost information not reported by research source
Internat. Data Group (MA)	1993	1,600	14	.9%	Cost information not reported by research source
King County (WA)**	1993	11,400	300	2.6%	Pays 100% of basic plan; no adverse consequences
Levi Straus & Co. (CA)	1992	23,000	690	3.0%	Costs are same as <i>or less than</i> spouses
Laguna Beach City (CA)	1990	226	6	2.7%	Costs are same as spouses
Los Angeles City (CA)**	1994	34,500	448	1.3%	Costs are same as spouses; no adverse experience
Los Angeles County**	1996	75,000	1,347	1.8%	Costs are same as spouses; no adverse experience
Multnomah County (OR)**	1993	4,000	132	3.3%	Cost information not reported by research source
New York City**	1994	497,210*	2,790	.6%	Pays 100% of basic plan; no adverse experience
New York State**	1995	320,000*	2,000	.6%	Pays 25% of cost / no adverse experience
Olympia (WA)**	1995	530	12	2.3%	Pays portion for dependents; nothing adverse
Rochester (NY)**	1994	2,900	100	3.4%	Costs are same as spouses / no adverse experience
Sacramento City (CA)**	1995	4,000	15	.4%	City doesn't pay for DPs; worker gets group rate
San Diego City (CA)**	1993	9,300	50	.5%	City doesn't pay for DPs; worker gets group rate
San Francisco City (CA)	1991	32,900	296	.9%	City doesn't pay for DPs; worker gets group rate
San Mateo County (CA)**	1992	4,200	138	3.3%	Cost information not reported by research source
Santa Cruz City (CA)**	1986	800	23	2.9%	Costs are same as spouses / non-union not eligible
Santa Cruz County (CA)	1990	2,100	33	1.6%	Costs are same as spouses
Santa Monica (CA)**	1994	1,100	34	3.1%	City pays for DPs; costs are the same as spouses
Seattle City (WA)**	1990	10,000	500	5.3%	2.5% of total health costs; less than spouses
Vermont State**	1994	9,000	280	3.1%	State pays 80% for dependents; nothing adverse
Xerox Corporation	1995	47,000	100	0.2%	Pays \$1,000 per year toward DP health coverage
Ziff Communications (NY)	1993	3,500	75	2.1%	Cost information not reported by research source
Total		1,099,401	9,630	0.9%	Costs are same <i>or less than</i> for spouses. No adverse consequences reported by any employer.

\*\* Benefits managers at these employers were interviewed by Spectrum Institute during March and April 1997.

\* Includes retirees.

Other data was gathered from employee benefits publications, e.g., Hewitt Associates, Bureau of National Affairs, Commerce Clearing House, International Foundation of Employee Benefits Plans, etc.

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SPECTRUM INSTITUTE, P.O. BOX 65756, LOS ANGELES, CA 90065 / (213) 258-8955

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THE RIGHT REVEREND JERRY A. LAMB, BISHOP OF NORTHERN CALIFORNIA  
THE VERY REVEREND DONALD G. BROWN, DEAN

April 10, 1997

Assembly Member Carole Migden  
State Capitol  
Sacramento, CA 95814  
Fax: 916-324-2936

Re: AB 1059 - Support

Dear Assembly Member Migden,

We write as members of the religious community in support of AB 1059 - Health Benefits for Domestic Partners,

We recognize that there are some individuals and groups in the community of faith who would deny health benefits to domestic partners on moral grounds. However, we represent a large number of Christians who hold another point of view on this matter.

The biblical concept of family is a much broader vision than the modern family which is characterized as husband, wife and a couple of children. The biblical concept centers around the obligation one had to one's "household." A "household" included those who were related by marriage, genetics, or through affiliation with the household (for example Genesis 36:6, "then Esau took his wives, his sons, his daughters, and all the members of his household....and moved to a land some distance from his brother Jacob.") There are close to thirty different icons of what constitutes family presented in the Hebrew and Christian Testaments.

Those who are living together in domestic partnerships are certainly one icon of what it means to be a family. On these grounds, as well as on the basis of the fact that it is just and right for all in our society to have access to health insurance, we the undersigned clergy of Sacramento support AB 1059.

Sincerely,

  
\_\_\_\_\_

Donald G. Brown  
(Print Name)

Trinity Episcopal Cathedral  
(Congregation)

  
\_\_\_\_\_

Steven Fietz  
(Print Name)

First Christian Church  
(Congregation)



Page 2 of 2: Re: AB 1059 - Support

John P. Bingham  
(Print name)  
JOHN P. BINGHAM

Seminaria Comunity Center  
(Congregation)

Carol M. Carter

(Print name)  
CAROL M. CARTER  
Wesley United Methodist  
First United Methodist  
(Congregation)

Barry F. Cavaghan  
(Print name)  
BARRY F. CAVAGHAN

United Campus Ministry  
(Congregation)

Vincent Brady  
(Print name)  
VINCENT BRADY

Cathedral of the Blessed Sacrament  
(Congregation)

George E. Herbert  
(Print name)  
GEORGE E. HERBERT

Westminster Presbyterian  
(Congregation)

Jay K. Pierce  
(Print name)  
JAY K. PIERCE

CENTRAL United Methodist Church  
(Congregation)

Catherine M. Campbell

(Print name)  
Catherine M. Campbell  
Hispanic Office, Episcopal Div. of No CA  
La Mision Hispana el Divino Salvador  
(Congregation)

George K. Meier  
(Print name)  
GEORGE K. MEIER

Pioneer Congregational Church  
(Congregation)

Carlos Schneider  
(Print name)  
CARLOS SCHNEIDER

ST. JOHN'S LUTHERAN CHURCH  
(Congregation)



APR 11 1997

April 11, 1997

The Honorable Liz Figueroa  
Chair, Assembly Insurance Committee  
Room 448, State Capitol  
Sacramento, CA 95814

RE: AB 1059 (Migden): Health Coverage: Domestic Partners

Dear Assemblywoman Figueroa:

Since its inception, our society has provided married couples and families certain benefits that are not available to non-married individuals—such as tax incentives, health care rights, and pension and survivor benefits. They are accorded to families raising (or who have raised their children) because society has a vested interest: those children are the next generation of citizens. These benefits are not primarily *individual* benefits, although some individuals will benefit.

The domestic partnership idea rests upon a sociological fact that there are a great number of living arrangements today and a value judgment that the *individuals* in at least some of those arrangements and/or relationships have an "equal right" to the benefits presently given to married couples. *Individuals* in domestic partnerships, in essence, wish to participate in the benefits without the responsibilities of marriage and family. The benefits were not designed to benefit individuals, but families nurturing future citizens.

The bishops support universal health care and applaud those organizations who offer co-insurance benefits to their employees. Such benefits can be assigned to other "legally domiciled" individuals in the employee's home, such as adult child, parent or other "blood" relative. This benefit is accorded in the spirit of universal health care, not in an attempt to make domestic partnership an equivalent to the institution of marriage.

We must oppose AB 1059 because of its definition of domestic partnership. We would not oppose AB 1059 if health coverage was offered to adult individuals legally domiciled in an employee's home, but because of the exclusion of blood relatives, we perceive the bill to be an attempt to accord marriage equivalence to domestic partnerships. We hope for your thoughtful consideration and ask for your "no" vote on AB 1059.

Sincerely yours,

Reverend Monsignor E. James Petersen  
Executive Director

EJP/cnh

cc: Members of Assembly Insurance Committee  
David Link, consultant

Cathedral Square ♦ 1010 11th Street, Suite 200 ♦ Sacramento, California 95814-3807  
(916) 443-4851 ♦ FAX: (916) 443-5629

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♦ ♦ ♦

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- Bishop George M. Kuzma

Marianne Catholic Eparchy of Our Lady of Lebanon of Los Angeles

- Bishop John G. Chedid

♦ ♦ ♦

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# NEWS RELEASE

CATHOLICS  
FOR A  
FREE CHOICE

FOR IMMEDIATE RELEASE  
September 17, 1993

Contact: Denise Shannon  
202/986-6093

## **Catholics Endorse Domestic Partnership Legislation** *Cardinal Bevilacqua Doesn't Speak For All Catholics, Says CFFC President*

(WASHINGTON) The Philadelphia City Council should pass legislation that would recognize domestic partnerships in the City of Philadelphia, said Catholics for a Free Choice (CFFC) President Frances Kissling in a letter to the council.

"We know that Cardinal Bevilacqua has testified against this bill as the spiritual leader for more than 500,000 Roman Catholics in the City of Philadelphia," said Kissling's letter, "However, it is important for you to know that many Catholics disagree with church teaching on sexuality and would view this legislation as a simple matter of justice."

In the letter, Kissling points out that "many Catholic theologians have supported the principle that both heterosexual and homosexual domestic partnerships based on justice and commitment rather than the traditional marital contract are morally valid." She further asserts that it is "in good keeping with the Catholic social justice tradition" to uphold laws "based on respect for personal ethics and morality" they don't "serve to mirror the faith tenets of one or more religions."

Two domestic partnership bills were introduced in the Philadelphia City Council in May, 1993. Both bills were tabled during the summer. Cardinal Bevilacqua testified in opposition to the measures during hearings on the bill. He also asked the city's Catholic priests to read a letter outlining his opposition to the bill from the pulpit and to pass out pre-printed postcards to the City Council registering opposition.

Catholics for a Free Choice is a national educational organization that supports the right to legal reproductive health care, especially family planning and abortion. CFFC also works to reduce the incidence of abortion and to increase women's choices in childbearing and child rearing through advocacy of social and economic programs for women, families, and children. CFFC articulates the views of the majority of U.S. Catholics who disagree with the church hierarchy on matters of human sexuality and reproduction.

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# Newswatch



**By Star-Bulletin Staff**

Wednesday, April 30, 1997



## **Church gives same-sex couples spousal benefits**

Same-sex couples and other unmarried employees with domestic partners will receive spousal benefits under a resolution approved by U.S. Episcopal Church leaders at a Honolulu conference that ended yesterday.

The decision to seek broader insurance coverage for national church employees approved by the church's Executive Council is just one human sexuality issue facing church decision makers, said Pamela Chinnis, president of the House of Deputies.

Island observers at the four-day meeting of policymakers for the 2.5-million member church couldn't help but make comparisons with the same-sex marriage issue faced by state lawmakers.

The spousal benefits resolution passed, 19-11, and "there was more discussion on it than any other resolution," said Chinnis, who leads the 950-member house, which includes delegates from every diocese in the U.S. church. The church's legislative body also includes the House of Bishops.






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## Deputies Approve Recommendation to Allow Benefits for Domestic Partners -- and Other Actions

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By Jan Nunley

**PHILADELPHIA** (July 17, 1997) - Dioceses may have the option of including domestic partners in their health insurance packages if a resolution passed by the House of Deputies today is adopted by the House of Bishops.

The resolution (C024) passed by six votes in the lay order and by nine votes in the clergy order after a short debate.

The vote was taken by lay and clergy orders. In the lay order, 63 diocesan deputations favored the proposal, 32 opposed it, and 17 deputations were split. Clergy deputations voted 66 in favor, 26 opposed, with 21 split.

Each deputation can have up to four lay and four clergy deputies. A majority of a deputation's members in an order must vote yes for an affirmative vote. A split vote is counted as a no vote.

Proposed by the Diocese of El Camino Real (California), the resolution followed a request by the diocese to include domestic partners in its medical insurance coverage from the Episcopal Church Clergy and Employees' Medical Trust. The Medical Trust declined to provide the coverage until authorized by General Convention to do so.

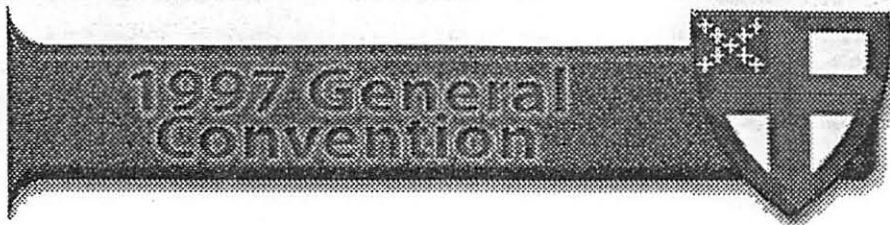
Deputy Carlson Gerdau of Chicago, chair of the deputies' Church Pension Fund committee, reported the Medical Trust is "losing dioceses who will not be covered by them because they do not offer" domestic partnership coverage. He said the coverage is not mandatory and is "revenue-neutral."

During debate, deputy Woody Mann Jr. of the Diocese of Texas questioned the proposal's definition of "domestic partnership." "We might have four domestic partners under the same household, is that correct?" Mann asked.

Montana deputy Ralph Spence Jr. echoed Mann, reading a letter he had already presented to the cognate Committee on the Church Pension Fund. "Would this include individuals who have access to marriage but decide not to marry?" Spence asked. "If the church later decides to recognize same-sex unions, then should benefits be restricted to those who are married by the church, or have same-sex unions blessed by the church?"

The Rev. David Jones of El Camino Real replied that Alan Blanchard, president of the Church Pension Fund, had reassured the committee "there are common definitions" of





## Bishops approve benefits for partners

The House of Bishops agreed by a three-vote margin Friday afternoon to approve medical insurance for "domestic partners."

Resolution C024 authorizes the Episcopal Church Clergy and Employees' Medical Trust to include domestic partners in health-insurance plans, if a diocese so desires.

The vote followed an unsuccessful attempt by Bishop Gordon Charlton to postpone further discussion of such insurance until General Convention agrees on a definition of domestic partners.

Charlton argued that not even corporate America has yet agreed on the phrase. Lotus, for example, defines domestic partners as people who would get married if allowed to do so by law, such as homosexual couples. Meanwhile, Apple defines partners as two people sharing assets.

"All I'm asking is that we have a definition that we have agreed upon before we begin making commitments," Charlton said.

"This is not about definitions," responded Bishop Richard Shimpfky of El Camino Real. "This is about medical coverage for households that are not in full accord with marriage....I must, with apologies sir, stand in opposition."

Charlton's substitute motion failed 88-97.

The vote on C024 took three efforts. Bishop Arthur Williams, vice president of the House, first ruled that the "nays" had won a voice vote. Then the bishops stood and Williams again said the nays had won.

Bishops called for a third vote, counted by tellers, and the resolution passed 93-90.

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## The San Francisco Solution

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**William J. Levada**

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In a pair of side-by-side op-ed pieces last April, the *San Francisco Chronicle* presented a double critique of the "compromise" worked out to allow the Archdiocese to comply with a new city ordinance that requires any business or agency doing business with the city to offer to domestic partners the same benefits it offers to spouses.

In one column a local Catholic chastised me for compromising Catholic moral principles by "blurring the definition of spousal benefits, [recognizing] a morally deviant relationship, and legitimizing domestic partnership by silently funding it." In the other, a local gay man lamented that our agreement allows "opponents of domestic partnerships to avoid recognizing such unions altogether, leaving same-sex couples back where they started---in a society that does not give their relationship the same standing that married heterosexuals have."

These vastly different perspectives illustrate the importance of context when looking at an issue, and the difficulty of providing an adequate explanation---or a justification, or even a moral evaluation---in today's sound-bite spaces. In San Francisco, another context is relevant too. It is estimated that about 15 percent of the population is homosexual. When rallied to a cause, they represent far more than 15 percent of the vote and the political clout in this city. It is a given in San Francisco, I am told, that politicians concerned about their future weigh very carefully the impact of their speech and actions on the gay and lesbian voters.

In a city-wide referendum in 1990, San Francisco voters narrowly adopted a new law giving legal recognition to domestic partnerships. This law was opposed by Archbishop John Quinn and a part of the city's divided ecumenical community. While registered domestic partners under the law can be either heterosexual or homosexual, the great majority are in fact gay or lesbian. What a domestic partner may not be under the law is a relative or just a friend.

Near the end of 1996, the eleven-member San Francisco Board of Supervisors adopted a new ordinance requiring businesses or agencies contracting with the city to extend the same benefits they provide to spouses to domestic partners, the category of persons defined by the referendum of 1990. The new legislation was passed unanimously with virtually no reported public hearings or debate, and was widely advertised as "pioneering" legislation that will end discrimination against homosexuals because it guarantees to domestic partnerships the same benefits typically made available to the spouses of married persons. The city had already put in place this same policy for its employees. A few major companies such as Levi Strauss, IBM, Apple, and Disney had done so voluntarily. City officials now thought the

time had arrived to increase the slow pace of such voluntary compliance with a new step in the broader campaign for the recognition of same-sex marriages, to make San Francisco a "model" city that would show the rest of the nation the way in this experiment in social engineering.

In the absence of a suitable public process at which I might register my difficulties and opposition before this law was adopted, I sought an exemption for our Catholic agencies. I pointed out that the ordinance as written created a problem of conscience for agencies of the Catholic Church (and perhaps others), because it required that we change our Church's internal benefits policies to recognize domestic partnership as equivalent to marriage.

This requirement, I argued, amounted to government coercion of a church to compromise its own beliefs about the sacredness of marriage, and seemed to violate the First Amendment protection guaranteed to religion by our Constitution. I further noted that a substantial amount of the contract funds in question involved city "pass throughs" of federal and state funds, which carried no such restriction.

The Archdiocese's position was subjected to a barrage of criticism. We were told that if we were going to accept city monies for the work of Catholic Charities, we should "play by the city's rules." We were lectured that our charitable agencies were prevented by the "wall of separation between church and state" from appealing to religious principles when public monies were involved. We were given moral instruction about the "discrimination" involved in preventing homosexuals from accessing benefits equivalent to those enjoyed by married couples.

There were no visible alliances to whom we might appeal. Nonprofit agencies often provide benefits only to their employees; in these cases the new law does not apply. This is the case, for example, with the Salvation Army, which would share our religious opposition to this ordinance and administers many excellent programs with city contracts, but is already in compliance because it gives no "spousal benefits." Businesses typically looked at the impact on their "bottom line," or, if they were worldwide operations like United Airlines, at the complications this law might entail for their network of union contracts, other state and foreign governmental regulations, etc.

In a thorough public statement I set forth clearly the moral principles in question from our Catholic perspective, and presented what I think is a reasonable case why the Catholic Church should not be required to comply with this ordinance. I further outlined the reasons I would be prepared to challenge the law in court should the city not provide us with an exemption, or a means of compliance that does not violate our moral principles.

In making my case, I particularly called attention to the inadequacy of the city's argument about discrimination against homosexuals.

I am in favor of increasing benefits, especially health coverage, for anyone. As the Catholic bishops of the U.S. stated in 1993, "Every person has a right to adequate health care." I would welcome the opportunity to work with city officials to find ways to overcome what I believe is a national shame, the fact that so many Americans have no health coverage at all. I can be counted on to raise my voice in support of universal health coverage nationally and locally. I feel sure I could make common cause with city officials in working toward this truly urgent need.

But I reject the notion that it discriminates against homosexual, or unmarried heterosexual, domestic partners if they do not receive the same benefits society has provided to married employees to help maintain their families. If it is a question of

benefits, why should not blood relatives, or an elderly person or a child who lives in the same household, enjoy these same benefits? Under the city's new ordinance, however, blood relatives are excluded from the benefits that the city's new ordinance extends to domestic partners.

Historically social legislation providing spousal benefits for married persons has recognized the role that women traditionally exercised as wives and mothers, and the important function they contribute to the future of society by their unpaid work in the home raising their families. Even with today's changes in the workplace, to seek to equate domestic partnership with the institution of marriage and family runs contrary to Catholic teaching, indeed to the beliefs of most religious and cultural traditions, and as recent polls have shown, to the basic convictions of the great majority of Americans.

These excerpts from my statement, which was well covered in local media and sent to all the Catholic households of the Archdiocese, give some indication of how I saw this situation as an important teaching moment for our church to address a new and serious social debate in our society. Shortly afterward, Mayor Willie Brown asked me to meet with him and four Supervisors to explore a mutually acceptable solution to the problem. As a result of our agreement, the city has codified regulations to recognize that a business or agency which "allows each employee to designate a legally domiciled member of the employee's household as being eligible for spousal equivalent benefits" would be in compliance with the law.

I believe that it became clear to city officials that their argument about discrimination against domestic partners who do not receive "spousal equivalent" benefits does not stand up under public scrutiny when challenged. I further believe that by refocusing the targeted population for expanded benefits away from domestic partners, the rationale for using "discrimination in benefits" as a step toward the recognition of same-sex marriages has been largely removed. Even though some large companies and local governments may choose to provide such domestic partner benefits, I think it unlikely that this new San Francisco ordinance will become the "model" for the rest of the country that its proponents originally touted it to be. As the *Chronicle* commentator remarked, our solution changes the focus from domestic partners and thus removes the primary purpose of the original legislation for many of those who promoted it.

Our solution is not without its critics, and I would not want to discount their objections. But to those like my local Catholic critic who say that we implicitly give recognition to domestic partnerships by not excluding them from benefits, I must demur. Under our plan, an employee may indeed elect to designate another member of the household to receive benefits. We would know no more or no less about the employee's relationship with that person than we typically know about a designated life insurance beneficiary. What we have done is to prohibit local government from forcing our Catholic agencies to create internal policies that recognize domestic partnerships as a category equivalent to marriage. I agree with moral theologians like William May who see no compromise of Catholic moral principle in this practice.

Some have suggested that Catholic agencies should not be involved in any use of public monies, since it will inevitably involve them in the compromise of principles, if not sooner then later. I recognize that vigilance is required, since loss of funding could be the basis to justify even formal cooperation in evil. But I do not grant that such is the case here.

Others have lamented that I did not challenge this ordinance in court. Surely the city did not want a court challenge. But then neither did I relish the prospect of a lengthy, expensive legal challenge with an

uncertain outcome, while making adversaries of city officials with whom we should be working on questions that will help address many pressing social needs.

In defending my action in this matter, it may sound as though I am proposing this course for others to emulate. Far from it. We chose a course in which acceptable and practical options had been reduced to the minimum. This solution will no doubt be costly and difficult to implement, although with more large companies like Bank of America adopting our solution, costs may come down. I am satisfied that in San Francisco we have achieved a notable success by shifting the debate so that what was intended by proponents of the legislation as a requirement that all employers accept an equality of status between domestic partnership and marriage has now become a situation where employers can expand health care benefits, while not being forced to recognize that marriage and domestic partnership are equivalent. But it would be my hope that our experience here would provide good reasons why any proposal elsewhere for similar legislation on domestic partners should be defeated.

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William J. Levada is Archbishop of San Francisco.

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Updated: 16 September 1997



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Friday, February 7, 1997 · Page A21

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## S.F. Archbishop Agrees To Discuss Partners Policy

*Torri Minton, Chronicle Staff Writer*

Archbishop William Levada and the city of San Francisco reached an agreement behind closed doors last night to negotiate a policy that apparently would allow Catholic Charities to extend benefits to a household member including a domestic partner.

The agreement could signal an end to a touchy dispute between Levada and the city over whether Catholic Charities should be allowed to spend city money if the agency does not provide city-mandated domestic partner benefits to its employees.

The controversy put in jeopardy some \$5.6 million in contracts that Catholic Charities, the human services arm of the Archdiocese of San Francisco, has with the city.

The wording that Mayor Willie Brown, the archbishop and four members of the Board of Supervisors agreed to negotiate seems to surpass city requirements for domestic partners benefits.

Without explanation, and without using the term "domestic partners," the group released the following tentative language: "An employee may designate a legally domiciled member of the employee's household as being eligible for spousal equivalent benefits."

The language must still be examined by the city attorney and may be subject to further talks.

"It actually exceeds the ordinance," Supervisor Tom Ammiano said. "As I understand it, this says that if you are an employee of Catholic Charities, you can designate any other member of your household for equivalent spousal benefits."

"It looks like a very positive step toward reconciliation," Ammiano said.

The agreement came after an hourlong meeting involving Levada, Brown, Board of Supervisors President Barbara Kaufman and Supervisors Leslie Katz, Susan Leal and Ammiano.

"I'm very pleased that we've reached an accord on a provision that I think will be in everybody's best interest," said Katz. "It sets an example of what happens when people sit down and try to work toward resolution."

Starting in June, San Francisco law will require that city contractors who provide health insurance to married couples must also give those benefits to the gay, lesbian and unmarried domestic partners of their employees.

Earlier this week, Levada said that equating domestic partnership with marriage and family runs contrary to Catholic teaching. In December, he threatened legal action over the issue, in a private letter sent to Brown.

Neither Levada nor his spokesman offered comment on the apparent shift signaled by last night's agreement. Brown and his spokeswoman also declined comment.

Excluding Catholic Charities from city contracts, Levada has said, could directly affect its programs to house and feed the homeless, poor families, and people with AIDS and HIV. The Catholic agency also provides job training and mental health counseling. About 40 percent of the Catholic Charities budget flows through City Hall.

At the meeting last night, "everything was very cordial and low- key," Ammiano said.

"I think this is a very positive step for the two entities -- the archdiocese and the city -- to try to coexist without devaluing each other's principles," Ammiano said.

The city also is negotiating with United Airlines over the domestic partners benefits.

At issue is a side letter to a 25- year lease for United at San Francisco International Airport.

United, the world's largest airline and the biggest carrier at the airport, reached a lease agreement for land for a new flight kitchen and an equipment repair facility in September. But last month, the supervisors sought to attach domestic partners wording to the airline's lease.

The domestic partners law -- passed unanimously by the supervisors and signed by Brown in December -- says that even before the June 1 effective date of the policy, any lease with the city for more than two years should contain the language, or at least a pledge by the business, to move toward compliance with the law.

# City and County of San Francisco

# Human Rights Commission

Contract Compliance  
Dispute Resolution/Fair Housing  
Minority/Women/Local Business Enterprise  
Lesbian Gay Bisexual Transgender & HIV Discrimination



Willie Lewis Brown, Jr.  
Mayor

Marivic S. Bamba  
Executive Director

Tom Coleman  
P.O. Box 65756  
Los Angeles, CA 90065

Dear Mr. <sup>Tom</sup> Coleman:

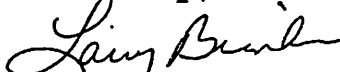
This letter is in response to your request for information about domestic partner benefits in San Francisco.

In the case of United Airlines, United was seeking to renew their airport lease for a 25 year period. This renewal was to occur before June 1, 1997 when the nondiscrimination in benefits portions of San Francisco Administrative Code 12B go into effect. The Board of Supervisors passed a resolution requiring any City contracts or leases signed before June 1, 1997 for a term of more than 2 years to include equal benefits for domestic partners provisions. The Board then reached an agreement with United which provided a 2 year lease without domestic equal benefits. However, when that lease expires, United will be required to have these benefits in place in order to renew their lease again. I have enclosed copies of Section 12B and of the resolution.

In the Catholic Charities case, a verbal agreement has been reached between some members of the Board of Supervisors, Mayor Brown, and Archbishop Levada. The Archbishop has agreed that Catholic Charities and other City contractors associated with the Archdiocese will allow an employee to pick any member of their household to receive benefits. There is no written agreement at this time and the Human Rights Commission has not yet approved the arrangement. However, when these contracts come up for renewal, the Commission will review them for compliance with the equal benefits provision.

I hope that this information is helpful. Copies of the Ordinances, the resolution, and other information about domestic partners is available on our web site at [www.sfhumanrights.org](http://www.sfhumanrights.org). If I can answer any other questions, please feel free to write or call me (415-252-2510).

Sincerely,

  
Larry Brinkin  
Coordinator

LB:LSS:lss





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## Detailing domestic partner benefits

Rachel Gordon  
OF THE EXAMINER STAFF

March 1, 1997

San Francisco Examiner  
EXAMINER SECTIONS

### Officials work out wrinkles before law takes effect

With three months left before San Francisco's domestic-partners benefits law kicks in, city officials are scrambling to fill in the blanks on just what the legislation means and how it will be implemented.

"There are a lot of questions that still need to be answered," said the Human Rights Commission's Cynthia Goldstein, who is drafting the law's implementation guidelines.

The ground-breaking law, adopted last year and set to take effect June 1, requires companies and agencies doing business with The City to provide the same benefits to workers with registered domestic partners as they do to married employees.

It requires contractors to take "reasonable" measures to assure equitable health benefits for workers with domestic partners.

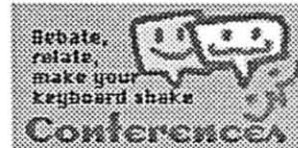
But what is reasonable? That's one question that a working group of city bureaucrats, elected officials and community leaders who pushed for the law is trying to answer.

For example, how many insurance carriers would an employer have to contact to show that it had made a reasonable attempt to secure coverage?

The draft rules also propose allowing delays for contractors to secure the benefits. City contractors could have three months to put the benefits in place, and more time could be granted by the Human Rights Commission.

### ON THE GATE

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*See next page re: church*

In addition, companies involved in collective bargaining would be allowed to start providing domestic partners benefits once their labor agreements expire if the unions don't sign off on them first.

The draft guidelines are intended to provide contractors with everything they need to know about the law: who it applies to, what they must do to comply, what exemptions exist, and other procedures that will help transform the law from the stage of politics to one of bureaucracy.

Once the inner circle reviews the proposed guidelines - which already are available to the public through the Human Rights Commission - another draft will be more widely distributed for additional comment. The Human Rights Commission is expected to hold a public hearing on the final proposal in April and consider it for adoption.

Despite its June 1 initiation date, the city ordinance already has ignited sparks. The Board of Supervisors recently held up a 25-year lease for United Airlines at San Francisco International Airport until the company agreed to show a good-faith effort to adopt domestic partners benefits within two years.

And Archbishop William Levada, head of the Roman Catholic Church in San Francisco, went back and forth with city officials about how Catholic-affiliated contract agencies could enact the legislation while keeping with church doctrine, which opposes even the concept of domestic partners.

In the end, the two sides struck an agreement that would allow contractors to offer workers the opportunity to designate someone in their household as a benefits recipient, whether that person be a spouse, an unmarried lover, a sibling or someone else with a bond to the employee.



"Your honor, I represent the defendant Oscar Smith, but where there would be no conflict of interest to my client I wouldn't be opposed to helping Mr. Smith."

[3] The trial judge in his order summarily denying appellant's motion refers to several pages of the Circuit Court Minute Book to support his conclusion that appellant was represented by counsel at all critical stages of his trial. The appellant in his directions requested that these minute book entries be included in the record of appeal. We were not furnished with these book entries but assume from the information set out in the order appealed that the minutes recite that Smith and his codefendants appeared in court accompanied by counsel. This we feel is not sufficient to show that this appellant was actually represented by counsel at the trial.

The record in *Quillian v. State*, 163 So.2d 1 (Fla.App.3d, 1964) showed that two defense attorneys participated in the trial of Quillian and another defendant. The record did not show that either of the attorneys actually represented Quillian, consequently the appellate court reversed the order of the trial court denying Quillian's Rule 1 motion without a hearing and remanded the cause for a hearing on the matter. A similar situation was before this Court in *Gentry v. State*, 186 So.2d 531 (Fla.App.1st, 1966), although the record there contained a statement from counsel that he did not represent Gentry but was employed by and represented another defendant.

In view of the allegations made in the Rule 1 motion we feel that a hearing should have been ordered on the question of whether Smith was accorded his right to counsel or made an intelligent waiver thereof. Therefore, we must reverse and remand for further proceeding in accordance with the provisions of Criminal Procedure Rule 1.

WIGGINTON, Acting C. J., and SPECTOR, J., concur.

Coleman F. CARROLL, as Bishop of the Diocese of Miami, a corporation sole, Appellant,

v.

CITY OF MIAMI BEACH, a municipal corporation, Appellee.

Nos. 66-152, 66-153.

District Court of Appeal of Florida.

Third District.

April 18, 1967.

Rehearing Denied June 2, 1967.

Complaint was filed for declaratory decree that proposed use of property as home for small group of novices would not be violative of zoning ordinance restricting use of property to single family residences. The Circuit Court for Dade County, John J. Kehoe, J., entered judgment against complainant, and he appealed. The District Court of Appeal, Swann, J., held that within ordinance defining "family" as one or more persons occupying premises and living as single housekeeping unit, as distinguished from group occupying boarding house, lodging house, or hotel, proposed use of house and property by small group of religious novices who would live on premises under direction of a mother superior, and who would live like any other family with only noticeable difference being religious garb, would be use by a "family" and not violative of zoning ordinance restricting use to single family residences.

Reversed and remanded with directions.

Pearson, J., dissented.

**1. Zoning ⇨273**

Proposed use of house and property by small group of religious novices who would live on premises under direction of a mother superior, and who would live like any other family with only noticeable difference be-



ing religious garb, would be use by a "family" and not violative of zoning ordinance restricting use to single family residences.

See publication Words and Phrases for other judicial constructions and definitions.

2. Zoning §233

City was bound by express terms of its own ordinance in defining a "family" and word could not be construed under ordinance in accordance with meaning commonly ascribed to it by public in general.

Joseph M. Fitzgerald and Thomas A. Horkan, Jr., Miami, for appellant.

Joseph A. Wanick, City Atty., for appellee.

Before PEARSON, CHARLES CARROLL and SWANN, JJ.

SWANN, Judge.

[1] The City of Miami Beach, Florida, has an ordinance which defines a family as:

"FAMILY: One or more persons occupying premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, a lodging house or hotel, as herein defined."

The Bishop of the Diocese of Miami, a corporation sole, owns property in the City of Miami Beach which he desired to use as a home for a small group of novices, or applicants to a religious order, who would live on the premises under the direction of a Mother Superior. The use of the premises is more fully described by the Bishop as follows:

"That the said small group of women, with the Mother Superior as the Head, would live in the home as a single family and as a single housekeeping unit, and that in religious terminology, as well as

under the definitions contained in the said Zoning Ordinance, it constituted one family. Further, in no sense of the word would the property be used as a boarding house, lodging house or hotel, nor would it be used as a school for either the novices or the public; nor would it be used as a public place of worship. Should any of the novices require schooling, they would attend one of the educational institutions in the area and return to the said home at the end of each class day. The only noticeable difference between this family and any other family would be that the novices would wear a religious habit or garb."

The City denied his requested use of the property because it was zoned as a single family residence, in an RC "Estate District."

In its answer to the complaint for declaratory decree filed by the Bishop, the City admitted that it had advised him that "regardless of the wording of the zoning ordinance, the word 'family' was to be construed in accordance with the meaning commonly ascribed to it by the public in general."

The chancellor, in his final decree, found that the requested use of the property violated the spirit and intent of the ordinance and restricted the use of the property to a single family residential purpose. The Bishop has appealed from this final decree.

The question before us is not what the word "family" means in common parlance, but what the City of Miami Beach zoning ordinance says it means. We are bound by the definition ascribed to the word in the ordinance. See Richard Bertram & Co. v. Green, Fla.App.1961, 132 So.2d 24.

Under the terms of the ordinance any number of persons occupying the premises and living as a single housekeeping unit are entitled to the status of a family. There is no requirement that they be related by consanguinity or affinity.

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In 35 C.J.S. Family, at p. 936, it is noted that:

\* \* \* \* \*

"While the word 'family' may be said to have a well defined, broad, and comprehensive meaning in general, it is one of great flexibility and is capable of many different meanings according to the connection in which it is used, its meaning not being sufficiently certain or defined to permit its use as descriptive of particular persons for some purposes, although for other purposes the term is not considered to be so indefinite."

\* \* \* \* \*

The court, in *Missionaries of Our Lady of La Salette v. Village of Whitefish Bay*, 267 Wis. 609, 66 N.W.2d 627 (1954), said:

\* \* \* \* \*

"For the purposes of its zoning code the legislative body of Whitefish Bay has in precise language defined the term 'family.' It declares that a family is one or more individuals living, sleeping, cooking or eating on premises as a single housekeeping unit. Had it been the pleasure of the legislative body when defining the word 'family,' to have excluded in the district any dwelling use of premises there situated, by a group of individuals not related to one another by blood or marriage, it might have done so. Since there is complete absence of any such limitation, it seems clear that it was not the legislative intent to restrict the use and occupancy to members of a single family related within degrees of consanguinity or affinity.

"It is to be noted that aside from the definition of the term 'family' in the ordinance, the ordinary concept of that term does not necessarily imply only a group bound by ties of relationship."

\* \* \* \* \*

See also *Boston-Edison Protective Assn. v. Paulist Fathers*, 306 Mich. 253, 10 N.W.2d 847, 148 A.L.R. 364 (1943); *Robertson v. Western Baptist Hospital*, 267 S.W.2d

395 (Ky.Ct.App.1954); *Application of La-Porte*, 2 A.D.2d 710, 152 N.Y.S.2d 916 (1956); *Hunter Tract Imp. Co. v. Corp. of Catholic Bishop*, 98 Wash. 112, 167 P. 100, L.R.A.1918A, 297 (1917); *Scott Co. v. Roman Catholic Archbishop, Diocese of Oregon*, 83 Or. 97, 163 P. 88 (1917).

[2] It is our opinion that the City is bound by the express terms of its own ordinance in defining a "family" and that the word "family" cannot be construed thereunder in accordance with the meaning commonly ascribed to it by the public in general.

If the City desires a different meaning for its ordinance in the future, it may amend, modify, or change the same by legislative process.

This appeal also involved certain procedural aspects which both parties now agree have no bearing on the final determination of the case.

Accordingly, the decision of the chancellor is reversed and remanded with directions for the entry of a final declaratory decree in accordance herewith.

It is so ordered.

PEARSON, Judge (dissenting).

I believe that the majority has defeated the legislative intent of the ordinance. The majority does not discuss the intent of the ordinance because they conclude that they are precluded from doing so by the definition of "family" included in the ordinance. I differ with them on this conclusion.

The applicable provision of the City's Zoning Ordinance is as follows:

"SECTION 3 USE REGULATIONS ESTATE DISTRICTS

In the 'RAA', 'RA', 'RB' and 'RC' Estate Districts no building or land shall be used and no building shall hereafter be erected, constructed, reconstructed or structurally altered which is designed,

arranged or intended to be occupied or used for any purpose other than a single-family residence, together with its accessory buildings \* \* \*

The ordinance further provides that a "family" is defined as:

"FAMILY: One or more persons occupying premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, a lodging house or hotel, as herein defined."

In interpreting these provisions of the ordinance the trial judge held:

"\* \* \* the Plaintiff, attempting to assert his rights under the zoning ordinances of Miami Beach, must admit the legality and validity of that ordinance, which restricts the use of the Plaintiff's property to that of a single family residence, and it further appearing that the use to which the Plaintiff proposes to put the property is not that of a single family residence, and that such use is clearly contrary to and in violation of the spirit and intent of the zoning ordinance, and this Court being otherwise fully advised in the premises, it is hereby \* \* \*."

I think this holding is both reasonable and proper.

A strikingly similar case on the facts is Cassidy v. Triebel, 1948, 337 Ill.App. 117, 85 N.E.2d 461. Although before that court upon an appeal from a temporary injunction, the court dealt with a definition of a family by a zoning ordinance. The definition is in the same words as that now before us.<sup>1</sup> The use sought in the family district was, like ours, for a group of young ladies:

"\* \* \* plaintiffs agreed to obtain a clarification of the ordinance in the

1. The Peoria Zoning Ordinance defines a family as "one or more persons occupying a premises and living as a single house-

nature of a variance so that it would expressly permit the use of said property as a residence by young lady students, who were members of the local chapter of Gamma Phi Beta Corporation, that after the sorority obtains title to said premises it will be used to provide a residence for approximately ten young lady students, supervised by a House Mother, who will have their meals prepared and served there and said dwelling will be the home of said students during the school year and said students will reside therein as a single housekeeping unit of one family. \* \* \*"

The court held that while it is true that the members of a college sorority or fraternity are bound together by enduring fraternal ties, they are not members of a family in the sense that term is used in the ordinance under consideration.

The holding here that the ordinance definition of a family as "one or more persons occupying premises and living as a single housekeeping unit" forces the inclusion of all groups not expressly excluded, and overlooks the words "as distinguished from" in the definition.

The rules of construction, applied in the interpretation of statutes enacted by the legislature, are employed in the construction of municipal ordinances. The cardinal rule for statutory construction is that courts must seek out and determine legislative intent, and no literal interpretation should be given that leads to an unreasonable conclusion or to a purpose not intended by lawmakers. State ex rel. Hughes v. Wentworth, 135 Fla. 565, 185 So. 357, 360 (1938); Maryland Casualty Company v. Marshall, Fla.App.1958, 106 So.2d 212.

I would hold that the legislative intent was to exclude institutions housing a large aggregate of persons, for whatever purpose, fraternal, religious or for profit.

keeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel, as herein defined."

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**Table 1**

**Grant Legal Recognition to Domestic Partners in Areas of Family Rights, Such as Hospital Visitation Rights, Medical Power of Attorney and Conservatorship?**

	<b>Favor</b>	<b>Oppose</b>	<b>No Opinion</b>
<b>STATEWIDE</b>	67%	24	9
<b>PARTY IDENTIFICATION</b>			
<b>Democrats</b>	72%	19	9
<b>Republicans</b>	64%	29	7
<b>Other</b>	61%	24	15
<b>GENDER</b>			
<b>Men</b>	67%	25	8
<b>Women</b>	68%	22	10
<b>RELIGION</b>			
<b>Protestant/Christian</b>	65%	28	7
<b>Roman Catholic</b>	62%	23	15
<b>Other Religions</b>	80%	14	6
<b>No Religious Preference</b>	81%	16	3
<b>IDENTIFICATION WITH GAY/LESBIAN COMMUNITY</b>			
<b>A Lot</b>	90%	6	4
<b>Some</b>	77%	16	7
<b>Not at All</b>	62%	28	10





**Table 2**

**Grant Financial Dependence Status to Domestic Partners to Receive Benefits Such as Pensions, Health, and Dental Care Coverage, Family leave and Death Benefits**

	<b>Favor</b>	<b>Oppose</b>	<b>No Opinion</b>
<b>STATEWIDE</b>	59%	35	6
<b>PARTY IDENTIFICATION</b>			
<b>Democrat</b>	68%	27	5
<b>Republicans</b>	47%	48	5
<b>Other</b>	58%	29	13
<b>GENDER</b>			
<b>Men</b>	53%	41	6
<b>Women</b>	64%	30	6
<b>RELIGION</b>			
<b>Protestant/Christian</b>	50%	46	4
<b>Roman Catholic</b>	65%	28	7
<b>Other Religions</b>	67%	28	5
<b>No Religious Preference</b>	67%	24	9
<b>IDENTIFICATION WITH GAY/LESBIAN COMMUNITY</b>			
<b>A Lot</b>	81%	14	5
<b>Some</b>	71%	24	5
<b>Not at All</b>	52%	42	6



**The Times Poll**

# Americans Like Pope but Challenge Doctrine

By RUSSELL CHANDLER, *Times Religion Writer*

When Pope John Paul II makes a pastoral visit to the United States next month, he will find that Americans in general—and Catholics in particular—have a highly favorable impression of him. But his personal popularity does not translate among Catholics into strong fidelity to official church doctrine, especially on matters of sex and marriage, the Los Angeles Times Poll has found.

A majority of the nation's 53 million Catholics disagree with the Pope's teachings and policies on a number of significant issues. That disagreement is strongest and most striking among Catholics age 40 and younger, the survey shows.

Moreover, by a 10-1 ratio, U.S. Catholics say that a member may disagree with church teachings and still be considered a loyal follower.

### Loyalty Qualified

And even among those Catholics who are extraordinarily strong in their support of the Pope's doctrine and policies, only one in five say that a member must follow all the church's teachings to be considered faithful.

Thus, they are not likely to feel obliged to change their views on these matters because of speeches the pontiff is expected to give on his U.S. tour that will underscore traditional Catholic teaching—particularly the Vatican's ban on contraception, artificial insemination, abortion, premarital sex and divorce.

Msgr. John Tracy Ellis, a noted historian at the Catholic University in Washington, said he found the evidence of wide diversity of beliefs within the U.S. church "painful and distressing, but not surprising."

"The only question to which 53 million Catholics would give an answer approaching unity is if you asked them about the divinity of Christ. . . . You'd get something nigh to unanimity on accepting that one. . . . But there are questions to which there are no certain answers this side of eternity."

I. A. Lewis, director of the Los Angeles Times Poll, said, "The data show that American Catholics feel it is perfectly appropriate for their church to take stands on dogma, but at the same time they have the right to disagree and still be firmly devoted to their faith."

Only one-fourth of American Catholics surveyed said they believe that a Pope is infallible in matters of faith and morals when he says he is. But 85% of those who do believe he is infallible nevertheless said a church member may disagree with official teachings and still be loyal. A Pope last invoked infallibility in 1950.

The survey found that, with several exceptions, American Catholics differ little in religious ideology from Protestants; in fact, in matters of sexual morality, the attitudes of Catholics in most cases are not substantially different from the views of the U.S. population as a whole.

### Wrong to Bar Women

On the question of women priests—the Catholic Church does not permit women to be ordained—60% of all Catholics surveyed said it is wrong to bar women from the clergy.

And younger Catholics—those between the ages of 18 and 40—oppose the ban on women priests by a lopsided ratio of 4 to 1; only 18% said they agree with the Vatican's prohibition. Just under half of Catholics age 41 and older oppose women priests. There was no significant difference between male and female Catholics on this issue.

Two-thirds of Protestants and 65% of the population as a whole said it is wrong to exclude women from the clergy.

The Pope will speak about the role of women in the church when he addresses men and women members of religious orders at St. Mary's Cathedral in San Francisco on Sept. 17.

Twenty times more Catholics said they have a favorable impression of Pope John Paul II than those who hold unfavorable views of him, 84% to 4%, the survey found.

### A Positive Image

While three-fourths of Catholics under age 41 have a positive image of the Pope, that percentage climbs to 89% for those above that age.

More than half of Protestant Christians take a favorable view of John Paul, while only 8% regard him with disfavor. And 61% of all Americans think well of the pontiff.

Of all religious groupings in the survey, white fundamentalists had the least favorable impression of the Pope, with 11% regarding him negatively. But even so, more than

four times as many had a positive impression.

The personal quality that by far the greatest number of all respondents said they admired the most in the Pope was his making "efforts for peace," followed by "the fact that he travels widely." The visit Sept. 10-19 to nine U.S. cities will be the pontiff's 60th trip outside Italy since he assumed the papacy in 1978.

These admired qualities were picked in about the same proportion by persons of Catholic, Protestant, Jewish and other faiths, as well as by those who said they had no ties to any religious group.

### 'Out of Step'

The least-liked quality of the Pope—picked the most frequently by all groups in the survey—was the belief that he "is out of step with American Catholics." Other qualities most often seen negatively by Catholics were that the Pope is "too stern a disciplinarian" and "too strict in his dogma," and that he "discriminates against women" and "makes too many concessions to government leaders."



Persons holding no religious persuasion ranked "not [being] compassionate toward homosexuals and AIDS patients" along with being out of step with Catholics at the top of their "least-admired" list.

In San Francisco, which has the second-highest per-capita rate of AIDS patients among U.S. cities, the Pope will meet and pray with about 50 AIDS sufferers and their families during a service on Sept. 17 at Mission Dolores.

More than 80% of Catholics sampled said they plan to see the Pope while he is in the United States next month—a few in person at a Mass or motorcade, but most on television. Only 43% of Protestants said they will pay much attention to his visit—less than the percentage of those who belong to non-Christian religions and less than the American public as a whole.

Regarding official Catholic teaching on sexual morals, 41% of the Catholics sampled said they thought the church's position should remain the same. But more than twice as many want more

liberal policies as those who want these teachings to become more conservative.

One in five older Catholics said they would like the church to become more liberal on sexual morals; just over 40% of those age 40 and under would like to see the church move in that direction. Ten percent in that age bracket would like Catholic sexual teachings to be more conservative.

The inference is that unless U.S. Catholics change their views as they grow older, the Catholic population will become increasingly liberal and thus in greater apparent conflict with unchanging Vatican policies.

The Times survey asked respondents whether they thought a series of actions that the Catholic Church considers "gravely evil" were sinful or not.

While a majority of the Protestant and other Christian respondents said they thought sexual relations between unmarried people are sinful, Catholics were nearly evenly divided on the issue. However, nearly two-thirds of the younger Catholics said such sexual activity was not a sin.

In addition, only one-third of Catholics sampled said masturbation is a sin—the same percentage as Protestants—although the Catholic Church teaches that the practice is sinful.

A majority of all religious

## VIEWS OF AMERICAN CATHOLICS

These Los Angeles Times Poll results reflect answers by 2,040 respondents nationwide, 957 of them Catholics, to questions asked Aug. 15-19.

Those who said they agreed that it is a sin . . .

	CATHOLICS					ALL POLLED
	18-40	41+	Women	Men	All	
For unmarried people to have sexual relations	30%	61%	48%	42%	45%	49%
For married couples to divorce	25%	30%	23%	32%	27%	27%
For married couples to use artificial methods of birth control	13%	23%	14%	23%	18%	12%
To use condoms as a protection against AIDS—for "safe sex"	12%	16%	12%	18%	14%	12%
To engage in homosexual behavior	61%	73%	60%	74%	66%	69%
For married couples to use artificial insemination to have children	16%	24%	17%	22%	20%	18%
For married couples to employ surrogate parenting	32%	53%	41%	43%	42%	39%
To assist in euthanasia	44%	48%	48%	43%	46%	44%

## VIEWS ON THE POPE'S POLICIES

These are Los Angeles Times Poll results of an Aug. 15-19 survey of 2,040 respondents nationwide, 957 of them Catholics.

"Do you believe in the infallibility of the Pope?"

	CATHOLICS					ALL POLLED
	18-40	41+	Women	Men	All	
Pope is infallible	24%	28%	26%	26%	26%	14%
Pope is not infallible	27%	32%	29%	30%	29%	32%
Don't Know	49%	40%	45%	44%	45%	43%

"Is the exclusion of women from the clergy right or wrong?"

Right	18%	36%	26%	28%	27%	21%
Wrong	72%	48%	63%	57%	60%	65%
Don't Know	10%	16%	11%	15%	13%	14%

"Which of the following changes would you most like to see take place in the Catholic Church?" \*

Permission for Contraception	40%	26%	38%	27%	33%
Liberal Attitude Toward Abortions	19%	16%	17%	18%	18%
Women Priests	21%	12%	17%	16%	17%
Optional Celibacy for Male Priests	18%	17%	16%	19%	17%
Acceptance of Divorce	17%	18%	22%	12%	17%
More Laity Involvement in Decisions	10%	18%	16%	12%	14%
More Social Action by Clergy	5%	10%	7%	8%	7%

\* This question only asked of Catholics.

groups—except for white fundamentalists—said divorce was not a sin. Catholics took this view by a ratio of 2 to 1.

Artificial birth control—which the Pope has frequently upheld as immoral—was considered sinful by fewer than one in four Catholics, with the ratio dipping to fewer than one in six for Catholics age 40 and younger.

But engaging in homosexual behavior was considered sinful, according to the overall Catholic sample, by a ratio of more than 2 to 1; Protestants took the same view by a ratio of 4 to 1. Nearly 70% of all Americans think homosexual behavior is sinful.

Although the Vatican recently issued a document declaring that most forms of human artificial insemination are morally wrong, no more than 20% of members of all religious groups, Catholics included, agree with this view. But there is split opinion within all faith groups over whether surrogate parenting, in which a married couple hires another woman to carry and give birth to their child, is a sin.

The same is true regarding euthanasia—helping someone die before that might happen from natural causes. The white fundamentalists are the only religious group in which a majority (53%) consider the practice sinful.

When John Paul meets with Catholic health care workers at St. Joseph's Hospital in Phoenix on Sept. 14, he is expected to emphasize church teachings on bioethical issues and the inviolability of human life.

The survey asked a series of questions about whether the leaders of the respondents' religions should take certain public policy stands. There was no consensus among Catholics or any other faith group about stands on nuclear weapons and arms control, or the redistribution of wealth—two topics on which the American Catholic bishops have recently issued major position statements.

A bare majority of Catholics felt that it is appropriate for church leaders to take a public position regarding abortion, and only 35% said they would favor a law prohibiting federally funded abortions. Nearly half of both Protestants and

Catholics said they would oppose such a law.

Substantial majorities of Christian groups also favored allowing prayers in public schools, but there was no solid support for federal funding of schools run by religious organizations. Although 45% of Catholics favored it, only 30% of Protestants did.

Catholic respondents were more apt to favor legalizing homosexual acts between consenting adults than were Protestants (50% vs. 40%), and they also were more in favor of churches offering sanctuary to Central American refugees (41% vs. 31%), and the Vatican establishing diplomatic relations with Israel (44% versus 25%). (The Vatican has not granted full diplomatic recognition to the Jewish state.)

About four of five Catholics said they were aware of liturgical changes in the church, and they approved of the increased involvement by laity in distributing communion by a ratio of more than 2 to 1.

The Times survey found—not surprisingly—that Catholics who attend Mass once a week or more and who consider themselves strongly religious are far more inclined to agree with the Pope's policies and teachings than are Catholics who attend church services infrequently and consider themselves only moderate or non-practicing in their faith.

The Times Poll interviewed 2,040 American adults, of whom 957 were Roman Catholics, by telephone for five days, from Aug. 15 to 19. The margin of error for the entire Times Poll was 4% in either direction.

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## 'Living in Sin' Is No Longer a Sin, Church of England Report Says

LONDON—"Living in sin" should no longer be regarded as sinful and the phrase should be dropped given the number of people who now live together before getting married, a Church of England report said Tuesday.

- Warning against judgmental attitudes about cohabitation and fornication, the report by the church's Board of Social Responsibility estimated that four in five couples will live together before they marry by the year 2000.

"The phrase 'living in sin' stigmatizes and isn't helpful," said Bishop Alan Morgan, who chaired the first major study of the family by Britain's state religion in 20 years.

The report also urged a "ready welcome" for homosexuals in the church, saying many have high-quality, loving relationships.

The report was based on respon-

ses to 25,000 questionnaires and contributions from groups and is intended to stimulate debate among clergy and churchgoers.

- Reuters

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**Los Angeles Times**

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WEDNESDAY, JUNE 7, 1995

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A3

# Rabbis Draft Guidelines for Sex Outside of Marriage

■ **Morals:** Pastoral letter from a Conservative panel is called the first modern attempt by any branch of Judaism to formulate a sexual ethic.

*From Associated Press*

NEW YORK—For Jewish singles unable to wait until marriage, sex can still be a holy experience if religious moral standards are followed, according to a report on developing a contemporary sexual ethic for the nation's largest branch of Judaism.

"Committed, loving relationships between mature people who strive to conduct their sexual lives according to the concepts and values described [in the document] can embody a measure of holiness, even if not the full portion available in marriage," says the report, "This Is My Beloved, This Is My Friend."

Marriage is still the "appropriate place" for sexual relations, but the report released Wednesday encourages Jewish leaders to reconsider whether even homosexual relations can be part of God's gift of sexuality if other moral standards are obeyed.

The pastoral letter from a commission of Conservative rabbis is called the first modern attempt to draft a sexual ethic by any branch of Judaism. Among its recommendations: Jews have a particular responsibility to avoid AIDS by disclosing their sexual history to their partners, by undergoing HIV testing and by abstaining if either partner is infected.

The report from the Rabbinical Assembly's Commission on Human Sexuality will be presented Tuesday to the group's Committee on Jewish Law and Standards. The law committee, which sets official policy for the assembly, is expected to begin deliberations on the recommendations in the fall.

The assembly represents 1,500 Conservative rabbis who serve 1.5 million congregational members. The Union of American Hebrew Congregations, representing Reform Judaism, has approximately 1.3 million members in North America. An estimated 1 million American Jews are affiliated with Orthodox organizations.

Rabbi Gerald L. Zelizer, president of the Rabbinical Assembly, said the report represents the "first time that a major Rabbinic group in the United States has crafted the beginnings of a sexual ethic for the Jewish community."

Zelizer, a rabbi from Metuchen, N.J., said the committee attempted to apply a kind of moral hierarchy to the many kinds of sexual relationships today, with marriage as the ideal.

Among its traditional teachings, the report not only upholds the importance of marriage, but condemns adultery as a gross violation of Jewish law. The report also condemns casual and promiscuous sex and encourages adherence to the Jewish law forbidding sex during a woman's menstrual period.

But in recognition of changing sexual practices, the report offers guidelines for sex outside of marriage.

The values the commission upholds include avoiding coercive sex and advocating modesty in speech, dress and sexual activities, honesty about each partner's commitment to the other, and fidelity.

"When people are not married, these norms are still valid," said Arnold Goodman, an Atlanta rabbi and the commission's chairman.

To prevent AIDS, the rabbis urge both partners to disclose their sexual history since the start of the AIDS epidemic in 1980 and to have HIV testing before sex is considered. If one partner is infected, the couple should abstain from sex, the report said.

The commission did not take a definitive stand on homosexuality, but is asking the law committee to examine the tension between the traditional teaching that considers same-sex relations an abomination and Conservative Judaism's commitment to civil rights for homosexuals.

"In our day, when we have many

people who are single and others who are openly homosexual, we affirm their values as human beings and as Jews and earnestly want to involve them in the Conservative Movement," the report says.

"It's trying to imbue those relationships with Jewish values where people are doing it anyway to make those relationships more holy," Zelizer said.

LOS ANGELES TIMES

SATURDAY, APRIL 30, 1994

**B4**

## **N.J. Episcopal Group Approves Unwed Couples, Gay Life Styles**

NEWARK, N.J. (AP)—Representatives of northern New Jersey's 125 Episcopal parishes voted Saturday to give their blessing to relationships between homosexuals and unmarried couples.

Under a resolution passed by clergy and lay people at the Diocese of Newark's annual convention, the diocese upheld "those pastors and congregations who minister and seek to include persons living out alternate patterns of sexuality and family life."

The clergy vote was 115 to 35; the laity vote was 234 to 128. The position taken by the diocese is a minority view among the nation's 3 million Episcopalians.

"The church is behind the times," said John Spong, Newark's Episcopal bishop. "I think we need to be more embracing of the pluralism of our times."

A spokesman at the church's national office in New York said the Newark Diocese, with about 46,000 members, has widened the church's debate on the issue.

"They may have offended people

but they have helped the church clarify its own decisions," the Rev. William Dearnaley said. The resolution, he said, appears to be "no more than an affirmation that the Episcopal Church has held to for 10 to 12 years."

In 1979, the church's General Convention rejected similar recommendations, 100 to 23. But Spong said the church's leader, Presiding Bishop Edmond Lee Browning, who was among the 23 dissenters, was receptive to reforms.

Last year, in a report ordered by the Newark Diocesan Conference in 1985, a clergy-laity task force recommended the changes.

The task force said attitudes toward marriage have changed as more women defer or reject weddings for careers and that the church should accept cohabitation and premarital sex.

The report also said homosexuals have as much right to worship God as heterosexuals and that their rights to church recognition and ministry should not be ignored.



# Rhode Island's Senate Sends Gay-Rights Bill to Governor

By DAVID W. DUNLAP

The Rhode Island Senate extended civil-rights guarantees to homosexuals last night, approving a measure that would bar discrimination in employment, housing, public accommodations and credit on the basis of sexual orientation.

Gov. Lincoln C. Almond, a Republican, will sign the measure into law, his spokesman said, perhaps as early as Monday. That would make Rhode Island the ninth state to offer specific civil rights protections to homosexuals and the first to do so in two years.

The 26 to 21 vote in the Rhode Island Senate capped 11 years of lobbying by gay and lesbian groups and came after four successive defeats in the Legislature. The House of Representatives approved the bill 57 to 41 in March.

The legislation was seen as an important gain nationally for the lesbian and gay civil rights movement, which suffered a major setback a week ago when a Federal appeals court upheld the right of Cincinnati voters to deprive homosexuals of legal protections.

State Senator William P. Fitzpatrick, Democrat of Cranston, who is openly gay and shepherded the Rhode Island bill through the State House in Providence, said, "It's a small state but it's a big victory." He said it was the most significant legislative success since 1993, when a similar measure was passed in Minnesota and signed by Gov. Arne Carlson, a Republican.

Other statewide measures have been enacted in California, Connecticut, Hawaii, Massachusetts, New Jersey, Vermont and Wisconsin.

Christine Nickerson, the president of the Rhode Island Alliance for Lesbian and Gay Civil Rights, said the bill took so many years to pass because "it took a long time to educate people, even to give them a chance to

meet gay men and lesbians."

A former president of the alliance, Julie Pell, said there had been a cumulative effect of testimony about discrimination from men and women who were openly gay. "We all know our legislators," she said. "We run into them in the grocery store. When people come out, it makes even more of an impression."

Governor Almond's communications director, Jim Taricani, said the Governor believed the bill was "unfortunately necessary."

Opponents disagreed, arguing that homosexuals do not merit protected status because they are neither economically deprived nor lacking in political influence.

Jerry Burchette, the president of the Coalition to Preserve Traditional Values, also said the bill would "have the effect of trampling under foot the religious rights of the individual to make choices of conscience concerning homosexuality."

Religious leaders were found on both sides of the issue. Bishop Louis E. Gelineau of the Roman Catholic Diocese of Providence explained in the diocesan newspaper why he had not spoken out against the bill.

"If proposed legislation attempts to condone or promote homosexual activity by equating morally all forms of sexual behavior, then it should be defeated," Bishop Gelineau wrote. "If it merely seeks to afford protection from unjust discrimination, which is not now afforded under our laws, then those laws should be changed."

As the Rhode Island battle entered its final days, the Cincinnati case was often cited by opponents of the bill. The decision came from the United States Court of Appeals for the Sixth Circuit, which said laws could not be drafted that protect an "unidentifiable" class of citizens, like homosexuals, who make themselves known only by their conduct.

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## THE FAMILY IN THE JUDAEO-CHRISTIAN TRADITION

In the Holy Scriptures of the Judaeo-Christian Tradition, the term "family" generally refers to "household" (Hebrew: bayith, Greek: oikia). The Psalmist strikes a basic theme: "The Lord setteth the solitary in families". (Psalm 68: 6).

What constitutes a "family" or "household" in the Scriptures? It is clear that the household consists not only of the immediate family because it includes an extended family of various relations and retainers. Membership in the household therefore surpasses the natural bonds of blood and marriage, though both are elements that constitute family relationships. Most human relations were seen in terms of the household, e.g., "the house of Israel", the extended household eventually comes to include the whole human family. The whole family in heaven and earth" are the household of a Lord who is regarded as father of all, hence all people are brothers and sisters in the human family.

In some contemporary religious rhetoric, the term "family" is used in an unbiblical restricted and exclusive sense to oppress people whose households are somehow considered non-traditional. The term "family" has come to signify a household that includes mother and father and legitimate issue of their legal conjugal union.

In stark contrast to any restricted exclusive or oppressive sense of "family" is the teaching and example of Jesus of Nazareth, presumably unmarried, celibate man who was conceived before his parents' marriage, and whose geneology includes a list of decidedly unconventional family relations. "While he was still speaking to the people, behold, his mother and his brothers stood outside asking to apeak to him. But he replied to the man who told him, 'Who is my mother and who are my brothers'. And stretching out his hand toward his disciples, he said, 'Here are my mother and my brothers'. For whoever does the will of my Father in heaven, is my brother, and sister, and mother." (Matthew 12: 46-50). Jesus carried on the traditional teaching "Honor thy father and mother" (Exodus 20: Matthew 15: 4; Mark 7: 10; Luke 18: 20). However, in jarring contrast to such traditional values he says, "I have come to set a man against his father, and a daughter against her mother, and a daughter-in-law against her mother-in-law, and a man's foes will be those of his own household." (Matthew 10:35, 36).

The religious community has by and large been supportive of family cohesiveness and household stability. In Christian tradition, this concern has concentrated on church discipline regarding marriage, church teaching about sexuality, chastity, divorce, remarriage, birth control, and celibacy need to be seen in the context of the family and by that is meant the "household".

What is the purpose of the "household"? The household is the *fundamental* social unit in which its members initially come to know love, mutual support in prosperity and adversity, giving and taking, serving and being served, giving and accepting love. If asked our name, we give a household (family) name because we are identified, in part, by our household. To be human is to be a person in relation to others. The first to be known as "others" are members of our household. "Incipe, parve puer, risu cognoscere matrem" - "Smile, little one, as you begin to know your mother", Virgil sang. There in the household, the child comes to know his/her



first relationship and to discover that he/she counts. Everyone whom we encounter in late life and who loves us reflects for us the love and security we have known in our household. Much that may have been warped by the inadequacy or incapacity of our households may stay with us and yet may be set aright, all the more so because there is something in our social nature that enables us to extend the circle of our household concern beyond our own family to a larger sense of household and, eventually, to the whole human family. Consequently one of the purposes of the household is to contribute to the common good of society.

When we take an honest look at our society in general, and our city in particular, we can see diverse expressions of family life, various types of "households". In a religious congregation in Los Angeles, for example, the majority of members are likely to be in such "non-traditional" categories as "single", "widowed", "divorced", "remarried", or in a household arrangement with another person to whom they are not related by blood or marriage, that is, living with a lover or friend. In some of those cases there is a real commitment to establishing and maintaining a permanent household in the fullest sense. The legal status, if any, in such "non-traditional" households (whose members are not related by blood or marriage) is ambiguous; however, there is increasing social recognition of household diversity, even in the religious community.

What is meant by a "Christian household" in the broadest sense?

Father David Duncan suggests, "All households, whether married, single, same-sex, or monastic, become Christian as they are sacramental: as an expression and experience of the vocation to be personal and communal 'signs' of Christ. Single-, two-, or many-person households are Christian if and only if they are formed by a commitment to Christian forgiveness, future, faithfulness, and paying the cost of others' existence, by means of hospitality and love." (Rf. Duncan, David, "On Church Recognition of Homosexual Household Relationships", privately distributed, attached.)

The purpose of the Christian household is stated in The Book of Common Prayer, in the Anglican tradition: "mutual joy . . . help and comfort in prosperity and adversity, and when it is God's will the procreation of children and their nurture in the knowledge and love of the Lord." While this statement is within the liturgy of marriage, one may assume that the purpose of a Christian household may apply, to some extent, to a Christian or non-Christian household, whether the members be related by blood or marriage, in which a relationship is a significant element or not, whether it pertains to a same-sex or different-sex couple, and whether the household consists of a single person, two persons, or a many-person household. While these elements are variable, common elements of a household include, in Father Duncan's terms, "commitment . . . forgiveness . . . a future . . . faithfulness . . . hospitality . . . and love."

What practical conclusions may be drawn from this sketchy consideration of "the family" or "household" in the Judaeo-Christian tradition?



In the Judaeo-Christian Tradition,

- 1) The "family" includes not only the immediate (traditional understanding of the) family but also an extended family of various relations and retainers.
- 2) In some contemporary religious rhetoric, the term "the family" is used in an unbiblical, restricted and exclusive sense to oppress people whose households are somehow considered non-traditional.
- 3) Jesus was a single person whose attitude toward the family was apparently ambivalent. (Contrast: Matthew 15: 4/10: 35, 36).
- 4) The religious community has, by and large, been supportive of family cohesiveness and household stability.
- 5) The purpose of the household is for mutual joy, help, nurture, and support, *and it is* characterized by some form of commitment to a common life, open to forgiveness and constant renewal, fidelity, hospitality, and love.
- 6) When we take an honest look at our society we can see diverse expressions of family life and various types of "households" both in the community at large and within the religious community as well.
- 7) All sorts of households may be considered authentic, and therefore entitled to social recognition and community support, insofar as they contribute to the welfare of their members and the common good of society.

Father Robert Brown  
Episcopal Diocese of Los Angeles  
Member, Task Force on Family Diversity

**TASK FORCE ON FAMILY DIVERSITY**

City of Los Angeles

**TRANSCRIPT OF PUBLIC HEARINGS:**

January 28, 1987

February 19, 1987

March 16, 1987

April 8, 1987

Councilman Michael Woo  
*Convenor*

Thomas Frank Coleman  
*Special Consultant*

Christopher McCauley  
Dr. Nora Baladerian

*Co-Chairpersons*

**FATHER JAMES FLECK**

**Roman Catholic Priest**

Responses of the Roman Catholic Church to the Changing Family

FATHER FLECK: I think I have the rather unenviable position of defending the Roman Catholic Church today, in light of the newspaper headlines this morning on the forms of parenting, and in light of Cardinal Ratsingers comments recently with respect to the basic opposition to homosexuals, the defrocking of John McNeal recently and the suspension of Father Curran at the Catholic University in Washington.

I accepted this very unenviable task today because I was invited by an acquaintance of mine who is a commissioner for the Rent Adjustment Commission, for which I am the staff. I have worked for the City of Los Angeles for 10 years. Commissioner Donovan suggested I might come down and talk to you folks about it and I accepted basically knowing I would be in a position I would have to face a great deal of strong feeling about Roman Catholicism and its attitude on gay people. I read over as best I could the schedule for today.

You can expect no opposition from the Roman Catholic Church for a very large part of this Task Force program as evidenced by almost all of the witnesses I heard before the break. I think the church has a record -- a fairly good record -- of supporting people who are poor and ill. Sister Theresa in Calcutta, Father Damien in Molokai -- they are examples and I think examples over time of the Church's attitude of great concern about people who are in suffering, both physical and social.

The main issue, I suspect, is going to be gay relationships and that's what I really came to talk about. In the light of what we have here I think I would almost ditto what Father Bruno has said. At the end of this prepared talk I have some comments that essentially say the same thing he did.

The answer to any successful political action that will escape confrontation with the official Roman Catholic Church will have to be in the form of very carefully constructed legislation, perhaps city ordinances. I'm not sure it's necessary but possibly at the state level, to formalize partnerships and corporations similar to the type of thing that, as he mentioned, if you are in business -- or in the case of the church, the

"Corporation Sole." Most of you don't know it but the Archbishop of Los Angeles is a corporation sole. That's a type of corporation that came about in the United States primarily to benefit the Church. Since the very late 18th century and early 19th centuries we had a problem called trusteeism. And the individual parishioners who were Italian or Irish or German who made up the Catholic immigrant population that had started to grow from the 1% minority that existed at the time of the revolution -- they had a church and they built a church and paid for it and the Irish population was not very happy when the archbishop or the bishop would send them a German or an Italian to be a priest. And they would usually say, "Go away, we don't want you." And since they owned the church they could pretty much do what they wanted. So gradually, the Church became in each diocese a corporation sole. All Church property is owned by the bishop. And that way when the Catholic people give money to buy a church, the church belongs to the bishop. And if the bishop wants to put in a German or Italian or Jamaican -- that's what he does -- and there's no legal action the parishioners can take because it's the bishop's church, not their church. Now this is a way by which the state cooperated with the authoritarian type of structure that Roman Catholicism is -- a highly centralized, authoritarian system with the power existing in the bishops and then on up, the bishops individually to councils and to the Pope. The other type of support has come in the form of the acceptance of nonprofit educational corporations, and I use the example in the paper that I'm submitting of Loyola Marymount which is the Jesuit University here in Los Angeles to which I was assigned when I first came here some years ago.

We in the church have a same-sex community of priests. We have a bunch of men living together out there -- very unconventional relationships, very strange for many peoples' views who are used to men and women living together in conventional marriages.

When I became a Catholic years ago, I was a convert. It was one of the things we used to read about -- all these facts in Catholicism was that the Roman Catholic clergy were perverted because they didn't marry. It was natural to marry. And so the very nature of the right of these men to live together or in the case of nuns, women. Now, mind you, they don't have sex. The very principle of Catholicism and vows are not to have sex. But they live in very unconventional relationships as far as what society in general expects and thinks about in terms of family. And they are families. And they are protected by law. They don't pay any taxes on their income. They pay no property taxes. They are provided fire and police protection and all this because society, as political agencies, has found this to be a worthwhile contribution to the American culture. I think from a tactical point of view, that's the way to go.

Reflecting what Father Bruno has said, if you attempt -- the Task Force -- to recommend changes in either city ordinances or state law which

in fact directly contradicts or takes on the Roman Catholic hierarchy you're in for a cat-and-dog fight and I don't think you'll win.

Father Bruno said that he's hoping to change his Church from the inside. Well I am too. I am no longer a part of the active ministry. I've kind of retired. But I've been very careful in my writing because I'm still in good standing with the Church. I'd just as soon not get excommunicated for some of the things that I would hold. And I used to teach moral theology. I would be out on the street just like Father Curran, were I still teaching moral theology I can assure you of that, because I used to use his book, his text, and his principles in my classes.

So, I'm really with you in spirit and principle and I would like to at least give you the example of what we did in 1978 when we had the "No on 6" campaign. The Church was a little bit more liberal at that time. This is pre-Ratsinger, and pre-John Paul. They were still pretty much in Briggs' camp. Briggs is a Catholic and essentially when that campaign started we faced a very uphill battle to try to win the Catholic hierarchy to oppose the Briggs initiative. We lost in Wichita. We picketed the cathedral before that election; we lost badly. The archbishop of Miami had joined Anita Bryant and her campaign. We were on a 2-0 downhill roll at the time we came out here. When Briggs along and we beat him out here. It was the first major change that we had seen with the gay community and the broader political community facing up to the bigots.

Now, one of the reasons we were able to convince the Roman Catholic Church to support us, and we did, through thousands of letters and ads. At the very end they even told us they wanted our ads to appear in the Catholic papers; they didn't want Briggs' ads. We had to run them the last day before the campaign, before the papers closed. So he could never run a counter ad because they didn't want to give him an opportunity to have controversy within the dioceses and all over the state. We did not build our campaign on gay rights. We built it on human rights. But there were plenty of laws available to protect school children against molesters of any kind. And of course we heavily emphasized the heterosexual molesters at that time and which would still be true. What we were asking for is that people because of their sexual orientation should not be discriminated against. Whenever they did things wrong they could be punished under whatever laws society wanted, but they would be punished the same as anyone else would be, and they should not be punished because they were gay or lesbian. And that message was heard. And they thought about it. The bishops, in concert, had a secret meeting up in Monterey and they voted to support the anti-Briggs campaign but they wouldn't go on record. There was enough opposition in the hierarchy so they couldn't -- they wouldn't go on the record to do it. But they came back and told their people they'd let the Catholics for Human Dignity people loose, and if we had the money we could run all the ads we wanted to, because they wanted



that position supported. But they didn't want to have to take it publically against traditional Catholicism.

If you're going to wait for traditional Catholic theology to accept gays and such and sex outside of marriage or some form of legal, contractual marriage that's equivalent to a sacramental marriage as the Catholic Church sees it, you're going to wait a long time.

The Catholic Church will not support gay marriage. But, they will support human rights. If the people who are working in the Task Force, if the deputies to Mike Woo can construct their language so that you could provide protection and rights, human rights, civil rights to people who enter into contracts and relationships for common goods and back off from any appearance that what you're trying to do is to legislate a definition of what a marriage is from a secular point of view or to attack even the traditional Catholic position -- I think you can get the vast majority of the Catholic clergy and probably the hierarchy itself to support your positions. That's what we did in '78 that seemed to work. Despite the mood, the climate in Rome today, I think it's still possible.

Bishop Arjube has been very supportive of the gays. He's recently had a mass for gays with AIDS at a church over on Santa Monica Boulevard. He's going to appear at the 40-hour devotions that are going to take place during Lent at the Blessed Sacrament Cathedral. He's a very good man, a very concerned man. Hopefully when the Pope is here he's going to try and talk to him. I hope he's as brave in front of the Pope as he was in front of us when he turned to the congregation and said at the very end -- after he gave his blessing he said, "Remember, if you're suffering because of what is happening now, that Peter, the first Peter, betrayed Christ and so you shouldn't be surprised if he does it to you now." Now that's pretty strong stuff. I hope he says the same thing to the Pope when he's here, and that his actions are in effect mirroring and imitating the betrayal by Peter of Christ when he was arrested that night. Anyhow I'm not going to defend here. I didn't come here to defend the Roman Catholic tradition, I've explained it and it's not going to change. Not in this millenium. Someday. That's a long wait. But within that limitation there are still many things and I don't see any point of taking on the Catholic Church if you can get their support as opposed to their opposition why not and I don't think it will add that much. I don't know how strongly you feel about it because I don't know what your recommendations are going to be. But if you carefully construct your recommendations you will not raise the kind of opposition you might if you decide to take it head on and create a secular definition of marriage sacrament and the liberty of freedom of sex within it. If you want to turn the City Council into a theological body, the Council to the Church, I think you'll run into a buzz saw.

CHRISTOPHER McCAULEY: I appreciate the candor of what you're saying. We're accepting, obviously, the statement into the record and we will reflect that. Are there questions of clarification?

DUNCAN DONOVAN: I'm wondering if you feel that any kind of phrasing about contracts that are domestic contracts; for example, obviously a family contract is not going to work as far as you are concerned.

FATHER FLECK: I think the word "family" might be an excellent word, but don't use "marriage." See, the Church believes that the sacrament of marriage is a sacrament that the Church has the authority and the responsibility for its parameters and that within that type of relationship between a man and a woman, sex can only be exercised for the purpose of procreation.

DUNCAN DONOVAN: So you believe that family contract, or relation contract or domestic contract or domicile contract -- these would be words that would be acceptable?

FATHER FLECK: I think so, at least they would not be the buzzword of opposition.

DUNCAN DONOVAN: And tell me this -- do you feel that there has been a tendency in the American church to accept the American idea of separating church and state?

FATHER FLECK: Yes. I don't think that's true in general in the holy office. John Courtney Murray was the author in Vatican II of Lumingenia which dealt with that topic in which the council adopted the tradition of separation of church and state kind of in general principle. Essentially, prior to that, the holy office had felt that in states where Catholics were in a minority we should advocate separation of church and state so that the Catholic Church would protect it against the tax by the non-catholic majority which is very common in early American history, the know-nothings and the people who were very much afraid by Catholicism in the late 18th and the middle 19th centuries. But that once a state had become Catholic, Spain for instance and Italy, the Church had every right at that time to suppress heresies. Not using the old strongarm methods of the middle ages, you turn them over to the secular arm to be executed, but nonetheless to restrict their rights that only the Catholic Church in itself had a right to the full protection of the state. Now that group is still there. The second Vatican council does not reflect that position, but the people and their successors who now make up the Holy Office are of that genre. And I know how I feel. I think I know how most priests in this country feel, but that would not necessarily be the opinion of the Holy Office.

DUNCAN DONOVAN: If we were going to extend, not the marriage, but the financial benefits to all people within domestic contract tradition ...

FATHER FLECK: That's the kind of thing I had in mind that might work -- which is the basically from my understanding of what I had been asked to talk to comment about. If that's the goal of the Task Force, I think it's an achievable goal. If that's what you want -- to make sure that you get survivor benefits, to get insurance, or questions of joint tenancy -- things which exist now in many cases in state law that perhaps need slight refinement, fine tuning -- I think it's possible for you to get the Church to support that type of thing. But, if you go for gay marriage as a sacrament, it will bring opposition.

Now, I used to bless houses and it's a big difference. I mean you can bless houses, you can bless relationships, you can bless couples, you can do a lot of blessings and there's a big difference then between "blessings" and "marriages." I was asked many times to conduct a gay Catholic marriage. I said, "I can't do it. It cannot be done. Given the nature of Catholic theology that isn't possible." And so, if you're asking the impossible, the answer is the Church will fight to the death on this. But why ask for that unless it's extremely important. If that's the case I suggest you go talk to Father Bruno. I'm sure he'd do it. But don't ask the Roman Catholic priest to do it, because he can't. If you really feel that's where you're at, a person who is Catholic who wants same-sex marriage, then you have really no option, you cannot stay within the Catholic Church and achieve that kind of a goal. We just will not have it.

CHRISTOPHER McCAULEY: Two final questions.

FRANK RICCHIAZZI: This group has gotten together and the Councilman has tried to make it a very diverse group representing different segments within the population of the city. One of the things that now really comes home is we're dealing with a city whose population is very close to 50% Roman Catholic. Would you know what the figures are presently and what are the projections say, in the next 10 years, because that's something that I think we have to consider.

FATHER FLECK: We're doing a housing study '88 now because extension rent control -- so we're looking at those kind of questions. I don't know right now because again the religious figures are different from what we can get from the census figures (What are the religious figures?) I don't want to give you an exact number right now but it's growing and will grow especially with the undocumented aliens but I do know one set of numbers I can give you. We used to have two Catholic council people now I think we have four. And so the political spectrum of the Council is much more interesting. At least I am presuming that both Alatorre and Molina, Councilman and Councilwoman are, if not Catholic themselves, they



certainly represent a Catholic population -- and joined with Ferraro and Bernardi, we now have four which makes Catholics the second largest group of Councilpeople, second only to the Jewish community.

FRANK RICCHIAZZI: What you just stated at the beginning when you were talking to us about the difference in Catholicism between, say, the German Catholic vs. the Italian Catholic, what you've also stated though is that you have four Catholics who are Mediterranean, Italian Catholics which tends to have a difference in philosophy.

FATHER FLECK: As I say, I don't know for sure that either Mr. Alatorre or Ms. Molina are Catholics -- because of the Hispanic background, the statistical probability is high and even if they aren't, which is certainly possible.

CHRISTOPHER McCAULEY: Let's just stipulate that there's an increase there and it's an interesting demographic feature.

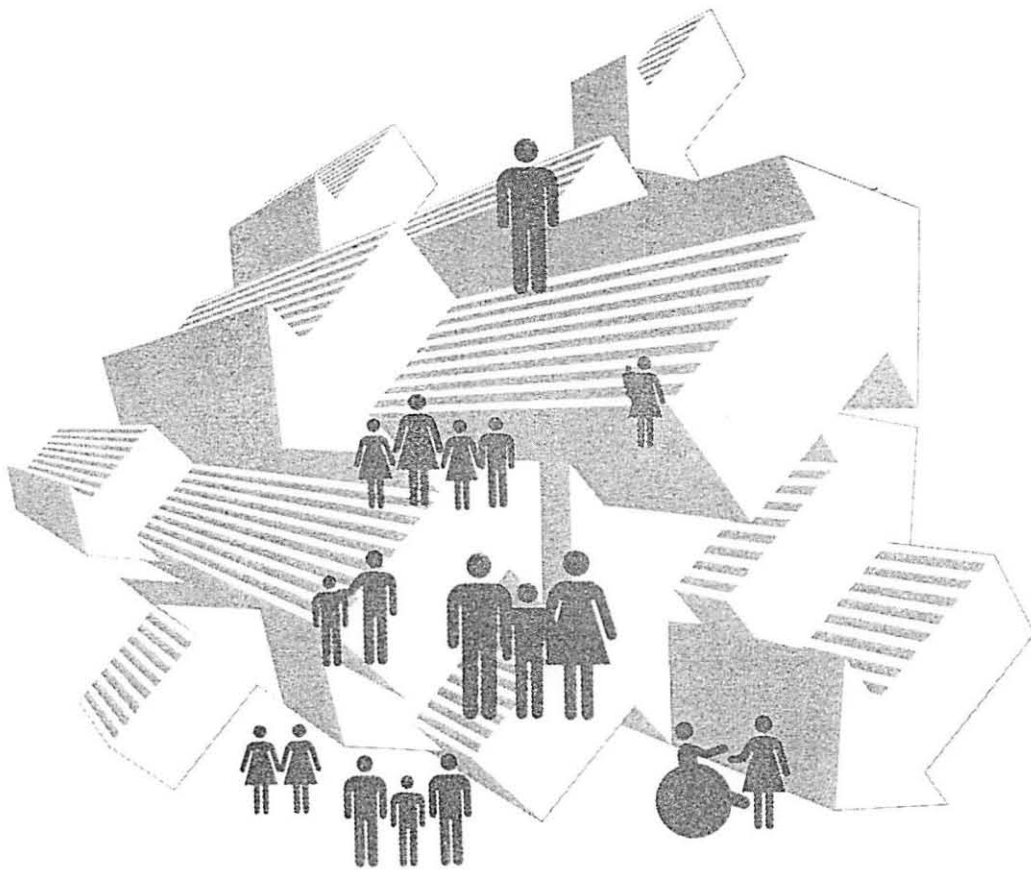
JAY KOHORN: That buzz saw that you were talking about, do you see that at the end of the tunnel of any Task Force recommendation which might be made as to family planning or sex education or birth control issues? We have the same types of buzz saws at the ends of those tunnels as homosexuality.

FATHER FLECK: In a certain sense, yes. The Catholic Church was adamant in the last century against planned parenthood. Bishop Mahoney who has led a very fine liberal record in many instances was one of the people who was opposed to the use of condoms and the references to it in the educational programs for AIDS protection, and yes, I think you have some problems.

CHRISTOPHER McCAULEY: Good, thank you very much for your testimony and for the statement that you prepared. Bill Weinberger and Joyce Nordquist are here from Lawyers for Human Rights to discuss employee benefits and domestic partnerships. Good to see you both.

# Public Policy

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## Definition of Family



## PUBLIC POLICY AND THE DEFINITION OF FAMILY

“Family” may mean different things under different circumstances. The family, for instance, may be a group of people related by blood or marriage, or not related at all, who are living together in the intimate and mutual interdependence of a single home or household.

— California Supreme Court  
*Moore Shipbuilding Corporation  
v. Industrial Accident Commission*  
(1921) 185 Cal. 200, 196 P. 257

In the recent past, Americans had no reason to debate over the definition of “family.” Everyone knew that families were created either by marriage or birth. Since the families of nearly all adults were cut from the same social pattern, everyone’s experience of family neatly coincided with their intellectual understanding of this venerable institution. Family, of course, was then an unambiguous term which referred to so-called “nuclear” relationships (husband-wife-child) and extended kinship networks. Not only were most families cut from the same social pattern, they were also homogeneous in other significant ways, including race, religion, and ethnic background.

Although the average person held a rather narrow experiential and intellectual view of the traditional family, American jurisprudence was a bit more flexible. For example, adoption was developed by the legal system to accommodate childless couples seeking entry into the nuclear family mainstream. Occasionally, and for some rather limited purposes, the law even stretched the definition of family beyond the blood-marriage-adoption model to encompass servants or other household members. Thus, in this bygone era, the nuclear family was the social norm, albeit a norm which permitted a few minor exceptions.

Today, the picture is changed dramatically. What formerly was considered the exception now has become the rule. Since contemporary families exist in many shapes and sizes, family terminology has become complex. People refer to nuclear families, mixed marriages, childless couples, step families, blended families, binuclear families, interracial families, dual-career families, foster families, extended families, single-parent families, and unmarried couples or so-called domestic partners. Moreover, a significant portion of the population now comprises each of these variations.

Society is experiencing an uneasy tension between present experience and leftover social dogma. The nuclear family — once a normative reality — today is simply another variation, and a minority one at that; as a perceived ideal, the nuclear family is now a myth. Thus, since most people want to be “normal,” many feel somewhat guilty because their nonnuclear living arrangements have missed the mark, deviating from the lingering perception of the social norm.

This report does not seek to supplant old ideals with new ones. Neither does it intend to substitute one definitional straightjacket with another. Rather, the mandate and goal of the Task Force is to examine the realities of contemporary family living. Definitions will help describe what actually exists; for the Task Force, definitions are tools for understanding, passive reflections rather than a shoehorn designed to make one size fit all.

As this report demonstrates, people live in a wide range of committed family relationships. Fortunately, the law and society’s institutions are flexible enough to accommodate this reality.

### Family Definitions from a Legal Perspective

The definition of family, like the definition of any term, is a function of the perspective of the definer, the context in which the term is used, and the user’s purpose in employing the term.

A layperson understands family in one way.<sup>1</sup> When he or she refers to family in a social conversation, a dictionary definition may suffice. However, a member of the clergy may understand family in quite another way.<sup>2</sup> If a pastor is delivering a sermon intended to reinforce institutional religious teachings, the term may be used in a restrictive manner which is designed to promote adherence to a designated model. On the other hand, a sociologist doing field research may be less concerned with a preconceived model than with actual and observable social functions involved in family relationships.<sup>3</sup> In contrast to both the model and pragmatic definers, a philosopher may resist defining family at all, probing instead at the concept and its possible expansions and contractions.<sup>4</sup>

Although the Task Force on Family Diversity has considered these various perspectives in examining the definition of family, this report adopts a perspective that is inclusive rather than exclusive and, therefore, most useful for development of public policy and the administration of law.

Laws are intended to further public policies. Public policy is generally based upon the public interest or the public good, admittedly vague concepts not subject to precise definition.<sup>5</sup>

Questions of public policy are primarily determined by the legislative branch. However, when neither the Constitution nor the Legislature has spoken on a subject, the courts may declare public policy.<sup>6</sup> A judicial declaration of public policy is not necessarily dependent on technicalities but is often based on the “spirit” of the law.<sup>7</sup>

The federal government plays a very limited role in the area of family law since domestic relations is an area which our constitutional federalism regards as the province of state law.<sup>8</sup> Therefore, California’s public policy regarding the definition of family must be gleaned from the state Constitution, acts of the state Legislature, decisions of the state courts, and, to some extent, the actions of state and local administrative agencies. Since California’s public policy has been developed within the larger system of American jurisprudence, however, it is generally consistent with the flexibility inherent in American family law.

The word “family” is derived from the Latin term “familia,” which means household, i.e., the body of persons living in one housing unit under a common head.<sup>9</sup> In American jurisprudence, family conveys the notion of some relationship, by blood or otherwise, which is of a permanent and domestic character. When the word is used without reference to an established household, family may refer to all blood relatives or, in a more restricted sense, to *spouses and* their children.<sup>10</sup>

Generally, the central characteristic underlying family is mutual interdependency. Thus, family may refer to a group of unmarried persons not related by blood, but who are living together and who have



some obligation, either legal or moral, for the care and welfare of one another.<sup>11</sup>

The definition of family has been litigated in American courts in many factual contexts: single-family zoning, restrictive covenants, insurance policy exclusions, property tax exemptions, anti-nepotism regulations, and victim's compensation, to name a few. Whether American courts have granted or denied family status has depended on the particular circumstances of each case. For example, in some cases, disabled persons, delinquent teenagers, or religious novices living in group homes have been considered families. Courts also have ruled that communal living arrangements involving student roommates in dorms or fraternity houses were not family relationships.

With this legal background in mind, the Task Force has examined California's public policies involving family definitions. Those policies are grounded in constitutional considerations, legislative enactments, administrative decisions, and judicial interpretations.

### Constitutional Considerations

The California Constitution declares that all people are by nature free and independent and have inalienable rights. Among these enumerated fundamental rights are enjoying and defending life and liberty, acquiring, possessing, and protecting property, as well as pursuing and obtaining safety, happiness, and privacy.<sup>12</sup>

Although the California Constitution and the United States Constitution have many similar provisions, the state Constitution is a document of independent force. State court judges have the personal obligation to exercise independent legal judgment in ascertaining the meaning and application of state constitutional provisions — even if their interpretations vary from the views expressed by the United States Supreme Court as to the meaning and scope of similar federal constitutional provisions.<sup>13</sup> Consistent with federalist principles, the State of California, through its own state Constitution, is free to confer greater rights upon its citizens than the federal Constitution generally confers upon Americans.<sup>14</sup>

Since family law traditionally has been a matter of state, rather than federal, regulation, public policies governing family definitions are also grounded in the state Constitution. The California Supreme Court has the ultimate responsibility to define the meaning and scope of state constitutional provisions, and it does so when asked to decide specific cases and controversies. Some of these cases and controversies have involved the definition of family.

One such case was decided by the Supreme Court in 1980.<sup>15</sup> The City of Santa Barbara adopted a zoning ordinance that restricted who could live in areas zoned for single families. The city defined a single family unit to include any size group related by blood, marriage, or adoption, as well as a group of unrelated occupants not exceeding five persons. The Adamson household violated the rule of five. It consisted of a group of 12 adults living in a 10-bedroom, 6-bathroom mansion. The Adamson householders were a close group with social, economic, and psychological commitments to each other. They lived much as a family would, sharing expenses, rotating chores, eating evening meals together, lending each other emotional support, and often taking vacations together. They regarded their group to be a family.

The Supreme Court termed the Adamson household an "alternate family" because the group's living arrangements achieved many of the personal and practical needs served by traditional family living. The court noted that the group met half of Santa Barbara's definition of family because it was a "single housekeeping unit in a dwelling unit." However, it failed to meet that part of the definition that required residents, if they were greater than five in number, to be related by blood, marriage, or adoption.

In declaring the city's restrictive definition of family violative of Article I, Section 1 of the California Constitution, the Supreme Court cited precedents in New Jersey and New York:<sup>16</sup>

Some courts, confronting restrictions similar to the rule-of-five here, have redefined "family" to specify a concept more rationally and substantially related to the legitimate aim of maintaining a family style of living. For example, in New Jersey a valid regulation of single-family dwellings would be "a reasonable number of persons who constitute a *bona fide* single housekeeping unit." *Berger v. State* (1976) 71 N.J. 206. "The fatal flaw in attempting to maintain a stable residential neighborhood through the use of criteria based upon biological or legal relationships is that such classifications operate to prohibit a plethora of uses which pose no threat to the accomplishment of the end sought to be achieved. Moreover, such a classification system legitimatizes many uses which defeat that goal. . . . As long as a group bears the generic character of a family unit as a relatively permanent household, it should be equally as entitled to occupy a single family dwelling as its biologically related neighbors." *City of White Plains v. Ferraiolo* (1974) 34 N.Y.2d 300, 306.

Thus, the state Constitution protects the right of all Californians to form "alternate" family relationships, i.e., relationships not based on blood, marital, or adoptive ties, and to live with these chosen family members in a single dwelling without undue government interference.

On the other hand, in 1982, the California Supreme Court upheld a state prison regulation limiting overnight visitation with eligible inmates to persons with whom inmates were related by blood, marriage, or adoption. A prisoner claimed he had a long term nonmarital relationship with a woman. The woman and her daughter wanted to participate in the prison's family visitation program. The Department of Corrections, citing its restrictive definition of family, refused. In a three-way split, the majority of the court concluded that public policies favoring administrative efficiency and prison security overrode the inmate's interest in maintaining overnight visitation with his "alternate" family. A majority of the court, however, indicated that the scales of justice may have tipped in the inmate's favor had society provided "alternate" families with a simple method of authenticating their relationships. The court found unacceptable the idea of "mini" trials in which bureaucrats would have to decide which family relationships between prisoners and their potential visitors were authentic and which were not. The two justices whose votes were pivotal to the outcome of the case explained:<sup>17</sup>

The definition of "family" in our society has undergone some change in recent years. It has come to mean something far broader than only those individuals who are united by formal marriage. Many individuals are united

by ties as strong as those that unite traditional blood, marriage and adoptive families.

However, the very diversity of the groups of people now commonly referred to as "families" highlights the difficulty that would be created if the prison authorities were required to grant family visits to prisoners who were not married. The prison authorities do have a security interest in prohibiting visits by transients, whose ties to the prisoners may be fleeting or tenuous at best. In the absence of a marriage certificate or a valid out-of-state common law marriage [common law marriage has been abolished in California], it would be extremely difficult for prison officials to distinguish between the valid long-term commitments that constitute a "family" and transient relationships. Further, the evidentiary hearings that such determinations would require would pose a significant administrative burden on prison officials. . . .

In the absence of any reasonable alternative to distinguish between families and nonfamilies, the limitation of family visits to those who are married under the laws of this or another state is a valid restriction.

These and other cases support the individual's constitutionally-based freedom to choose whether to form and maintain a traditional family unit or to live in an alternate family form. Legislative or administrative decisions restricting this freedom of family choice may be invalidated or upheld, depending on the balancing of competing interests. Often the courts defer to legislative and administrative judgments in deciding how to strike the balance.

### Legislative Enactments

The California Legislature has found and declared that the family unit is of fundamental importance to society in nurturing its members, passing on values, averting potential social problems, and providing the secure structure in which citizens live out their lives.<sup>18</sup> Through actions on a wide variety of subjects, the Legislature has expressed its judgment that family units can be diverse in their structures. As a result, there is not one uniform definition of family in California law. Instead, there are family *definitions*.

In some contexts, the Legislature has defined family in a restrictive manner. For example, in describing those persons entitled to family allowances pending the administration of estates, the Probate Code uses the traditional blood-marriage-adoption definition.<sup>19</sup> Similarly, the legislatively created veterans-home-purchase program defines "immediate family" as including only a spouse or adopted or natural dependent children.<sup>20</sup>

Other contexts have merited and received the benefit of broader legislative definitions. In authorizing programs to rehabilitate child molesters who have abused youthful family members, the Penal Code defines family member in terms of being a "member of the household" of the victim.<sup>21</sup> In providing remedies to persons who suffer violence caused by other family members, the Legislature has defined family in terms of residents of the same household.<sup>22</sup> In domestic violence legislation in which the goal is specifically to prevent partner abuse, "family members" include a variety of adult household members, including

spouses, former spouses, and other adults having sexual relations with each other.<sup>23</sup> In the worker's compensation context, the Legislature extends survivor benefits to dependent relatives (blood-marriage-adoption), or to surviving dependent household members of deceased employees.<sup>24</sup> Here, the Legislature has reaffirmed the expansive definition of family by rejecting attempts to limit worker's compensation benefits to survivors related to deceased employees only by blood, marriage, or adoption.<sup>25</sup>

In other situations, the Legislature uses the term family without defining it. For example, in establishing the Victims Restitution Fund, which provides assistance to crime victims and their families, the phrase "member of family" is used without definition.<sup>26</sup> In addressing the functions of Conciliation Courts, the Legislature sets a goal of keeping families intact. Here also, family is nowhere defined.<sup>27</sup> In these situations, the Legislature may have delegated definitional authority to the administrative and judicial agencies operating these programs.

Although the Legislature is aware that the definition of family varies from context to context, its definitional choices are not beyond critical analysis. For example, in 1986 the Legislature passed a law allowing members of a victim's family to be present during a criminal preliminary hearing that is normally closed to the public. The Legislature evidently determined that the families of victims have a greater interest than the general public in attending preliminary hearings and that the victim has an interest in having his or her family present for emotional support.<sup>28</sup> However, the definition of family was limited to the alleged victim's "spouse, parents, legal guardian, children, or siblings."<sup>29</sup> This restrictive definition fails to acknowledge the needs of victims whose closest family members do not fall within the definition. For an elderly victim, the only available relative might be a grandchild or nephew or niece who resides with the victim. Under this definition, the lifemate of a gay or lesbian assault victim would have to remain in the hallway while the victim faced the courtroom trauma alone. The expanded "household member" definition of family certainly would have been appropriate in this law. The Legislature's failure to use the expanded definition may very well have been merely an oversight.

This definitional survey shows that the Legislature recognizes diversity in family structures and does not entertain the goal of creating a singular definition. Rather, the term family is defined by the Legislature only as a method of furthering other public policies. While one policy may sometimes call for the use of a narrow definition, another policy may call for an expansive definition. The overriding principle is clear: public policy requires flexibility in the definitional process; the ultimate definition is guided by a keen understanding of the state's ultimate objectives when dealing with a particular problem.

### Administrative Discretion

The State of California has a tripartite system of government. Like the federal government, its coequal branches are executive, legislative and judicial. The legislative branch passes laws and declares public policies. The judicial branch, the ultimate authority on constitutional issues, interprets laws in the context of specific cases and controversies. The executive branch, including administrative agencies, administers and enforces laws as passed by the legislative body and interpreted by the courts.

In operating their programs, administrative agencies have broad discretion in adopting rules, regulations, and definitions. Of course,

their discretion is not unlimited; administrators must act within the Constitution,<sup>30</sup> and their actions must conform to the will of the Legislature.<sup>31</sup> However, within these confines, executive agencies are given wide latitude in setting definitional parameters for their operations.<sup>32</sup> Very often, the Legislature, after declaring a general policy and fixing a primary standard, will confer upon administrative officers the power to fill in the details necessary to carry out the legislative objectives.<sup>33</sup>

In 1982, the California Commission on Personal Privacy examined 96 federal, state, and municipal agencies which utilized the terms "family" or "household" in operating their programs.<sup>34</sup> Respondents were asked to indicate whether they used the standard Census Bureau definition of family (blood-marriage-adoption) or broader definitions. Program managers were also asked if their program definition and eligibility criteria included or excluded members of "variable" families, i.e., "two or more persons domiciled in the same household and operating as a single housekeeping unit, who are *not* related by blood, marriage, or adoption." The Privacy Commission survey revealed the following facts:<sup>35</sup>

- \* 75% of respondents were not bound by a definition based solely on blood, marriage, or adoption.
- \* The greatest autonomy to adopt broader definitions existed at the municipal level of government.
- \* 63.5% of respondents actually served variable families during program year 1981.

The survey showed that administrative discretion was often used to define family in an expanded way.<sup>36</sup> For example, in connection with its Child Care Program, the United States Department of Agriculture defined family as a "group of related or non-related individuals who are not residents of an institution or boarding house, but who are living as one economic unit." In its School Health Program, the State Department of Education defined family as "a unit of intimate transacting and interdependent persons who share the same values and goals, responsibility for decisions and resources, and a commitment to one another over time." In its Genetically Handicapped Program, the Monterey County Social Services Department defined family as a "group of individuals who live together on a continuing basis and share their income and expenses and are dependent upon the group's resources." In connection with its Child Protective Services Program, the San Diego County Social Services Department defined family as "primary caretakers, siblings, or significant others living together." The Probation Department of the Tulare County Family Court defined family as including "cohabiting individuals and natural parents (married or unmarried), their offspring, and other significant individuals concerned about children (e.g., grandparents)."

The Privacy Commission survey reported that a substantial majority of administrative agencies had no legal restrictions which prevented them from serving members of "variable" families. Nearly one-fourth of the respondents, however, did conclude that federal or state statutes or regulations prevented them from venturing beyond the traditional blood-marriage-adoption definition of family.<sup>37</sup>

Flexibility, therefore, is the prevalent pattern which emerges from a study of governmental responses about the definition of family, whether those definitions are formulated by California's judges, legislators, or administrators.

## Public Hearing Testimony

The Task Force on Family Diversity received testimony on the subject of defining family.<sup>38</sup> Wallace Albertson, President of the Los Angeles Community College Board of Trustees, appeared before the Task Force in her capacity as Commissioner of the California Commission on Personal Privacy, for which she had served as the Chairperson of a subcommittee on Family Relationships.

Her testimony focused on the diversity of family forms and the problems that arise from a misplaced presumption that the traditional nuclear family is the social norm. The study of the Privacy Commission indicated:<sup>39</sup>

- \* A dilemma surrounding the meaning of the word "family" exists both in a sociological/theoretical context and in social work practices.
- \* The presumption that "family" means a married, heterosexual couple with children no longer applies to most of the population.
- \* Persons whose family forms do not fit this presumed model suffer exclusion from legal, tax, and services protections.
- \* The nature and variety of family forms in current society warrants definitions that are inclusive rather than exclusive of nontraditional family forms.
- \* The right of personal privacy involves the right of an individual to choose intimate and familial associations without undue restriction.
- \* Any definition of family should consider the following elements: continuity of commitment, mutuality of obligation, economic and/or domestic interdependence, as well as love and caring.

The Task Force on Family Diversity has found these points consistent with its overall research into family definitions and has taken them into consideration in determining its recommendations.

## Research Team on Legal Definitions

The Task Force on Family Diversity received a topical report from its research team on "Legal Definitions of Family."<sup>40</sup> That report addresses the impact of legal definitions of family, how these definitions can serve government goals, the compatibility of flexible and traditional definitions, and government's responsibility to families.

Addressing the issue of definitional compatibility, the report stated:<sup>41</sup>

[T]he notion of expanding the definition of family, or making the definition flexible to achieve government goals, is not a process suggesting revolution, discarding of traditional values, or offending in morally sensitive areas. There is an important difference between the way family-type groups exist and function every day and what we believe, or feel, a family should be. And it is to the former

set of questions — what are the facts concerning the make-up of families in a given area, such as the City of Los Angeles — upon which we must base our decisions about how government should relate to family units. Legal definitions of family are not attacks on morality or religion; rather, both legal and layman's definitions of family can and do co-exist without [conflict]. The judicial decisions summarized earlier in this report illustrate the non-conflicting nature of the relationship between lay definitions and those created for the legal process. These holdings define family not as an end in itself, but only as a means of advancing specific legal policies.

The report stresses that the concern that government should use family definitions which are tailored to the way people actually live is based on the assumption that government has a positive and affirmative responsibility to encourage and support families. It emphasizes the important public policy goals which are served by the utilization of definitions that reflect the diversity of contemporary family structures:<sup>42</sup>

Families of all definitions have traditionally cared for society's dependent members, like children, the elderly, the disabled, the sick, and the poor. Families discipline their members, and to the extent they are successful, contribute to the general peacefulness of society. Families live in groups, or neighborhoods, providing stability for surrounding commercial and cultural activities. And on the most personal level, families provide a haven and a source of renewal for those who are their members. Families are a great source of meaning and satisfaction to individuals, and the loss of a family arrangement or relationship can leave individuals disoriented and alienated. If government benefits are unavailable or closely restricted, families can become destabilized and will eventually pose further problems for which governments will have to expend funds. There is a general intuition among scholars, service providers, and ordinary citizens that family destabilization is a major cause of the majority of our society's ills.

The Task Force on Family Diversity urges those who make laws, those who administer them, as well as those who challenge them, to become and remain sensitive to the reality of contemporary family living arrangements. No legitimate secular policy is furthered by rigid adherence to a definition of family which promotes a stereotypical, if not mythical, norm. Rather, the appropriate function of lawmakers and administrators is to adopt policies and operate programs that dispel myths and acknowledge reality.

The Task Force on Family Diversity finds that current public policy favors the adoption of laws and the implementation of programs that support and strengthen families. Demographic trends indicate that family structures are diverse and that this pattern may last indefinitely. Public policy, therefore, is best served by the continuing use of flexible family definitions.

## PUBLIC POLICY AND THE DEFINITION OF FAMILY: RECOMMENDATIONS

11. The Task Force recommends that the City Council develop a comprehensive family policy for the City of Los Angeles. A family policy would set standards to assist the Chief Legislative Analyst, Council members, and other city officials in assessing proposed legislation.

12. The Task Force recommends that lawmakers, such as the City Council and the state Legislature, and those with responsibility for drafting and analyzing proposed legislation, such as the Chief Legislative Analyst and City Attorney at the local level and the Legislative Counsel at the state level, should be sensitive to the fact that "family" now is a term of art, capable of many variable definitions. When the term family is used in proposed legislation, the Task Force encourages such officials to consider relevant definitional options and to favor inclusive rather than exclusive terminology.

### Public Policy and The Definition of Family: Notes

- <sup>1</sup> Green, Matthew, "Defining Family," *Report of the Task Force on Family Diversity: Supplement - Part Two*, p. S-600.
- <sup>2</sup> Donovan, E.H., "Religion and the Family," *Report of the Task Force on Family Diversity: Supplement - Part One*, p. S-547.
- <sup>3</sup> McCord, Ellen, "Report of the Committee on Family Relationships," *Report of the California Commission on Personal Privacy: Supplement One*, p. 4.
- <sup>4</sup> McDonald, MR, "The Philosophical Definition of 'Family'," *Report of the Task Force on Family Diversity: Supplement - Part Two*, p. S-85L.
- <sup>5</sup> *Peterman v. International Brotherhood of Teamsters* (1959) 174 Cal.App.2d 184; *Noble v. City of Palo Alto* (1928) 89 Cal.App. 47.
- <sup>6</sup> *Safeway Stores v. Retail Clerks International Association* (1953) 41 Cal.2d 567.
- <sup>7</sup> *Altschul v. Sayble* (1978) 83 Cal.App.3d 153, 162.
- <sup>8</sup> *Pennoyer v. Neff* (1878) 95 U.S. 714, 734-735.
- <sup>9</sup> "Family," 35 *Corpus Juris Secundum*, p. 935.
- <sup>10</sup> *Ibid.*
- <sup>11</sup> *Ibid.*
- <sup>12</sup> Cal. Const., Art. I, Sec. 1.
- <sup>13</sup> *Committee to Defend Reproductive Rights v. Myers* (1982) 29 Cal.3d 252.
- <sup>14</sup> *Ibid.*
- <sup>15</sup> *City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123.
- <sup>16</sup> *Ibid.*, at p. 133.
- <sup>17</sup> *In re Cummings* (1982) 30 Cal.3d 870, 875.
- <sup>18</sup> Welfare and Institutions Code Section 11205.
- <sup>19</sup> Probate Code Section 6540.
- <sup>20</sup> Military and Veterans Code Section 985.
- <sup>21</sup> Penal Code Section 1203.066.
- <sup>22</sup> Penal Code Section 273.6; Code of Civil Procedure Section 540.
- <sup>23</sup> Welfare and Institutions Code Section 1892L.
- <sup>24</sup> Labor Code Section 3503.
- <sup>25</sup> Assembly Bill 890 (1983).
- <sup>26</sup> Government Code Section 13960.
- <sup>27</sup> Code of Civil Procedure Section 1730.
- <sup>28</sup> Assembly Bill 1797, amending Penal Code Section 868.
- <sup>29</sup> *Ibid.*
- <sup>30</sup> *Southern Pac. Transp. Co. v. Public Utilities Commission* (1976) 134



Cal. Rptr. 189.

<sup>31</sup> *Miller v. Woods* (1983) 148 Cal.App.3d 862.

<sup>32</sup> *Pacific Legal Foundation v. California Unemployment Ins. Appeals Bd.* (1981) 29 Cal.3d 101.

<sup>33</sup> 15 *Op.Atty.Gen.* 267 (1950).

<sup>34</sup> “ ‘Family’ and ‘Household’ Use Survey: How Government Agencies Use These Terms in Operating Their Programs,” *Report of the California Commission on Personal Privacy - Supplement One* (1982).

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*

<sup>38</sup> Testimony of Wallace Albertson, “Defining ‘Family’,” *Public Hearing Transcript*, p. 84.

<sup>39</sup> *Id.*, at p. 85.

<sup>40</sup> Campbell, Lee, “Legal Definitions of Family,” *Report of the Task Force on Family Diversity: Supplement - Part One*, p. S-1.

<sup>41</sup> *Ibid.*, at p. S-14.

<sup>42</sup> *Ibid.*, at p. S-16.

# SPECTRUM INSTITUTE

*A Non-Profit Corporation Promoting Respect For Human Diversity*

## MISSION STATEMENT

Single people constitute a majority of the adult population in most major cities throughout the nation, and soon will be a majority in many states. Despite their large, and growing numbers, unmarried adults often face unjust discrimination as employees, tenants, consumers, and as ordinary citizens. Spectrum Institute believes that single people deserve respect, dignity, and fair treatment.

Spectrum Institute fights laws and business practices that discriminate against people who are not married. Our work benefits people who are single by choice or by necessity, such as seniors who are widowed, people with disabilities who will face a cutoff or reduction in benefits if they marry, people who have separated or divorced because their marriages were abusive or otherwise unsatisfactory, young people who have deferred marriage so that they may finish college or establish a career first, and people who are gay or lesbian.

Spectrum Institute works on several fronts simultaneously to eliminate marital status discrimination and to protect personal privacy rights:

**Employment.** Most people believe in the concept of "equal pay for equal work." Unfortunately, single workers receive much less pay than married workers, when employee benefits are taken into consideration. That is why Spectrum Institute promotes the use of "cafeteria style" benefits plans, where each employee receives the same credits, which the worker may then use in the way that suits his or her personal or family needs. While a married worker may need health benefits for a spouse and child, and a single worker may want more retirement benefits or may need day care for an elderly parent, another employee may need benefits for a domestic partner. Benefits plans should be flexible.

**Housing.** Spectrum Institute fights landlords who refuse to allow two unmarried adults to rent an apartment or a home together. Tenants who are responsible and creditworthy should not suffer housing discrimination by landlords who insist that they will only rent to married couples. Spectrum recently participated in a national roundtable sponsored by the American Association of Retired Persons (AARP) which developed a report and recommendations supporting the rights of seniors and older adults who live in nontraditional households.

**Consumers.** Spectrum Institute encourages businesses to eliminate discrimination against unmarried consumers. We wrote a report for the California Insurance Commissioner condemning higher rates for single adults, many of whom are seniors, merely because of their marital status. We succeeded in getting the Automobile Club of Southern California to give a membership discount to the "adult associate" of a primary member, a discount that was formerly available only to a spouse. We prodded airline companies to broaden their discounts to include "companion" fares and programs such as "friends fly free" in place of marketing strategies previously limited to spousal or family discounts.

**Privacy Rights.** Nearly half of the states still have laws that criminalize the private intimate conduct of consenting adults. Spectrum Institute fights for the privacy rights of all adults, regardless of marital status or sexual orientation. We participate in court cases to encourage judges to declare these laws unconstitutional. We also conduct educational forums and network with government agencies and private organizations to protect the privacy rights of members of society who may be vulnerable to abuse or neglect, such as children, people with disabilities, and seniors.

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Post Office Box 65756, Los Angeles, CA 90065 / (213) 258-8955



## SPECTRUM INSTITUTE SUPPORTS DOMESTIC PARTNERSHIP RIGHTS

Spectrum Institute supports the right of single people to form the family unit of their choice, including a nonmarital family such as a domestic partnership. The term "domestic partnership" generally refers to two unmarried adults who are living together as a family, in which the partners have voluntarily assumed joint responsibility for their common welfare and necessities of life.

More than five million households in the nation consist of two unrelated adults who are living together. In 1990, the Census Bureau gave these adults the option of designating themselves either as "roommates" or as "unmarried partners." More than three million couples chose the "unmarried partner" label. Those selecting this category included men and women of every race and ethnicity. These partnerships were formed by adults of all ages who were single, divorced, or widowed. Nearly 70% of the unmarried partner households involve opposite-sex relationships, about one-third of which have minor children at home. The other 30% consist of same-sex partners, some of whom are also raising children.

Because unmarried partnerships are not business relationships, the term *domestic* partnership has been used to describe them. In effect, domestic partnerships are one of the many diverse types of family structures that exist today, such as married couples with or without children, stepfamilies, single-parent families, foster families, guardianship families, and adoptive families.

It makes a great difference whether domestic partners are considered as family units or merely as roommates. Society treats family relationships differently than it does people who are unrelated. The closer the relationship, the more benefits society extends. That is why *primary* family relationships, such as husband and wife or parent and child, are given many advantages and legal rights that are not available to strangers, acquaintances, friends, or even to extended family members. Such preferred treatment is afforded to immediate family members because society wants to promote social and economic stability, which is what happens when two people assume legal and financial responsibilities for each other. To put it another way, for every right there is a correlative responsibility. The more obligations two people assume, the more benefits society confers on them.

In *Braschi v. Stahl Associates*, a landmark case on the definition of family that involved an eviction proceeding, New York's highest court concluded:

*"The term family . . . should not be rigidly restricted to those people who have formalized their relationship by obtaining, for example, a marriage certificate or adoption order. [It] . . . should not rest on fictitious legal distinctions or genetic history, but instead should find its foundation in the reality of family life. In the context of eviction, a more realistic, and certainly equally valid, view of family includes two adult lifetime partners whose relationship is long term and characterized by an emotional and financial commitment of interdependence. This view comports both with our society's traditional concept of 'family' and with the expectations of individuals who live in such nuclear units."*

Many private businesses now recognize domestic partners as family units on the same par with other primary family relationships. These employers provide benefits to help employees meet their family obligations. Health, dental, vision, leave, and pension benefits are provided to employees and eligible family dependents. Up until 1984, the only dependents who qualified for such benefits were the spouse and the child of an employee. Today, however, more than 600 employers, including the states of New York and Vermont, including large cities such as New York, San Francisco, Los Angeles, and Seattle, and including many large corporations, such as Xerox, Blue Cross, Bank of America, Levi Straus, MCA/Universal, and hotels such as Hilton, Marriott, and Sheraton, have included domestic partners in their benefits plans. Just as an employee supplies proof of dependent eligibility with a marriage or birth certificate, proof of domestic partnership eligibility must also be shown. To qualify, the couple must sign an affidavit provided by the employer, in which they affirm that they live together and are responsible for each others welfare.

Outside of an employment context, no state government offers a way for two adults, regardless of gender, to register as a family unit and thus receive some basic humanitarian protections to assist them in times of illness or death. The California Legislature passed such a bill in 1993, but Governor Pete Wilson vetoed it despite support for the bill by AARP and other seniors groups. A similar bill (AB 54) was reintroduced in 1997, passed two committees, and is currently pending before the full Assembly. Once one state takes such a forward step, others may soon follow.



## About THOMAS F. COLEMAN

Thomas F. Coleman has been practicing law since 1973. During these 25 years, he has become a national legal expert on sexual orientation and marital status discrimination, the definition of family, and domestic partnership.

Mr. Coleman has conducted workshops and seminars and has made many public speaking engagements on with marital status discrimination and family diversity.

In 1997, Mr. Coleman was invited to testify as an expert witness before the **California Assembly Judiciary Committee and the Senate Insurance Committee** on domestic partner benefits. He also conducted an informational briefing for the **Philadelphia City Council** on legislative alternatives for domestic partnership.

In 1997, Mr. Coleman was invited by the **Self-Insurance Institute of America** to conduct a seminar on domestic partnership benefits for 130 insurance company executives who came to Indianapolis from all parts of the nation. In 1996, he conducted a similar seminar for the **National Employee Benefits and Worker's Compensation Institute** at a national conference in Anaheim.

In 1996, Mr. Coleman drafted a comprehensive domestic partnership act at the request of the Chairperson of the **Hawaii Commission on Sexual Orientation and the Law**. The draft was the basis for a bill (SB 3113) passed that year by the **Hawaii Senate**. The Senate Judiciary Committee invited Mr. Coleman to testify as an expert witness on legal issues involved in domestic partnership legislation. He was consulted by legislative leaders again in 1997.

Over the years, Mr. Coleman has represented clients and has filed *amicus curiae* briefs in numerous test cases before various appellate courts.

In 1996, he won a victory for tenants when the **California Supreme Court** refused to give a landlord a "religious" exemption from state civil rights laws prohibiting marital status discrimination. He is participating in similar cases in **Michigan** and **Illinois**. He also has been consulted by government attorneys fighting landlords seeking court permission to discriminate against unmarried couples in **Alaska** and **Massachusetts**.

In 1995, Mr. Coleman filed an *amicus curiae* brief in the **Alaska Supreme Court** in a case involving marital status discrimination in employment. In 1997, the court

ruled that it was illegal for the state to refuse to provide health benefits to domestic partners of university employees.

In 1994, Mr. Coleman filed an *amicus curiae* brief in the **Georgia Supreme Court** on behalf of a local union representing employees of the City of Atlanta. The brief defended the reasonableness and legality of two domestic partnership ordinances enacted by the city. In March 1995, the Supreme Court by a 5 to 2 vote upheld the registry for domestic partners. In 1997, the Supreme Court upheld the authority of the city to give health benefits to domestic partners of city employees.

In 1994, Mr. Coleman filed an *amicus curiae* brief in the **Michigan Supreme Court** seeking to invalidate the "gross indecency" statute as unconstitutionally vague and an infringement on the right of privacy of consenting adults. The result was a partial victory. The court agreed that the statute was vague and defined it in a way to prohibit public sex or sex with minors. However, it sidestepped the statute's application to consenting adults in private.

In 1993, Mr. Coleman won a major victory for employees in the **California Court of Appeal**. In *Delaney v. Superior Fast Freight*, the appellate court ruled that private employers throughout California are prohibited from discriminating against employees or applicants on the basis of sexual orientation.

In 1989, Mr. Coleman participated as a friend of the court in the landmark case of *Braschi v. Stall Associates* (1989) 74 N.Y. 201. In that case, the **New York Court of Appeals** (the state's highest court) ruled that the term "family" was not necessarily limited to relationships based on blood, marriage, or adoption. The court concluded that unmarried partners who live together on a long-term basis may be considered a family in some legal contexts. The *Braschi* decision has been cited as precedent in numerous lawsuits by workers who have been denied employment benefits for their unmarried partners.

Mr. Coleman has also participated in both government and privately-sponsored policy studies dealing with the right of personal privacy, freedom from violence, family diversity, and discrimination on the basis of marital status and sexual orientation.

In 1994, Mr. Coleman was selected by the **American Association of Retired Persons** to serve on a round table focusing on nontraditional households. This resulted in

a report by AARP in 1995 entitled "The Real Golden Girls: The Prevalence and Policy Treatment of Midlife and Older People Living in Nontraditional Households."

In 1993, Mr. Coleman wrote a report for **California Insurance Commissioner's Anti-Discrimination Task Force**. It recommends ways to end discrimination against unmarried individuals and couples who are insurance consumers.

In 1991, Mr. Coleman was consulted by the **Bureau of National Affairs** for its special report series on *Work & Family*. He provided demographics and background information for Special Report #38, "Recognizing Non-Traditional Families."

In 1990, Mr. Coleman worked closely with the **Secretary of State** to implement a system in which family associations may register with the State of California. Registrations systems like this have been used by companies for employee benefit programs that provide coverage to employees with domestic partners. This novel registration system was cited by Hewitt Associates in a research paper entitled "Domestic Partners and Employee Benefits." Hundreds of same-sex and opposite couples (many with children) have registered under this de-facto family registration system.

In 1989, the **City of West Hollywood** retained Mr. Coleman as a consultant on domestic partnership issues. He advised the city council on how the city could strengthen its ordinance protecting domestic partners from discrimination.

In 1989, Mr. Coleman conducted a seminar for faculty and staff at the **University of Southern California** on "Employee Benefits and the Changing Family."

In 1989, the **Los Angeles City Attorney** appointed Mr. Coleman to serve as chairperson of the **Consumer Task Force on Marital Status Discrimination**. The task force issued its final report in May 1990. The report documented widespread discrimination by businesses on the basis of sexual orientation and marital status. It made numerous recommendations to eliminate discriminatory practices. Many have been implemented.

From 1987 to 1990, Mr. Coleman served as a member of the **California Legislature's Joint Select Task Force on the Changing Family**. After many public hearings and ongoing research, the task force issued a series of reports to the Legislature. One aspect of the study involved work-and-family issues. The Task Force recommended ways to eliminate discrimination on the basis of sexual orientation and marital status from employee benefits programs. Other recommendations were made to eliminate discrimination

against domestic partners. A bill to establish a domestic partner registry with the Secretary of State and to give limited benefits to domestic partners was passed by the Legislature in 1994 but subsequently vetoed by the Governor. A similar bill (AB 54) is pending in the Assembly Judiciary Committee.

In 1986, Mr. Coleman became a special consultant to the **Los Angeles City Task Force on Family Diversity**. After two years of research and public hearings, the task force issued its final report in May 1988. Major portions of the report focused on sexual orientation and marital status discrimination in employment, housing, and insurance. For the following three years, Mr. Coleman worked closely with city council members, the city administrative officer, the city attorney, the personnel department and several unions to develop a system granting sick leave and bereavement leave to a city employee if his or her unmarried partner were to become ill or die. In 1991, two city unions, representing more than 12,000 workers signed contracts with the city that included these domestic partnership benefits. In 1994, the city council voted to extend health and dental benefits to all city employees who have domestic partners.

In 1985, Mr. Coleman became an adjunct professor at the **University of Southern California Law Center**. For several years he taught a class on "*Rights of Domestic Partners*." The class focused on constitutional issues, court cases, and statutes that either discriminate against unmarried couples or provide them with protection from discrimination.

In 1984, the **California Attorney General** appointed Mr. Coleman to serve on the **Commission on Racial, Ethnic, Religious, and Minority Violence**. Mr. Coleman assisted the commission's staff and consultants in gathering information about hate crimes against lesbians and gay men and in formulating recommendations designed to prevent and combat such violence. The commission held hearings and issued reports in 1986, 1988, and 1990.

In 1981, Mr. Coleman was appointed to serve as Executive Director of the **Governor's Commission on Personal Privacy**. After two years of public hearings and research, the Commission issued its final report to the Governor and the Legislature. Over 100 pages of the report focused on sexual orientation discrimination, particularly in the areas of employment and housing. Mr. Coleman was the author of the final report of the Privacy Commission.

Mr. Coleman graduated, *cum laude*, from Loyola University of Los Angeles School of Law in 1973. He received his bachelor of arts degree from Wayne State University in Detroit, Michigan in 1970.

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