

APPENDICES

Executive Department
State of California

John S. ...

EXECUTIVE ORDER B74-80

WHEREAS, California must recognize the full human potential of all its citizens as its most valuable resource; and

WHEREAS, to safeguard this human potential, it is necessary to protect the fundamental right to personal privacy against the threat of discrimination for reasons of an individual's sexual orientation, which discrimination contravenes the policy of this State; and

WHEREAS, there exist certain stereotypes relating to sexual minorities which are held in common by many people; and

WHEREAS, stereotypes result in an individual being judged without regard for that individual's own qualities and merits; and

WHEREAS, a study of the problems of sexual minorities and of the adequacy of existing law to protect the personal privacy of all individuals is necessary so that legislative and administrative action and public attitudes may be based upon accurate information, thus encouraging protection of the civil rights of all Californians against arbitrary and unjust discrimination;

NOW, THEREFORE, I, Edmund G. Brown Jr., Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this Order to become effective immediately;

1. There is established the Commission on Personal Privacy. Said Commission shall be composed of not more than twenty-five (25) members representative of the law enforcement, business, labor, and educational communities, as well as other interested groups. The Governor shall appoint not more than fifteen (15) of the members, one of whom shall be designated Chairperson. The Speaker of the Assembly shall appoint not more than five (5), and the Senate Rules Committee shall appoint not more than five (5).
2. Members of the Commission shall serve without compensation but may be reimbursed for their actual expenses. The Commission is authorized to receive and disburse funds which may be available to finance its work.
3. The Commission shall study the problems of discrimination based upon sexual orientation or invasions of the right of personal privacy, in both the public and private sectors, documenting

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the extent of such problems, exploring in what forms the problems are manifested, noting existing remedies, and making recommendations for legislative, administrative, and other action where appropriate.

4. A final report of its findings and recommendations shall be submitted by the Commission to the Governor and the Legislature by December 1982. The Commission may issue such interim reports as it deems appropriate.
5. All state agencies, departments, boards, and commissions are hereby directed to assist and cooperate with the commission in carrying out its responsibilities.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 9th day of October, 1980.

Edmund G. Brown Jr.
Governor of California

ATTEST:

March Fong Eu
Secretary of State

By *Michael S. Hagan*
Deputy Secretary of State



[APPENDIX B]

OTHER DOCUMENTS

PRODUCED BY THE COMMISSION

In addition to this Report, other documents have been produced by the Commission on Personal Privacy. Those documents are listed below by title and author. Each of these supplements is available for purchase. For further information, contact: State Personnel Board, Policy and Standards Division, 801 Capitol Mall, Sacramento, CA 95814 / (916) 445-3721 - ATSS 485-3721.

Supplement One:

This supplemental document contains topical reports and surveys that pertain to sexual orientation discrimination or alternate family relationships. Authors and titles of these materials are listed below:

Title: Recognizing Sexual Orientation and Gay People Within
the Secondary Curriculum: What Role for Schools?
Author: Dickson J. Hingson, Ph.D.

Title: Report of the Committee on Family Relationships
Author: Ellen McCord

Title: California Tax Laws and Alternate Families
Author: Pat Wakayama

Title: "Family" and "Household" Use Survey: How Government
Agencies Use These Terms in Operating Their Programs
Author: Conducted by the Institute for Local Self Government and
Menkin-Lucero & Associates for the State Personnel Board

Title: Discrimination Against Lesbians and Gay Men in
Private Employment
Author: Donna J. Hitchens and Linda Barr,
Lesbian Rights Project

Title: Child Custody Disputes and the Homosexual Parent
Author: Commissioner Roberta Bennett

Title: Sexual Harassment in State Employment
Author: Pat Wakayama

Title: Sexual Harassment Survey of State Government Employers
Author: Conducted by the Institute for Local Self Government and
Menkin-Lucero & Associates for the State Personnel Board

Supplement Two:

This supplemental document contains topical reports and surveys that pertain to privacy in medical and mental health services, as well as issues of particular concern to elderly and disabled persons. Authors and titles of these materials are listed below:

Title: Report of the Committee on Aging and Disability
Author: Commissioner Nora J. Baladerian

Title: Report of the Task Force on Aging
Author: Commissioner Nora J. Baladerian

Title: Privacy Rights in Alcohol and Drug Programs
Author: Kieran Prather and Mike Cronen

Title: Continuing Sex Education for Physicians
Author: Commissioner Wardell B. Pomeroy, Ph.D.

Title: Personal Privacy and Hospital Visitors
Author: Commissioner Audrey Mertz, M.D.

Title: Survey and Report on Privacy in Medical and
Mental Health Care in State Facilities
Author: Martha O. Acevedo

Supplement Three:

This supplemental document contains topical reports and surveys that pertain to government information policies and practices. Authors and titles of these materials are listed below:

Title: Annotated Subject Index to California Informational
Privacy Statutes
Author: Commissioner Gary Cooper and Ms. Diane Josephs

Title: Department of Motor Vehicles File Systems and Client
Personal Privacy
Author: Richard Donohoe

Title: Invasion of Juror Privacy: Survey and Report on the
Jury Systems in California's Municipalities
Author: Commissioner Godfrey D. Lehman

Title: The Unconstitutionality of Voir Dire, Peremptory
Challenges and Jury Books in Jury Selection
Author: Commissioner Godfrey D. Lehman

Title: Report of the Committee on Corrections
Author: Commissioner Lester P. Pincu, D.Crim.
(Section on Family Visiting Program by Martha Acevedo)

Supplement Four:

Transcript of Public Hearings conducted by the Commission on Personal Privacy. See Table of Witnesses at Public Hearings on pages 441 - 448.

[APPENDIX C]

GOVERNOR'S COMMISSION ON PERSONAL PRIVACY
 LOS ANGELES PUBLIC HEARING -- FRIDAY, NOVEMBER 13, 1981

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TABLE OF WITNESSES

<u>Witness:</u>	<u>Topic:</u>	<u>Page:</u>
•MICHAEL BALTER Coordinator, Comm. on Police Repression Los Angeles, CA	PERSONAL PRIVACY: Police Intelligence Gathering on Lawful Political Activity, etc.	LA/70
•EDITH BERG Federation of Feminist Women's Health Centers Los Angeles, CA	PERSONAL PRIVACY: Surveillance of Health Centers by State Agencies	LA/88
•RALPH BOCHES, Esq. Hollywood Youth Defense and Research Association Hollywood, CA	PERSONAL PRIVACY: Criminal Law; Age-of-Consent Laws; Decriminalization of Prostitution	LA/83
•DANIEL BRZOVIC, Esq. Western Law Center for the Handicapped Los Angeles, CA	PERSONAL PRIVACY: Rights of the Disabled; Marriage Penalty in Benefits Programs	LA/80
•VIRGIL CARPENTER Los Angeles County Dept. Mental Health Svcs. Patient's Rights Section Los Angeles, CA	PERSONAL PRIVACY: Patient's Rights; Confidentiality of Records and Mail; Privacy Rooms; Private Communications; Searches	LA/30
•TIM CURRAN Student, U.C.L.A. West Los Angeles, CA	SEXUAL ORIENTATION DISCRIMINATION: Dismissal by Boy Scouts of America Organization	LA/96
•DOCTOR "D" Los Angeles, CA	SEXUAL ORIENTATION DISCRIMINATION: Adoption of Children	LA/47

<u>Witness:</u>	<u>Topic:</u>	<u>Page:</u>
•E. H. DUNCAN DONOVAN A.C.L.U. Gay Rights Chapter Los Angeles, CA	PERSONAL PRIVACY: Criminal Law; Registration of Sex Offenders in California	LA/102
•JIMMY E. Los Angeles, CA	PERSONAL PRIVACY: Rights of Disabled; Marriage Penalty in Benefits Program	LA/79
•FERNANDO GARCIA, Esq. Department of Fair Employment & Housing State of California Los Angeles, CA	SEXUAL ORIENTATION DISCRIMINATION: Housing Discrimination; Unruh Act Amendment; DFEH Policies	LA/21
•CECILY GREEN International Professional Surrogates Foundation Studio City, CA	PERSONAL PRIVACY: Sexuality and Disability; Medical Assistance/Benefits Programs	LA/32
•HAROLD GREENBERG, Esq. Los Angeles, CA	SEXUAL ORIENTATION DISCRIMINATION: Criminal Law Problems; Enforcement; Sex Registration; Professional Licensing	LA/17
•DAVID HALL Community Health Educator Los Angeles, CA	PERSONAL PRIVACY: Sex Education for Youth	LA/83
•WILLIAM HANDEL, Esq. Surrogate Parent Foundation No. Hollywood, CA	PERSONAL PRIVACY: Surrogate Parenting	LA/4
•ROBERT HENDERSON Private Citizen Simi, CA	PERSONAL PRIVACY: Employment Discrimination Because of Marital Status	LA/91
•Rev. ROBERT H. ILES Episcopal Priest and Instructor/Counsellor Pasadena, CA	PERSONAL PRIVACY: Sex Education for Youth	LA/24

<u>Witness:</u>	<u>Topic:</u>	<u>Page:</u>
•STEVE KELBER West Hollywood, CA	SEXUAL ORIENTATION DISCRIMINATION: Inheritance and Estate Tax; Housing	LA/41
•JAMES LONG Consultant, Dept. of Mental Health State of California Los Angeles, CA	SEXUAL ORIENTATION DISCRIMINATION: Employment Discrimination; Public Assistance Programs	LA/110
•CHRISTINE MASTERS, Esq. United States Government Equal Employment Opportunity Commission Los Angeles, CA	PERSONAL PRIVACY: Sexual Harrassment in Employment	LA/38
•RICK MARTIN California Association for the Physically Handicapped Los Angeles, CA	SEXUAL ORIENTATION DISCRIMINATION: Military Exclusion and Investigation; Disabled; Aging	LA/53
•SUSAN McGRIEVY, Esq. Staff Attorney, A.C.L.U. Los Angeles, CA	SEXUAL ORIENTATION DISCRIMINATION: Use of Polygraphs by Law Enforcenent Agencies in Screening Employment Applicants	LA/66
•Dr. SHARON RAPHAEL Prof. Sociology/Gerontology Cal State University Dominguez Hills, CA	SEXUAL ORIENTATION DISCRIMINATION: Problems of Older Lesbians/Gay Men	LA/58
•BETTY R. Los Angeles, CA	PERSONAL PRIVACY: Rights of Disabled; Marriage Penalty in Benefits Programs	LA/79
•MINA ROBINSON Gerontologist, Orange County, CA	SEXUAL ORIENTATION DISCRIMINATION: Problems of Older Lesbians/Gay Men	LA/62
•BERNARD SHERWIN, Esq. Surrogate Parent Foundation No. Hollywood, CA	PERSONAL PRIVACY: Surrogate Parenting	LA/5

Witness:

Topic:

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•DONNA SMITH
Los Angeles, CA

SEXUAL ORIENTATION DISCRIMINATION
Problems of Older Lesbians/Gay Men

LA/55

•S. THOMAS TODD, Esq.
Van Nuys, CA

SEXUAL ORIENTATION DISCRIMINATION:
Employment Benefits Discrimination

LA/11

•JOHN VANDURIS
Geneologist
United Lesbian and Gay
Christian Scientists
Los Angeles, CA

SEXUAL ORIENTATION DISCRIMINATION:
Discriminatory Policies and Practices
of Churches

LA/107

•HAROLD W.
Los Angeles, CA

SEXUAL ORIENTATION DISCRIMINATION:
Criminal Law; Sex Registration for
Disorderly Conduct; Discriminatory
Enforcement

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GOVERNOR'S COMMISSION ON PERSONAL PRIVACY

SAN FRANCISCO PUBLIC HEARING -- FRIDAY, NOVEMBER 20, 1981

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TABLE OF WITNESSES

<u>Witness:</u>	<u>Topic:</u>	<u>Page:</u>
•ROBERTA ACHTENBERG Co-Chairperson, Bay Area Lawyers for Individual Freedom San Francisco, CA	SEXUAL ORIENTATION DISCRIMINATION: Employment; Discriminatory Enforcement of Criminal Laws	SF/110
•STEVE BLOCK Lecturer, Law School University of California Berkeley, CA	PERSONAL PRIVACY: Definition and Scope of Privacy	SF/146
•PATTY BLOMBERG Family-Life Coordinator Dept. of Developmental Svcs. Sacramento, CA	PERSONAL PRIVACY: Sexual Rights of the Disabled	SF/61
•BARBARA BLOOM "Centerforce" San Quentin, CA	PERSONAL PRIVACY: Prison Family Visiting Program and Discrimination Against Alternate Families	SF/129
•SUSAN CRONENWETT Program Specialist Unified School District Sacramento, CA	PERSONAL PRIVACY: Sex Education in the Secondary School system	SF/116
•LAWRENCE CRUZ Director, "Esperanza House" San Francisco, CA	SEXUAL ORIENTATION DISCRIMINATION: Sexual Minority Youth	SF/158
•JAMES A. EMBREE Superintendent, Preston School of Industry Calif. Youth Authority Ione, CA	PERSONAL PRIVACY: Audio Surveillance of Juvenile Wards Visual Surveillance by Opposite-Sex Guards	SF/26

<u>Witness:</u>	<u>Topic:</u>	<u>Page:</u>
<p>•ROBERT FORMICHI Reporter of Decisions, Supreme Court of California San Francisco, CA</p>	<p>PERSONAL PRIVACY: Appellate Opinions and Use of Litigant's Initials</p>	SF/68
<p>•JAMES FOSTER Special Consultant to the Chairman, Democratic Nat'l Committee San Francisco, CA</p>	<p>PERSONAL PRIVACY: Alternate Families and Tax Discrimination</p>	SF/44
<p>•MARGARET FRAZIER, Esq. Client's Rights Assurance Prgm. Dept. of Developmental Services Sacramento, CA</p>	<p>PERSONAL PRIVACY: Protection of Disabled Clients</p>	SF/60
<p>•DONNA HITCHENS, Esq. Lesbian Rights Project San Francisco, CA</p>	<p>SEXUAL ORIENTATION DISCRIMINATION: Employment; Child Custody</p>	SF/63
<p>•DORRWIN JONES Gerontologist; Exec. Director of "Meals on Wheels of San Francisco, Inc." San Francisco, CA</p>	<p>SEXUAL ORIENTATION DISCRIMINATION Aging and Personal Privacy Problems of Elderly Lesbians and Gay Men</p>	SF/149
<p>•JUSTIN KEAY Manager, Office of Information Practices State of California Sacramento, CA</p>	<p>PERSONAL PRIVACY: Informational Privacy and Government Records</p>	SF/124
<p>•SUSAN KNIGHT Director, Sex and Disability Program University of California San Francisco, CA</p>	<p>PERSONAL PRIVACY: Sexuality and Disability</p>	SF/55
<p>•ARTHUR LAZERE, C.P.A. President-Elect, Nat'l Assn. Business Councils San Francisco, CA</p>	<p>SEXUAL ORIENTATION DISCRIMINATION: Employment and Professional Licensing</p>	SF/11

<u>Witness:</u>	<u>Topic:</u>	<u>Page:</u>
•WESLEY LEUKENS Private Citizen Alameda, CA	PERSONAL PRIVACY: Juror Privacy	SF/95
•THOMAS MEYER, Esq. Regional Counsel, National Jury Project Oakland, CA	PERSONAL PRIVACY: Investigation and <u>Voir Dire</u> of Prospective Jurors	SF/101
•CAROL MIGDEN Exec. Director of Operation Concern Pacific Medical Center San Francisco, CA	SEXUAL ORIENTATION DISCRIMINATION: Psychiatric Health Care for Lesbians and Gay Men	SF/80
•Hon. MARY MORGAN Judge, Municipal Court San Francisco, CA	SEXUAL ORIENTATION DISCRIMINATION: Child Custody	SF/5
•PAT NORMAN Coordinator, Gay/Lesbian Health Svcs. Dept. of Public Health San Francisco, CA	SEXUAL ORIENTATION DISCRIMINATION: Health Services for Lesbians and Gay Men	SF/81
•Dr. WILLIAM PAUL American Psychological Assn. Task Force on Sexual Orientation San Francisco, CA	SEXUAL ORIENTATION DISCRIMINATION: Educational Problems & Social Costs	SF/154
•DAVID PAYNE Student, Stanford University Stanford, CA	PERSONAL PRIVACY: Informational Privacy and Draft Registration	SF/85
•WILLIAM PETROCELLI, Esq. Author of <u>Low Profile</u> (McGraw-Hill, 1982)	PERSONAL PRIVACY: Informational Privacy Concerns	SF/85

<u>Witness:</u>	<u>Topic:</u>	<u>Page:</u>
<p>•ANTHONY SILVESTRE Chairperson, Governor's Council on Sexual Minorities Harrisburg, Pennsylvania</p>	<p>SEXUAL ORIENTATION DISCRIMINATION: Need for Implementation Mechanisms for Privacy Commission's Report to be Effective</p>	<p>SF/133</p>
<p>•DANIEL R. SIVIL House Civil Rights Committee Task Force on Family & Sexuality Detroit, Michigan</p>	<p>SEXUAL ORIENTATION DISCRIMINATION: Aging and Nursing Home Protections</p>	<p>SF/138</p>
<p>•DON SPECTOR, Esq. Prison Law Office San Quentin, CA</p>	<p>PERSONAL PRIVACY: Prisoner's Privacy</p>	<p>SF/49</p>
<p>•LEO SPIEKERMAN Manager, Legislative Affairs TRW Information Services Los Angeles, CA</p>	<p>PERSONAL PRIVACY: Informational Privacy; Credit Reporting Services</p>	<p>SF/15</p>
<p>•KEVIN WADSWORTH Private Citizen San Francisco, CA</p>	<p>SEXUAL ORIENTATION DISCRIMINATION: Political Discrimination Against Lesbians and Gay Men</p>	<p>SF/152</p>
<p>•Dr. ARTHUR C. WARNER Chairperson, National Committee for Sexual Civil Liberties Princeton, New Jersey</p>	<p>PERSONAL PRIVACY: Decriminalization of Private Sexual Conduct; National Overview</p>	<p>SF/141</p>
<p>•WILLIAM WELLS Program Administrator, Intensive Treatment Program Preston School of Industry Ione, CA</p>	<p>PERSONAL PRIVACY: Psychiatric Treatment of Wards</p>	<p>SF/39</p>
<p>•JUDY WILLIAMS Coordinator, Education/Rehabilitation Hearing-Impaired Program Sonoma Developmental Center Sonoma, CA</p>	<p>PERSONAL PRIVACY: Sex Education for Developmentally Disabled Clients</p>	<p>SF/75</p>

NOTES

1. Katz v. United States (1967) 389 U.S. 347, 350, fn. 5.
2. Bouchard, R.F. and Franklin, J.D., ed., Guidebook to Freedom of Information and Privacy Acts, "The Privacy Act -- An Overview" (New York: Clark Boardman Co., Ltd., 1980) p. 41.
3. Townsend, D., "America Caught Between 2 Eras, Researcher Says", Los Angeles Times, November 1, 1981, part II, p. 7.
4. Ibid.
5. Duncan, T. and Wolfe, P., "Informational Privacy: The Concept, Its Acceptance and Effect on State Information Practices" (1976) 15 Washburn Law Journal 273.
6. Louis Harris and Associates, Inc., The Dimensions of Privacy, a survey conducted for Sentry Insurance Company, published in 1979.
7. Westin, Alan, "The Origins of Modern Claims to Privacy", Privacy and Freedom, (New York: Atheneum Press, 1970), pp. 8-22.
8. Sommers, Robert, Personal Space - - The Behavioral Basis of Design (1969), p. 26.
9. Insell, Paul, and Lindgren, Henry Clay, Too Close for Comfort. The Psychology of Crowding (1978), pp. 21-22.
10. "Privacy in Public and Semi-Public Places: A Practical Guide to Protecting and Enhancing Your Personal Privacy in the Office and in the Home." A report commissioned by GF Business Equipment, Inc. and prepared by Research and Forecasts, Inc. 1981. (Quotes corresponding to this note as well as notes 8 and 9 are contained in the GF Report).
11. Whalen v. Roe (1977) 429 U.S. 589, 600; Paul v. Davis (1976) 424 U.S. 693, 713.
12. People v. Belous (1969) 71 Cal.2d 954, 963.
13. In re Lifschutz (1970) 2 Cal.3d 415, 431-432.
14. Griswold v. Connecticut (1965) 381 U.S. 479.
15. Kinsey, Alfred, et al., Sexual Behavior in the Human Male (Philadelphia: Saunders, 1948); Sexual Behavior in the Human Female (Philadelphia: Saunders, 1953).
16. "The New Morality", Time, November 21, 1977, p. 111.
17. Board of Medical Quality Assurance v. Gherardini (1979) 93 Cal.App.3d 669, 676.
18. Brandt, J., "Public Records, FIPA and CORI: How Massachusetts Balances Privacy and the Right to Know" (1981) 15 Suffolk University Law Review 23, 37 fn. 110.
19. Executive Order No. 7-75 (April 3, 1975).

20. The Report of the Privacy Protection Study Commission, 1977, "Personal Privacy in an Information Society" (U.S. Government Printing Office, Stock No, 052-003-00395-3); Appendix 1: "Privacy Law in the States"; Appendix 2: "The Citizen as Taxpayer"; Appendix 3: "Employment Records"; Appendix 4: "The Privacy Act of 1974"; Appendix 5: "Technology and Privacy".
21. Executive Order No. 1975-5 (April 23, 1975).
22. Executive Order No. 1975-5, as amended (February 11, 1978).
23. For example, a former Pennsylvanian moved to Oregon and brought with him valuable experience from the Pennsylvania Council, which, of course, was of great assistance to the Oregon Task Force. Also, on February 17, 1976, Governor Shapp wrote to Governor Brown and stated, "For too long, prejudices and stereotypes based on myths have forced many of our citizens to live in constant fear. I am sure you will agree that we, as Governors, have a responsibility to change these conditions. I look forward to working closely with you and members of your staff in sharing information and addressing mutual problems in this [sexual orientation discrimination] and other areas." Ever since that letter was written, people in both states and in both administrations have been sharing information and working closely together. Pennsylvania Council Chairperson Anthony Silvestre testified at a Public Hearing of the Commission on Personal Privacy in San Francisco on November 20, 1981. His testimony appears at Public Hearing Transcript, pages SF/133 to SF/137.
24. Mr. Daniel R. Sivil, a representative from that Task Force, appeared at the public hearing in San Francisco on November 20, 1981. His testimony appears at Public Hearing Transcript, pages SF/138 to SF/140.
25. Community Attitudes on Homosexuality and About Homosexuals, A report on the environment in Norman, Oklahoma. The Norman Human Rights Commission (1978).
26. The Church and Homosexuality. The United Presbyterian Church in the United States of America. (1978) Copies obtainable for \$1.00 from the Office of the General Assembly, 1201 Interchurch Center, 475 Riverside Drive, New York, NY 10027.
27. Hancock, G., "California's Privacy Act: Controlling Government's Use of Information?" (1980) 32 Stanford Law Review 1001, fn. 5; Executive Order B-22-76 (September 29, 1976).
28. On March 6, 1979, Assemblyman Art Agnos wrote to Governor Brown asking that the Governor create a "California State Commission on Sexual Orientation." Agnos wrote, "The concept of a commission has been implemented most successfully by the Governors in Oregon and Pennsylvania. . . . In addition to employment discrimination legislation, there are numerous aspects to the issue of gay civil rights which deserve consideration." A few days later, former Speaker Leo McCarthy publicly announced his support for such a commission when he was the keynote speaker at a dinner sponsored by the Municipal Elections Committee of Los Angeles. On April 4, 1979, Governor Brown issued Executive Order B-54-79, which called for an end to sexual orientation discrimination within the state government employment.

29. Executive Order B74-80 (October 9, 1980).
30. Public Hearing Transcript, California Commission on Personal Privacy, 1982. Available at cost from the State Personnel Board, Policy and Standards Division, 801 Capitol Mall, Sacramento, CA 95814.
31. Mill, John Stuart, On Liberty (George Rutledge, 1905).
32. Olmstead v. United States (1928) 277 U.S. 438, 478 [48 S.Ct. 564, 572].
33. Katz, *supra*, n. 1 at 350, fn. 5.
34. Whalen v. Roe, *supra*, n. 11 at 869, fn. 24.
35. Schloendorff v. Society of New York Hospital (1914) 211 N.Y. 125, [105 N.E. 92, 93].
36. Application of President & Directors of Georgetown Col. (D.C. Cir. 1964) 331 F.2d 1010, 1017.
37. People v. Ramey (1976) 16 Cal.3d 263, 275.
38. See 16A Am.Jur.2d, Constitutional Law, §601.
39. Cooley on Torts (1888), p. 29.
40. Warren and Brandeis, "The Right to Privacy" (1890) 4 Harvard Law Review 193.
41. Schuyler v. Curtis (1892) 15 N.Y. Supp. 787.
42. Roberson v. Rochester Folding Box Co. (1902) 64 N.E. 442.
43. See Time Inc. v. Hill (1967) 385 U.S. 374, 380-81.
44. See 62 Am.Jur.2d, Privacy, §3.
45. Apparently Rhode Island, Nebraska, and Wisconsin have expressly rejected invasion of privacy as a tort. Minnesota also adopts this minority position. Hendry v. Conner (Minn. 1975) 226 N.W.2d 921. Cf. Cox Broadcasting Co. v. Cohn (1975) 420 U.S. 469, 95 S.Ct. 1029.
46. Prosser, Torts (3rd ed. 1964) §112, p. 832.
47. Mrs. Jesse James v. Screen Gems, Inc. (1959) 17 Cal.App.2d 650, 653.
48. Melvin v. Reid (1931) 112 Cal.App. 285, 290.
49. 62 Am.Jur.2d, Privacy, §11.
50. *Id.*, §13.
51. *Id.*, §14.
52. *Id.*, §15.
53. For a treatise on the tort of invasion of privacy, see 62 Am.Jur.2d, Privacy.

54. Griswold v. Connecticut, supra, n. 14.
55. Katz v. United States, supra, n. 1.
56. Roe v. Wade (1973) 93 S.Ct. 705, 726; Carey v. Population Services International (1977) 97 S.Ct. 2010.
57. Pasevich v. New England Life Ins. Co. (Ga. 1905) 50 S.E. 68, 69-70.
58. Voelker v. Tyndall (1947) 226 Ind. 43, 75 N.E.2d 548; McGovern v. Van Riper (1945) 137 N.J. Eq. 24, 43 A.2d 514, aff'd 137 N.J.Eq. 548, 45 A.2d 842; Zimmerman v. Wilson (3rd Cir. 1936) 81 F.2d 847.
59. "Informational Privacy", supra, n. 5 at p. 274.
60. Fried, Charles, An Anatomy of Values (Cambridge: Harvard University Press, 1970).
61. Hon. Shirley M. Hufstедler, "The Directions and Misdirections of a Constitutional Right of Privacy," 28th Annual Benjamin N. Cardozo Lecture, delivered before the Association of the Bar of the City of New York, May 11, 1971.
62. Westin, Alan F., "The Origins of Modern Claims to Privacy," Privacy and Freedom (New York: Atheneum Press, 1970) pp. 8-22.
63. An Anatomy of Values, supra, n. 60.
64. "Informational Privacy," supra, n. 5 at p. 275.
65. Privacy in Public and Semi-Public Places, supra, n. 10, at pp. 1-5.
66. Guidebook, supra, n. 2 at p. 44.
67. "Security and Privacy Rulemaking: Resources, Terms and References," Technical Memorandum No. 15 (Sacramento: Search Group Inc., 1978), p. 28.
68. Bates, A., "Privacy - - A Useful Concept?" (1964) 42 Social Forces 432.
69. Chapin, F., "Some Housing Factors Related to Mental Hygiene" (1951) 7 Journal of Social Issues 164.
70. Journard, S., "Some Psychological Aspects of Privacy" (1966) 31 Law and Contemporary Problems 307.
71. Ruebhausen and Brim, "Privacy and Behavioral Research" (1965) 65 Columbia Law Review 1184, 1189.
72. Environmental Psychology (New York: Holt, Rinehart and Winston, 1970).
73. Altman, I., "Privacy: A Conceptual Analysis" (1976) 8 Environment and Behavior 7, 8.
74. Miller, A., Assault on Privacy (Ann Arbor: University of Michigan Press, 1971) p. 25.

75. O'Brien, David, Privacy, Law, and Public Policy (New York: Praeger, 1979).
76. Id., at p. 16.
77. Id., at p. 10.
78. Id., at p. 20.
79. Id., at p. 27.
80. Katz v. United States, supra, n. 1 at p. 351.
81. O'Brien, supra, n. 75 at p. 38.
82. Frank v. Maryland (1959) 359 U.S. 360 (quoting Pitt, Speech on the Excise Bill).
83. O'Brien, supra, n. 75 at p. 39.
84. United States Constitution, Fourth Amendment.
85. Cooley, Thomas, A Treatise on the Constitutional Limitations Which Rest upon the Legislative Power of the States of the American Union, 1st ed. (Boston: Little, Brown, 1868), p. 305.
86. Boyd v. United States (1886) 116 U.S. 616.
87. Weeks v. United States (1914) 232 U.S. 383.
88. Mapp v. Ohio (1961) 367 U.S. 643, 651.
89. Olmstead, supra, n. 32.
90. Katz, supra, n. 1 at p. 352.
91. Id., at p. 353.
92. Id., at p. 361.
93. Cardwell v. Lewis (1974) 417 U.S. 583.
94. South Dakota v. Opperman (1976) 428 U.S. 364.
95. Rakas v. Illinois (1978) 99 S.Ct. 421.
96. Katz, supra, n. 1 at pp. 350-51.
97. Lawton v. Steele (1894) 152 U.S. 133.
98. Griswold, supra, n. 14 at pp. 485-486.
99. Karst, Kenneth, "The Freedom of Intimate Association" (1980) 89 Yale Law Journal 624, p. 625.
100. Id., at p. 626.

101. Id., at p. 629.
102. Stanley v. Georgia (1969) 394 U.S. 557.
103. Eisenstadt v. Baird (1971) 405 U.S. 438, 453.
104. Roe v. Wade, supra, n. 56 at p. 152.
105. Cleveland Board of Education v. LaFleur (1974) 414 U.S. 632, 639-640.
106. Whalen v. Roe, supra, n. 11 at 599.
107. Carey v. Population Services International, supra, n. 56.
108. Kelley v. Johnson (1976) 425 U.S. 238, 244.
109. Village of Belle Terre v. Boraas (1974) 416 U.S. 1, 16.
110. Hollenbaugh v. Carnegie Free Library (1978) Mem. 439 U.S. 1052 [99 S.Ct. 734].
Justice Marshall's dissent was reported at 4 Sexual Law Reporter 75.
111. Jarrett v. Jarrett (1979) 78 Ill.2d 337, cert. denied, 101 S.Ct. 329.
112. "Woman Loses 3 Daughters Over a Live-in Boyfriend," Los Angeles Times,
October 21, 1980, Part I, page 1.
113. Planned Parenthood of Cent. Mo. v. Danforth (1976) 96 S.Ct. 2831;
Bellotti v. Baird (1979) 99 S.Ct. 3035; H.L. v. Matheson (1981) 101 S.Ct. 1164.
114. Paul v. Davis (1976) 424 U.S. 693, 713.
115. Whalen v. Roe, supra, n. 11 at p. 604 fn. 32.
116. Id., at p. 609.
117. California Bankers Assn. v. Schultz (1974) 416 U.S. 21.
118. Duncan and Wolfe, supra, n. 5.
119. Martin v. City of Struthers (1943) 319 U.S. 141.
120. Gregory v. City of Chicago (1969) 394 U.S. 111.
121. Organization for a Better Austin v. Keefe (1971) 402 U.S. 415.
122. Breard v. Alexandria (1951) 341 U.S. 622.
123. Packer Corporation v. Utah (1932) 285 U.S. 105.
124. Kovacs v. Cooper (1949) 336 U.S. 77.
125. Public Utilities Commission v. Pollak (1952) 343 U.S. 451.
126. O'Brien, supra, n. 75 at p. 149.
127. Cohen v. California (1971) 403 U.S. 15.

128. Rowan v. United States Post Office Department (1970) 397 U.S. 728.
129. Federal Communications Commission v. Pacifica Foundation (1978) 98 S.Ct. 3026.
130. Time Inc. v. Hill (1974) 385 U.S. 374.
131. Cox Broadcasting Corp. v. Cohn (1975) 420 U.S. 469.
132. Guidebook, supra, n. 2 at p. 45.
133. Id., at p. 63.
134. Id., at pp. 45-64.
135. Report, supra, n. 20.
136. A number of privacy-bills were introduced during the 97th Congress by Congressman Goldwater. H.J.Res.No. 108 provides for the convening of an International Conference on Communication and Information; H.R.No. 1061 provides for the privacy of certain public assistance and social service records used or maintained by state and private agencies under programs receiving federal financial assistance; H.R.No. 1060 provides for the protection of the privacy of personal medical information maintained by medical care institutions participating in certain federal programs; H.R. No. 1057 would amend the Internal Revenue Code to prohibit disclosure of return information concerning prospective jurors; H.R.No. 1049 would amend the Privacy Act of 1974 to provide for access to agency records concerning an individual, for an accounting of disclosures of personal information which had been made by the agency within a reasonable period of time preceding the request for accounting, would establish a procedure to request amendments to records, requiring notification by agencies to individuals prior to personal information disclosures about that individual, and would provide for substantial damages and reasonable attorney fees if the subject of the disclosure sues the agency and substantially prevails; H.R.No. 1048 would amend the Family Educational Rights and Privacy Act; H.R.No. 1047 would amend the Fair Credit Reporting Act dealing with insurance institutions and privacy; H.R.No. 1046 would amend the Fair Credit Reporting Act dealing with depository institutions and privacy, and for other purposes; and H.R.No. 1045 would amend the Fair Credit Reporting Act dealing with consumer credit and privacy.
137. U.S. Const., art. 1, §8(3).
138. U.S. Const., 14th Amend., §5.
139. 4 Privacy Journal 3 (Dec., 1977); 4 Privacy Journal 6 (April, 1978).
140. Final Report, Citizen's Privacy Task Force, (Iowa, 1980), p. 21.
141. These mechanisms would operate in a similar manner as the Interdepartmental Committee on the Status of Women and the Citizens' Advisory Council on the Status of Women, created by the President pursuant to Executive Order 1126, (November 1, 1963).

142. Katz, supra, n. 1.
143. See note 45, supra.
144. For example, in the area of state prohibitions against consenting adult sexual behavior, the Iowa Supreme Court voided that state's sodomy law on federal privacy grounds in State v. Pilcher (Iowa 1976) 242 N.W.2d 348; New York's highest court invalidated its sodomy law because it violated the right of privacy in the federal Constitution, in People v. Onofre (N.Y. 1980) 415 N.E.2d 936, cert.denied in New York v. Onofre (1981) 101 S.Ct. 2323; and New Jersey's fornication law was held unconstitutional in violation of both state and federal privacy protections, in State v. Saunders (N.J. 1977) 381 A.2d 333.
145. Ill. Const., art. 1, §6., effective July 1, 1971.
146. Id., Constitutional Commentary.
147. Cal. Const., art. 1, §13 (formerly, art. 1, §19).
148. Mont. Const., art. II, §10; Alaska Const., art. I, §22.
149. Hawaii Const., art. 1, §6.
150. Fla. Const., art. 1, §23.
151. Pasevich, supra, n. 57.
152. Commonwealth v. Murray (1966) 423 Pa. 37, 223 A.2d 102.
153. Pa. Const., §1.
154. In re Quinlan (1976) 70 N.J. 10, 355 A.2d 647.
155. State v. Saunders, supra, n. 144; also, State v. Baker (1979) 81 N.J. 99, 405 A.2d 368, voided a single family zoning law which prohibited families with members not related by blood, marriage, or adoption from residing together in neighborhoods restricted to single families.
156. Opinion of the Justices to the Senate (Mass. 1978) 376 N.E.2d 810.
157. Moe v. Secretary of Administration and Finance (Mass. 1981) 417 N.E.2d 387.
158. La. Const., art. 1, §5 (adopted in 1974); Wash. Const., art. 1, §6 (adopted in 1899); S.C. Const., art. 1, §10 (adopted in 1971); Ariz. Const., art. 2, §8.
159. Smith, Robert, Compilation of State and Federal Privacy Laws (Washington, D.C.: Privacy Journal, 1978); update of the same, 1981.
160. Report, supra, n. 20.
161. Gary Cooper and Robert Belair, Criminal Justice Information Policy: Privacy and the Private Employer (Washington, D.C.: Search Group, Inc., 1981).
162. Gary Cooper, et al., Trends in State Security and Privacy Legislation, (Sacramento: Search Group, Inc., 1981).

163. Letter from William D. North, General Counsel of the American Library Association, to Texas Attorney General John Hill, dated May 6, 1975.
164. Letter from Senator Sam J. Ervin, Jr. to Secretary of the Treasury David M. Kennedy, dated July 9, 1970.
165. Letter from Texas Attorney General John Hill to Ector County Attorney Bill McCoy, dated July 10, 1975.
166. Cal. S.B. No. 604, amending Gov. Code §6254, approved July 16, 1980.
167. Attorney General's Legislative Program, Study Bill, provided to this Commission by Assistant New York Attorney General Robert Perry, a specialist in cable T.V. and telecommunications, who drafted the proposed legislation, and who heads the Attorney General's Task Force on Cable T.V.
- 167a. 8 Privacy Journal 1 (Sept. 1982).
168. Cal. A.B. No. 2735, adding Penal Code §637.5, approved by Governor September 28, 1982.
- 168a. Baker v. Wade, Docket No. CA3-79-1454-R F.Supp. [N.D. Tex., Op. Del. August 17, 1982]
169. Yankelovich, D., The New Morality: A Profile of American Youth in the 70's (New York: McGraw-Hill, 1974).
170. The Dimensions of Privacy, *supra*, n. 6.
171. At the request of this Commission, Roper Organization compiled relevant survey material which has been produced in the past ten years and which is publicly available. The survey charts which appear at pages 84-89 are a synthesis of much of that material.
172. Much of the material in this section on public opinion is paraphrased directly from The Dimensions of Privacy, *supra*, n. 6.
173. The measure (ACA 51) was introduced on March 13, 1972, into the Assembly by Assemblyman Kenneth Cory, was referred to the ballot by the Legislature on June 30, and was then placed on the November ballot as Proposition 11. The actual vote count was 4,861,225 for and 2,871,342 against.
174. Propositions and Proposed Laws, Together with Arguments. Compiled by George H. Murphy, Legislative Counsel. Distributed by Edmund G. Brown, Jr., Secretary of State. General Election, Tuesday, November 7, 1972.
175. Melvin v. Reid, *supra*, n. 48.
176. *Id.*, at p. 288.
177. *Id.*, at p. 291.
178. Gill v. Curtis Publishing Co. (1952) 38 Cal.2d 273, 276-278.
179. People v. Edgar (1963) 60 Cal.2d 171, 175-176.
180. People v. Cahan (1955) 44 Cal.2d 434; Badillo v. Superior Court (1956) 46 Cal.2d 269.

181. People v. Triggs (1973) 8 Cal.3d 884, 893.
182. People v. Sapper (1980) 102 Cal.App.3d 301.
183. People v. Martin (1955) 45 Cal.2d 755, 759-761; Triggs, supra, note 181, at p. 892, fn. 5.
184. Cooper v. California (1967) 386 U.S. 58, 62.
185. People v. Johnson (1982) 130 Cal.App.3d 553.
186. Britt v. Superior Court (1962) 53 Cal.2d 469, 472.
187. Kaplan v. Superior Court (1971) 6 Cal.3d 150, 155-157.
188. Board of Medical Quality Assurance v. Gherardini (1979) 93 Cal.App.3d 669, 676.
189. People v. Superior Court (Spielman) (1980) 102 Cal.App.3d 342, 346.
190. White v. Davis (1975) 13 Cal.3d 757, 776.
191. Id., at p. 774.
192. Id., at p. 775.
193. Id., at p. 775.
194. Porten v. University of San Francisco (1976) 64 Cal.App.3d 825, 829.
195. Id., at p. 829.
196. Id., at p. 830.
197. N.O.R.M.L. v. Gain (1979) 100 Cal.App.3d 586, 592.
198. City of Santa Barbara v. Adamson (1980) 27 Cal.3d 123, Justices Clark and Richardson, dissenting.
199. Committee to Defend Reproductive Rights v. Myers (1981) 29 Cal.3d 252.
200. Adamson, supra, at n. 198; Myers, supra, at n. 199.
201. People v. Arno (1979) 90 Cal.App.3d 505, 511-513; but see People v. Moreno (1976) 64 Cal.App.3d Supp. 23, 30.
202. Gunn v. Employment Development Department (1979) 94 Cal.App.3d 658, 666.
203. People v. Williams (1982) 128 Cal.App.3d 981, 987.
204. People v. Spear (1939) 32 Cal.App.2d 165.
205. Gill v. Curtis Publishing Co., supra, n. 178; James v. Screen Gems, Inc., supra, at n. 47.
206. Carlisle v. Fawcett Publications (1962) 201 Cal.App.2d 733 (media); Finot v. Pasadena City Board of Education (1967) 58 Cal.Rptr. 520 (teacher grooming standards); Akin v. Board of Education of Riverside (1968) 68 Cal.Rptr. 557 (student grooming standards); Custodio v. Bauer (1967) 59 Cal.Rptr. 463 (sterilization); People v. Belous, supra, n. 12.

207. In re Lifschutz (1970) 2 Cal.3d 415 (confidential communications); Chambers v. California Unemployment Insurance Appeals Board (1973) 33 Cal.App.3d 923 (grooming standards); Citizens for Parental Rights v. San Mateo County Board of Education (1975) 51 Cal.App.3d 1 (sex education).
208. Porten v. University of San Francisco, supra, n. 194 (disclosure of records); Bowland v. Municipal Court (1976) 18 Cal.3d 479 (midwife at childbirth); People v. Moreno, supra, n. 201 (remedy under art. 1, §1); Loder v. Municipal Court (1976) 17 Cal.3d 859 (retention and dissemination of arrest records); Armenta v. Superior Court (1976) 61 Cal.App.3d 584 (test for violation of art. 1, §1); Atkisson v. Kern County Housing Authority (1976) 59 Cal.App.3d 89 (opposite-sex cohabitation); Vescovo v. New Way Enterprises (1976) 60 Cal.App.3d 582 (invasion of physical solitude); Cowing v. City of Torrance (1976) 60 Cal.App.3d 757 (standing); Aden v. Younger (1976) 57 Cal.App.3d 662 (medical consent); People v. Kaanehe (1977) 19 Cal.3d 1 (bank records); People v. Hirsch (1977) 71 Cal.App.3d 987 (knock and notice requirements); Britt v. Superior Court (1978) 20 Cal.3d 844 (disclosure of personal associations); Lehman v. City and County of San Francisco (1978) 80 Cal.App.3d 309 (juror privacy).
209. Lasher v. Kleinberg (1980) 164 Cal.Rptr. 618.
210. Myers, supra, n. 199.
211. Id., at p. 256-257.
212. Id., at p. 261.
213. Ibid.
214. Id., at p. 281.
215. People v. Spear, supra, n. 204.
216. Vescovo, supra, n. 208.
217. Id., at p. 588.
218. Agnello v. United States (1925) 269 U.S. 20, 33 (search); People v. Ramey (1976) 16 Cal.3d 263 (arrest).
219. Johnson v. United States (1947) 333 U.S. 10, 13-14.
220. Ramey, supra, n. 218, at p. 275.
221. People v. Reeves (1964) 61 Cal.2d 268.
222. People v. Rand (1972) 23 Cal.App.3d 579; People v. Porras (1979) 99 Cal. App.3d 874.
223. Porras, supra, at p. 879.
224. Britt v. Superior Court (1962) 53 Cal.2d 469.
225. People v. Triggs (1973) 8 Cal.3d 884.
226. Id., at p. 892.

227. People v. Arno (1979) 99 Cal.App.3d 505.
228. Id., at pp. 510-511.
229. Kelley v. Johnson, supra, n. 108.
230. King v. Saddleback Jr. College District (C.D.Cal. 1970) 318 F.Supp. 89, reversed (9th Cir. 1971) 445 F.2d 932; Akin v. Board of Ed. of Riverside (1968) 68 Cal.Rptr. 557.
231. Akin, supra, n. 230 at p. 563.
232. Jackson v. Dorrier (6th Cir. 1970) 424 F.2d 213.
233. Karr v. Schmidt (5th Cir. 1972) 460 F.2d 609.
234. Murphy v. Pocatello School District (Idaho 1971) 480 P.2d 878.
235. Breese v. Smith (Alaska 1972) 501 P.2d 159.
236. Breen v. Kahl (7th Cir. 1969) 419 F.2d 1034.
237. Breen v. Kahl (W.D.Wis. 1969) 296 F.Supp. 702.
238. Chambers v. California Unemployment Insurance Appeals Board (1973) 33 Cal.App.3d 923, 926-927.
239. Finot v. Pasadena Board of Education (1967) 58 Cal.Rptr. 520.
240. Custodio v. Bauer (1967) 59 Cal.Rptr. 463.
241. People v. Belous (1969) 80 Cal.Rptr. 354, 359.
242. Associated Students v. Attorney General of the United States (C.D.Cal. 1973) 368 F.Supp. 11, 22.
243. Bowland v. Municipal Court (1976) 18 Cal.3d 479, 494.
244. Fults v. Superior Court (1979) 88 Cal.App.3d 899.
245. Id., at pp. 903-904.
246. Morales v. Superior Court (1979) 99 Cal.App.3d 283.
247. Id., at p. 289.
248. Id., at p. 290.
249. Lasher v. Kleinberg, supra, n. 209.
250. Id., at pp. 620-621.
251. Committee to Defend Reproductive Rights v. Myers (1981) 29 Cal.3d 252.
252. Mindel v. United States Civil Service Commission (N.D.Cal. 1970) 312 F.Supp. 485, 487-488.
253. Moreno v. U.S. Dept. of Agriculture (1972) 413 U.S. 528.

254. Atkisson v. Kern County Housing Authority (1976) 59 Cal.App.3d 89.
255. In re Wellman (1980) 104 Cal.App.3d 992, 994.
256. *Id.*, at p. 999.
257. *Ibid.*
258. Adamson, *supra*, n. 198.
259. *Ibid.*
260. According to 1980 Census Bureau figures, it appears that approximately 10 percent of California's households are maintained by alternate families. See, "Special Report on the Status of California's Alternate Families," published by the Commission on Personal Privacy.
261. In re Cummings (1982) 30 Cal.3d 870.
262. *Id.*, at p. 873.
263. *Id.*, at pp. 874-875.
264. People v. Privitera (1979) 23 Cal.3d 697.
265. *Id.*, at p. 702, fn. 2.
266. *Id.*, at p. 702.
267. *Id.*, at p. 709.
268. *Id.*, at pp. 709-710.
269. *Id.*, at pp. 718-723.
270. Cobbs v. Grant (1972) 8 Cal.3d 229, 242.
271. *Ibid.*
272. Privitera, *supra*, n. 264, at p. 729.
273. People v. Davis (1979) 92 Cal.App.3d 250, 261.
274. N.O.R.M.L., *supra*, n. 197 at p. 593.
275. Gillies v. Civil Service Board of the City of Sacramento (1979) 99 Cal. App.3d 417, 419.
276. Cal. Const., art. 1, §15.
277. Cox, *supra*, n. 131.
278. Gov. Code §6250 et seq.

279. Two examples will suffice. The recent litigation involving Billy Jean King required her to disclose intimate details of her private sexual life which became matters of public record and general knowledge, even though she ultimately won the case. Rev. Moon, in another case, was called to testify as a witness on behalf of a defendant who was sued by a member of the Unification Church for attempting to "deprogram" Moon's follower. After Moon was required to disclose intimate details of his sexual and spiritual associations, his follower dismissed the suit, rather than see Rev. Moon undergo further public questioning on such matters.
280. In re Lifschutz, supra, at n. 207.
281. Id., at p. 421.
282. Id., at p. 424.
283. Id., at p. 425.
284. Id., at p. 429.
285. Id., at p. 435.
286. Id., at pp. 436-437.
287. Ibid.
288. Burrows v. Superior Court (1974) 13 Cal.3d 238, 243.
289. United States v. Miller (1976) 425 U.S. 435.
290. Valley Bank of Nevada v. Superior Court (1975) 15 Cal.3d 652.
291. Id., at p. 658.
292. Id., at p. 656.
293. Ibid.
294. Id., at p. 658.
295. People v. Kaanehe (1977) 19 Cal.3d 1, 10, fn. 6.
296. Britt v. Superior Court (1978) 20 Cal.3d 844.
297. Id., at p. 852.
298. Id., at p. 854.
299. Id., at p. 856, fn.3.
300. Id., at p. 857.
301. Ibid.
302. Id., at p. 859.
303. Cobb v. Superior Court (1979) 99 Cal.App.3d 543.

304. Fults, supra, at n. 244; Morales, supra, at n. 246.
305. Craig v. Municipal Court (1979) 100 Cal.App.3d 69, 73-74.
306. Id., at pp. 76-77.
307. State ex rel. Department of Transportation v. Superior Court (1980) 102 Cal.App.3d 25.
308. Fernandez v. Di Salvo Appliance Co. (1960) 179 Cal.App.2d 240, 245.
309. Dept. of Transportation, supra, n. 307, at p. 29.
310. Board of Trustees of Leland Stanford Junior University v. Superior Court (1981) 119 Cal.App.3d 516.
311. Id., at pp. 524-525.
312. Id., at p. 527.
313. Id., at pp. 528-529.
314. Rifkind v. Superior Court (1981) 123 Cal.App.3d 1045.
315. Id., at pp. 1048-1049.
316. Id., at p. 1051.
317. Melvin v. Reid (1931) 112 Cal.App. 285.
318. Id., at p. 290.
319. Gill v. Curtis Publishing Co. (1952) 38 Cal.2d 273.
320. Id., at p. 278.
321. Carlisle v. Fawcett Publications (1962) 201 Cal.App. 2d 733.
322. Id., at p. 745.
323. Id., at p. 748.
324. James v. Screen Gems, Inc. (1959) 174 Cal.App.2d 650.
325. Id., at p. 653.
326. Vescovo, supra, n. 208, at pp. 587-588.
327. Lugosi v. Universal Pictures (1979) 25 Cal.3d 813.
328. Id., at p. 820.
329. Id., at p. 821.
330. Id., at p. 822.
331. Id., at p. 842, fn. 23.

332. Datil v. City of Los Angeles (1968) 263 Cal.App.2d 655, 660.
333. Porten, *supra*, n. 208, at p. 828.
334. Loder v. Municipal Court (1976) 17 Cal.3d 859.
335. *Id.*, at pp. 864-868.
336. *Id.*, at p. 868.
337. *Id.*, at p. 869.
338. Central Valley Chapter of 7th Step Foundation v. Younger (1979) 95 Cal.App.3d 212.
339. *Id.*, at p. 239.
340. Lehman v. San Francisco (1978) 80 Cal.App.3d 309.
341. Haskins v. San Diego County Dept. of Public Welfare (1980) 100 Cal.App.3d 961.
342. Cohen v. Superior Court (1970) 5 Cal.App.3d 429.
343. *Id.*, at p. 434.
344. White v. Davis (1975) 13 Cal.3d 757, 766.
345. *Id.*, at p. 775.
346. *Id.*, at pp. 767-768.
347. People v. Arno, *supra*, n. 227 at 510-511.
348. People v. Goodson (1980) 106 Cal.App.3d Supp. 5.
349. Lorenzana v. Superior Court (1973) 9 Cal.3d 626.
350. People v. Kaaienapua (1977) 70 Cal.App.3d 283.
351. Lorenzana, *supra*, n. 349, at p. 634.
352. Goodson, *supra*, n. 348, at pp. 10-12.
353. Armenta v. Superior Court (1976) 61 Cal.App.3d 584.
354. *Id.*, at p. 588-589.
355. *Id.*, at p. 594.
356. *Ibid.*
357. People v. Maxie (Crim. 21556, hg. granted July 16, 1980); Robinson v. Superior Court (S.F. 24185, hg. granted June 25, 1980); People v. Crowson (Crim. 22415, hg. granted December 30, 1981).
358. People v. Case (1980) 105 Cal.App.3d 826, 835.

359. In re Cummings, supra, n. 261.
- 359a. Delancie v. Superior Court (1982) 31 Cal.3d 865.
360. People v. Garvey (1979) 99 Cal.App.3d 320, 323.
361. People v. Williams (1982) 128 Cal.App.3d 981.
362. People v. Case, supra, n. 358 at p. 835.
363. California Commission on Personal Privacy, Transcript of Public Hearings conducted during November 1981, at pp. LA/70 through LA/78; cf. Seiler, M., "L.A.P.D. Accused of Spying at University," Los Angeles Times, June 11, 1982, Part II, p. 5.
364. White v. Davis, supra, n. 344.
365. "Police Commission Passes PDID Guidelines, Then Schedules Hearings," Open Forum, ACLU of Southern California, June/July 1982, p. 3.
366. Transcript of Public Hearings, supra, n. 363, at p. LA/70.
367. Id., at p. LA/71.
368. Id., at p. LA/74.
369. Cowing v. City of Torrance (1976) 60 Cal.App.3d 757.
370. Id., at p. 762.
371. Board of Medical Quality Assurance v. Gherardini (1979) 93 Cal.App.3d 669, 679-680.
372. Id., at p. 681.
373. Wilson v. California Health Facilities Commission (1980) 110 Cal.App.3d 317.
374. Id., at p. 321-322.
375. Stackler v. Department of Motor Vehicles (1980) 105 Cal.App.3d 240.
376. Id., at p. 247.
377. Gunn v. Employment Development Department (1979) 94 Cal.App.3d 658.
378. Mullaney v. Woods (1979) 97 Cal.App.3d 710.
379. Garrett v. Los Angeles Unified School District (1981) 116 Cal.App.3d 472.
380. Id., at p. 479.
381. Dyas v. Superior Court (1974) 11 Cal.3d 628, 635.
382. People v. Zelinski (1979) 24 Cal.3d 357, 365-368.
383. Ibid.
384. People v. Moreno (1976) 64 Cal.App.3d Supp. 23, 30.

385. People v. Sapper (1980) 102 Cal.App.3d 301.
386. Tavernetti v. Superior Court (1978) 22 Cal.3d 187, 194.
387. Penal Code §630.
388. Penal Code §653n.
389. Ibid.
390. Penal Code §630.
391. Ibid.
392. Stats. 1975, ch. 867, §2, p. 1940, adding Penal Code §626.11.
393. Ibid.
394. Civil Code §1798.1.
395. Ibid.
396. Government Code §6250.
397. Government Code §6254(c).
398. Government Code §7461.
399. Civil Code §1785.1.
400. Civil Code §1786.
401. Insurance Code §791.
402. Welfare and Institutions Code §16145.
403. Health and Safety Code §7186.
404. Health and Safety Code §25250.
405. Ibid.
406. Stats. 1981, c. 782, §1, amending Civil Code §56 et seq.
407. Stats. 1976, c. 1109, §1, p. 4992, amending Welfare and Institutions Code §5325 et seq.
408. Health and Safety Code §7186.
409. Ibid.
410. Shaw, D., "Honesty at Issue in Secret Taping," Los Angeles Times, April 14, 1982, Part I, page 3.
411. Ibid.
412. Id., p. 30.

413. Warden v. Kahn (1979) 99 Cal.App.3d 805.
414. *Id.*, at pp. 810-814.
415. People v. Hirsch (1977) 71 Cal.App.3d 987, 992.
416. Stats. 1975, ch. 71, §10; ch. 877, §2.
417. Health and Safety Code §7186.
418. Cobbs v. Grant, *supra*, n. 270.
419. *Id.*, at pp. 242-243.
420. *Id.*, at pp. 243-244.
421. *Id.*, at p. 243.
422. *Id.*, at p. 244.
423. *Ibid.*
424. Farber v. Olkon (1953) 40 Cal.2d 503, 509.
425. Probate Code §3200.
426. Probate Code §3201.
427. Probate Code §3202.
428. Probate Code §3203.
429. Law Revision Commission Comment following Probate Code §3201.
430. Probate Code §3210.
431. Probate Code §3211.
432. Spitler, H.J. "Using the New Durable Power of Attorney as a Planning Tool" (May 1982) California Lawyer, pp. 38-39.
433. *Ibid.*
434. Health and Safety Code §7186.
435. Health and Safety Code §441.
436. Health and Safety Code §7188.
437. Civil Code §25.8.
- 437a. A requirement that the standard of liability of the agent (negligence, gross negligence, or malice) must be included in the instrument creating a power of attorney for medical decision-making might be mandatory.
438. Rosenberg v. Feigin (1953) 119 Cal.App.2d 783.
439. Civil Code §25.1.
440. Civil Code §25.6.

441. Civil Code §25.8.
442. Civil Code §34.5.
443. Civil Code §34.9.
444. Civil Code §34.6.
445. Civil Code §25.9.
446. Ibid.
447. Civil Code §34.7.
448. Civil Code §34.8.
449. Civil Code §34.10.
450. Evidence Code §1158.
451. AB No. 610; Stats. 1982, ch. 15 (adding chapter 6.7 to Division 20 of the Health & Safety Code).
452. Legislative Counsel's Digest, Assembly Bill No. 610.
453. Stats. 1981, ch. 782.
454. Civil Code §56.10(a).
455. Civil Code §56.10(b).
456. Civil Code §56.10(c).
457. Civil Code §56.11.
458. Civil Code §56.13.
459. Civil Code §56.16.
460. Civil Code §56.20 et seq.
461. Civil Code §56.20.
462. Ibid.
463. Ibid.
464. Civil Code §56.25 and §56.27.
465. Civil Code §56.28.
466. Commissioner Audrey Mertz, M.D., "Personal Privacy and Hospital Visitors," contained in a Supplement to the Commission's Report; also, testimony on the subject of discriminatory hospital visiting policies and practices, contained in the Transcript of Public Hearings, pages LA/55-65 and SF/149-151.
467. Evidence Code §990 et seq.

468. Welfare & Institutions Code, §§5000-5404.
469. Aden v. Younger (1976) 57 Cal.App.3d 662.
470. Id., at pp. 674-675.
471. Ibid.
472. Welfare & Institutions Code §5325.
473. Ibid.; also, Welfare and Institutions Code §5325.1.
474. Welfare and Institutions Code §5325.1(a).
475. Welfare and Institutions Code §5326.
476. Ibid.
477. Welfare and Institutions Code §5326.1.
478. Welfare and Institutions Code §5326.2.
479. Welfare and Institutions Code §5326.3.
480. Welfare and Institutions Code §5326.4.
481. Welfare and Institutions Code §§5326.6 & 5326.7.
482. Welfare and Institutions Code §5326.6.
483. Supra, at n. 451.
484. Health and Safety Code §25253(b), as amended by AB No. 610.
485. Health and Safety Code §25251(d), as amended by AB No. 610.
486. Welfare and Institutions Code §5328.
487. Ibid.
488. Ibid.
489. Welfare and Institutions Code §5328.01.
490. Welfare and Institutions Code §5328.1.
491. Civil Code §56.05.
492. Evidence Code §§1010-1028.
493. Grosslight v. Superior Court (1977) 72 Cal.App.3d 502;
also see Evidence Code §1014.
494. Evidence Code §1014.5.
495. Education Code §35301.

496. Supra, n. 30.
497. Transcript of Public Hearings, pp. LA/30-31.
498. Ibid.
499. Ibid.
500. Ibid.
501. Transcript of Public Hearings, pp. LA/88-90.
502. Ibid.
503. Transcript of Public Hearings, pp. SF/55-59.
504. Ibid.
505. Transcript of Public Hearings, pp. SF/60.
506. Transcript of Public Hearings, pp. SF/61-62.
507. Ibid.
508. Transcript of Public Hearings, pp. SF/75-79.
509. Ibid.
510. Mc Lanahan, Bruce, "Privacy in the Employment Relationship," Eleventh Annual Institute on Equal Employment Opportunity Compliance (New York: Practicing Law Institute, 1982), pp. 155-208.
511. Id., at p. 157.
512. Labor Code §1198.5.
513. Johnson v. Winter (1982) 127 Cal.App.3d 435.
514. Labor Code §432.
515. Civil Code §§56.20-56.245.
516. Civil Code §56.20.
517. Biggins v. Hanson (1967) 59 Cal.Rptr. 897; but see Payton v. City of Santa Clara (1982) 132 Cal.App.3d 152.
518. Deaile v. General Telephone Co. (1974) 115 Cal.Rptr. 582, 587.
519. Labor Code §1053.
520. Labor Code §1050.
521. Labor Code §432.2.
522. Business & Professions Code §461.
523. Alaska, Connecticut, Delaware, District of Columbia, Hawaii, Oregon, Rhode Island. See Compilation of State and Federal Privacy Laws, supra, n. 159.

524. Id., (Arizona, New Mexico), at pp. 16-17.
525. Transcript of Public Hearings, at p. LA/66.
526. Id., at p. SF/88; cf. "Polygraph: Pre-employment Use Rises; May Be Illegal," Daily Journal, July 8, 1975, p. 2.
527. Id., at pp. SF/92-SF/94.
528. Civil Code §1785.1 et seq.
529. Transcript of Public Hearings, at pp. SF/85-SF/86.
530. Frenznick, D., "'Tenant Check' Lists the Undesirable -- and the Innocent." Los Angeles Times, Tuesday, April 13, 1982, Part I, page 3.
531. Benson, Robert W., and Bierling, Raymond A., "Tenant Reports as an Invasion of Privacy: A Legislative Proposal" (1979) 12 Loyola of Los Angeles Law Review 301.
532. Id., at p. 333.
533. Business and Professions Code §16606 and §16607.
534. Business and Professions Code §2379.
535. Financial Code §1582.
536. Civil Code §1812.30 et seq.
537. Civil Code §1799 and §1799.1.
538. Government Code §7460 et seq.
539. Transcript of Public Hearings, at pp. SF/86-SF/87.
540. Insurance Code §791 et seq.
541. Insurance Code §791.03.
542. Insurance Code §791.04.
543. Insurance Code §791.07.
544. Insurance Code §791.08.
545. Insurance Code §791.09.
546. Insurance Code §791.10.
547. Insurance Code §791.13.
548. Insurance Code §791.
549. See n. 541, supra.
550. See n. 542, supra.
551. See n. 543, supra.

552. See n. 544, supra.
553. See n. 545, supra.
554. See n. 546, supra.
555. See n. 547, supra.
556. Insurance Code §791.14.
557. Insurance Code §§791.15-791.17.
558. Insurance Code §§791.20-791.21.
559. Ibid.
560. Ibid.
561. Ibid.
562. Ibid.
563. Insurance Code §12919.
564. Government Code §6250 et seq.
565. Cook v. Craig (1976) 55 Cal.App.3d 773.
566. Government Code §6253.
567. Matter of Hearst's Estate (1977) 67 Cal.App.3d 777.
568. Ibid.
569. L.A.P.D. v. Superior Court (1977) 65 Cal.App.3d 661.
570. Ibid.
571. Paraphrased from Government Code §6254.
572. Government Code §6254.5 added by the Legislature in the 1981 session.
573. Government Code §6256.
574. Government Code §6256.1.
575. Government Code §6255.
576. Government Code §6258.
577. Government Code §6259.
578. Ibid.
579. Government Code §11120.
580. Government Code §11130.7.

581. Civil Code §1798 et seq.
582. Hancock, G., "California's Privacy Act: Controlling Government's Use of Information" (1980) 32 Stanford Law Review 1001, 1004-1005.
583. Civil Code §1798.14.
584. Civil Code §1798.15.
585. Civil Code §1798.16.
586. Civil Code §1798.17.
587. Civil Code §1798.20.
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589. Civil Code §1798.22.
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591. Civil Code §1798.3(a).
592. Civil Code §1798.42.
593. Civil Code §1798.32.
594. Civil Code §1798.34.
595. Ibid.
596. Civil Code §1798.40.
597. Civil Code §1798.45.
598. Civil Code §1798.46.
599. Civil Code §1798.48.
600. Civil Code §1798.55.
601. Civil Code §1798.4.
602. Civil Code §1798.5.
603. Civil Code §1798.6.
604. Ibid.
605. Civil Code §1798.7.
606. Civil Code §1798.8.
607. Civil Code §1798.9.
608. Transcript of Public Hearings, at SF/124 - SF/125.

609. Civil Code §227.
610. Penal Code §11120 to §11127.
611. Vehicle Code §20012.
612. Welfare and Institutions Code §827.
613. Evidence Code §1040.
614. Labor Code §1776.
615. Education Code §67100 et seq.
616. Revenue and Taxation Code §408.
617. Evidence Code §1040; 53 Ops.Cal.Atty.Gen. 10 (1970).
618. Welfare and Institutions Code §10850.
619. Younger v. Berkeley City Council (1975) 45 Cal.App.3d 825.
620. Penal Code §851.8.
621. Transcript of Public Hearings, at pp. SF/68 - SF/74.
622. Formichi, R., California Style Manual (1977), §213.
623. *Id.*, at §214.
624. *Id.*, at §226.
625. Board of Education v. Jack M. (1977) 139 Cal.Rptr. 700.
626. People v. S.P. (1980) 115 Cal.App.3d Supp. 2; 170 Cal.Rptr. 478.
627. In re Wesley W. (1981) 125 Cal.App.3d 240.
628. See n. 620, supra.
629. Cal. Const., art. V, §1.
630. Government Code §12010.
631. Cf. In re Neagle (1890) 135 U.S. 1, 63-64; Spear v. Reeves (1906) 148 Cal. 501, 504.
632. Executive Order B-22-76 (1976).
633. *Ibid.*
634. Weingand, S., "Brown Vetoes Bill Requiring Open Arrest Reports," San Francisco Chronicle, Saturday, October 3, 1981, p. 7.
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637. Transcript of Public Hearings, pp. SF/44 - SF/48.
638. Foster, J., "The California Inheritance Tax and Alternative Relationships," July 13, 1981. Prepared at the request of Controller Kenneth Cory.
639. Id., at p. 22.
640. Wakayama. P., "California Tax Laws and Alternate Families," Supplement to Report of the Commission on Personal Privacy.
641. Letter from Beverlee A. Myers to the Commission on Personal Privacy, dated March 24, 1982.
642. Attachment to letter dated November 20, 1981 from Anne Bersinger, Deputy Director, Community Care Licensing Division, Department of Social Services, to the Commission on Personal Privacy.
643. Ibid.
644. Department of Fair Employment and Housing v. Boy Scouts of America, case no. FEP 78-79, decided August 6, 1981.
645. Transcript of Public Hearings, pp. LA/91 - LA/95.
646. See n. 644, supra., at p. 4.
647. Id., at pp. 7-10.
648. See Supplement to Report of the Commission on Personal Privacy.
649. [deleted]
650. [deleted]
651. Executive Order B-74-80 (October 9, 1980).
652. Ibid.
653. See "Study Commissions on Sexuality and Sexual Orientation" at pp. 7-11 of this Report, supra.
654. See "Operations of the California Commission" at pp. 14-15 of this Report, supra.
655. See n. 30, supra.
656. benShalom v. Secretary of Army (E.D. Wis. 1980) 489 F.Supp. 964, 975-976.
657. See New York University Review of Law and Social Change, Vol. 8, No. 3 (1978-79).
658. Governor's Enactment Message for AB No. 70 (February, 1982).
659. Transcript of Public Hearings, p. SF/80.

660. *Id.*, at pp. SF/146 - SF/148.
661. Lovisi v. Slayton (4th Cir. 1976) 539 F.2d 349, 354-356 (Craven and Winter, JJ., dissenting).
662. Griswold v. Connecticut, *supra*, at n. 14.
663. *Id.*, at p. 484.
664. People v. Brown (1975) 53 Cal.App.3d Supp. 1, 7.
665. State v. Saunders (N.J. 1977) 381 A.2d 333, 339.
666. People v. Onofre (1980) 424 N.Y.S.2d 566.
667. People v. Onofre (N.Y. 1980) 415 N.E.2d 936, 938-941.
668. Acanfora v. Board of Education (4th Cir. 1974) 491 F.2d 498.
669. Gaylord v. Tacoma School District (Wash. 1977) 559 P.2d 1340.
670. Gish v. Board of Education (N.J. App. 1976) 336 A.2d 1337.
671. Acanfora v. Board of Education, cert. denied, 419 U.S. 836; Gaylord v. Tacoma School District, cert. denied, 98 S.Ct. 234; Gish v. Board of Education, cert. denied, 98 S.Ct. 233. Cf. McConnell v. Anderson, cert. denied, 405 U.S. 1046; Burton v. Cascade School District, cert. denied, 423 U.S. 839.
672. Paraphrased from 1981 Assembly Bill 70, §12, State of Wisconsin.
673. Morrison v. State Board of Education (1969) 85 Cal.Rptr. 175, 461 P.2d 375, 385, fn. 21.
674. [deleted]
675. 1981 Assembly Bill 70, §15, State of Wisconsin.
676. Glossary of Terms Commonly Associated with Sexual Orientation, California State Personnel Board, September, 1980.
677. Bell, Weinberg, and Hammersmith, Sexual Preference (Bloomington: Indiana University Press, 1981).
678. *Id.*, at p. 222.
679. Glossary, *supra*, n. 676.
680. *Ibid.*

681. The Church and Homosexuality. The Office of the General Assembly was directed to send a copy of the Background Paper of the Task Force to Study Homosexuality, which was received by the 190th General Assembly (1978) as a study document, and the Policy Statement and Recommendations, which were adopted by the 190th General Assembly (1978), to all congregations, presbyteries, synods, and to others upon request (order from Office of General Assembly, 1201 Interchurch Center, 475 Riverside Drive, New York, NY 10027; cost \$1.00).
682. Ibid.
683. Masters and Johnson, Homosexuality in Perspective (Boston: Little, Brown, and Co., 1979), p. 8.
684. Tollison and Adams, Sexual Disorders (New York: Gardner Press, 1979), pp. 191-192.
685. Hooker, E., "Homosexuality," National Institute of Mental Health Task Force on Homosexuality: Final Report and Background Papers, (United States Government Printing Office, 1969, reprinted 1972) p. 11.
686. Final Report of the Task Force on Sexual Preference (State of Oregon, 1978), pp. 17-18.
687. Owles v. Lomenzo (1972) 329 N.Y.S.2d 181, 183.
688. Glossary, *supra*, n. 676.
689. Weinberg, G., Society and the Healthy Homosexual (New York: Anchor Books, 1973), pp. 4-5.
690. Bullough, V., Homosexuality: A History (New York: Garland Press, 1979), pp. 79-81.
691. Berzon and Leighton, Positively Gay (Celestial Arts, 1979), pp. 3-4.
692. Dressler, J., "Judicial Homophobia: Gay Rights Biggest Roadblock," The Civil Liberties Review (Jan/Feb 1979), pp. 19-27.
693. See n. 681, *supra*.
694. *Id.*, pp. 39-40, 45.
695. Sherrill, K., "Homophobia: Illness or Disease?" Gai Saber, Volume One, Number 1 (Spring 1977), published by the Scholarship Committee of the Gay Academic Union of New York.
696. *Id.*, at p. 36.
697. *Ibid.*
698. *Id.*, at p. 37.

699. *Id.*, p. 40.
700. Kinsey, Pomeroy, and Martin, Sexual Behavior in the Human Male (Philadelphia: W.B. Saunders, 1948); Kinsey, et al., Sexual Behavior in the Human Female (Philadelphia: W.B. Saunders, 1953).
701. Bullough, V., Sin, Sickness, and Sanity (New York: Garland Press, 1977), p. 209.
702. Dr. John Money, professor at Johns Hopkins Medical School and chief of the school's gender-identity clinic, has estimated that homosexuals are far more numerous than the public may realize — encompassing 13 percent of males and 7 percent of females, according to statements attributed to him in a recent interview. See "A New Big Push for Homosexual Rights" (April 14, 1980) U.S. News and World Report, at pp. 93-95. Cf. Final Report of State of Oregon Task Force on Sexual Preference (1978), at pp. 18-19.
703. Reliable estimates indicate that 9.13% of the population is either predominantly homosexual in orientation or will have more than incidental homosexual experiences in life. See Berzon, *supra*, n. 691. The 1980 California Census figures show 23,667,902 people residing in California. Using these figures, there would be over 2 million residents of California who could be classified as having a homosexual orientation.
704. Crompton, L., "Gay Genocide: from Leviticus to Hitler," The Gay Academic, (Palm Springs: Etc. Press, 1978), pp. 67-91. Cf. Crompton, L., "The Myth of Lesbian Impunity: Capital Laws from 1270 to 1791," Journal of Homosexuality, Vol. 6, Numbers 1-2, Fall/Winter (1980-81), at pp. 11-26.
705. *Ibid.*
706. *Ibid.*
707. *Ibid.*
708. *Ibid.*
709. *Ibid.*
710. *Ibid.*
711. Los Angeles Times, September 22, 1982, Part I, p. 5.
712. Los Angeles Times, February 11, 1981, Part I, p. 3.
713. See "Violence and Intimidation," *infra*, at pp. 340-360.
714. Duberman, M., "Hunting Sex Perverts," Christopher Street, Vol. 5, No. 12 (1981), pp. 43-48.
715. Former Position: see Dew v. Halaby (9th Cir. 1963) 317 F.2d 582; Singer v. U.S. Civil Service Commission (9th Cir. 1976) 530 F.2d 247. New Position: see Siniscalco, G., "Homosexual Discrimination in Employment" (1976) 16 Santa Clara L. Rev. 495, 497, fn. 13.

716. Congressional Record, March 22, 1972, correspondence between Congressman Koch and Secretary of Defense.
717. Although a federal district court in San Francisco has recently enjoined the INS from continuing its policy of routine and automatic exclusion of all persons determined to be homosexual, it is the policy of the INS that the law requires such automatic exclusion. The federal case, Hill v. INS, is on appeal.
718. Decision of INS, file no. A 20 537 540, dated November 24, 1975; cf. Dart, J., "Agency's Use of Word 'Faggots' Hit," Los Angeles Times, December 4, 1975.
719. Ibid.
720. "Government Spied Routinely on Gays, Documents Disclose," Los Angeles Times, September 9, 1982, Part II, p. 12; cf. The Advocate, July 8, 1982, p. 16.
721. Former Penal Code §286, amended January 1, 1976.
722. "Board Rules Governing Public Dances," Adopted by the Board of Police Commissioners, July 2, 1958. (Ordinance No. 111,348, §103.106) Rule No. 6, "The management shall not permit any person to dance with another person of the same sex while attending and participating in a public dance." Restriction deleted by City Ordinance No. 148,011, passed by the City Council on January 14, 1976 and approved by Mayor Bradley on January 20, 1976.
723. See "Probation Condition Barring Ties with Gays Challenged," Los Angeles Times, Part I, Page 3, October 7, 1977. Cf. Memo from Judge Eric Younger to L.A. Municipal Court Commissioners, dated August 29, 1975, calling the conditions "inappropriate" and instructing Commissioners not to impose them any longer; order of Judge Jack Tso, holding the conditions constitutionally invalid, in Municipal Court case no 31540320, dated October 11, 1977; statement of Los Angeles Municipal Court Judge Brian D. Crahan that "I deleted the conditions . . . from the earlier [standard court] form inasmuch as I personally believe that such conditions are overly broad, unenforceable and possibly an unreasonable limitation on an individual's right of freedom of association." (letter dated March 14, 1977); conditions declared void in People v. Rylarsdam (1982) Cal.App.3d Supp. 1.
724. Employment: see Gay Law Students v. Pacific Telephone Co. (1979) 24 Cal.3d 458; Housing: see Dept. of Industrial Relations, Division of Fair Employment Practices, Transmittal No. 44, dated September 15, 1978, stating that homosexual housing discrimination cases were not to be processed by that Department; but see revised directive instructing personnel to accept and process such cases, effective October 1, 1979; see Department of Fair Employment and Housing Directive No. 22, noting departmental jurisdiction dated January 18, 1982; cf. March 1982 revision directing that such cases not be processed; but see final and current memo, Directive 22 (revised March 24, 1982) directing that such cases should be processed. cf. Hubert v. Williams (1982) 133 Cal.App.3d Supp. 1, holding that discrimination against homosexuals in housing is illegal.

725. Pryor v. Municipal Court (1979) 25 Cal.3d 238, finally invalidated this provision of the Penal Code.
726. See People v. Rodrigues (1976) 63 Cal.App.3d Supp. 1.
727. See "Homosexuals as Police Officers." Distributed by Deputy Chief R.L. Vernon to all Division commanding officers for further distribution to all subordinate personnel. Purpose of memo, extent of circulation, and the fact that it represented the position of the Chief of Police, were all confirmed in a June 9, 1975 letter from Commissioner Samuel Williams to Los Angeles Attorney Albert Gordon.
728. Ibid.
729. Proposition 6, or the so-called "Homosexual Teacher" Initiative, was proposed by State Senator John Briggs. For nearly two years the press reported anti-gay comments made by Senator Briggs and his supporters.
730. Los Angeles Times, January 29, 1982, Part II, p. 1.
731. After being criticized for interrogating a job applicant regarding her marital status and position on homosexual issues, Imperial County Supervisor James Bucher defended his actions by stating, "If you want to label me anti-queer, I'll proudly wear that label." He added, "I will not be a party to knowingly hiring a queer." He continued, "We are talking about responsible county positions here not all jobs. . . . How would it look for this county's top official to be a queer." See Imperial Valley Press, January 6, 1982, page 1.
732. People v. Giani (Cal.App. 1956) 362 P.2d 813, 815.
733. Only 8.3 to 10% of child molestation is performed by homosexual pedophiliacs: the vast majority is heterosexual. U. DeFrances, Protecting the Child Victim of Sex Crimes by Adults, (1969) p. 38; J. Gagnon and W. Simon indicate similar findings in Sexual Encounters Between Adults and Children (1970) p. 11.
734. Report, supra, n. 686, pp. 36-42.
735. Report of the Subcommittee on "Homosexual Activity and the Law" to the San Francisco Mental Health Advisory Board, adopted unanimously by the Board on April 10, 1973.
736. See "Most Child Molesters are Heterosexual" (1978) 4 Sex.L.Rptr. 50; Decker, C., "Molester Data Erroneous, Gates Admits," July 12, 1978, Los Angeles Times, Part II, p. 1.
737. Ibid.
738. Bullough, supra, n. 701, p. 208.
739. Id., at p. 209.
740. "Psychiatrists Change View of Homosexuals," Los Angeles Times, December 16, 1973, Part I, page 12.

741. *Ibid.*; cf. A Legislative Guide to Gay Rights (Portland Town Council, 1976), p. 20.
742. Memorandum for David Crosland, Acting Commissioner, INS, from John M. Harmon, Assistant Attorney General, Office of Legal Counsel, dated December 10, 1979.
743. The Surgeon General concluded that "homosexuality per se will no longer be considered 'a mental disease or defect'." Memorandum from Julius Richmond, Assistant Secretary for Health, United States Department of Health, Education and Welfare, and Surgeon General, to William Foege and George Lythcott (August 2, 1979). This decision to revise PHS policy was primarily based on changes in medical thinking.
744. Lesbian/Gay Freedom Day Committee, Inc. v. INS, No. C-81-2522 RPA, and In the Matter of the Petition of Carl Hill, No. C-81-4055 RPA, United States District Court, Northern District of California, Injunction and Opinion issued June 17, 1982. The Court held, "In conclusion, the Court holds that the INS policy of excluding homosexuals per se violates plaintiff's [gay citizens of this country] constitutional rights to freedom of speech and association [with gay foreigners]."
745. Calderone, M., The Family Book About Sexuality (New York: Harper and Row, 1981), p. 114.
746. Bell and Weinberg, *supra*. n. 677, p. 191.
747. *Id.*, p. 212.
748. *Id.*, p. 185.
749. "Homosexuals in America," The Gallup Opinion Index, Report No. 147, October, 1977., p. 10.
750. Berzon, *supra*. n. 691, p. 4.
751. Canfield, E., "Am I Normal," Frontiers of Sex Research (Buffalo: Prometheus Books, 1979), p. 113.
752. Pomeroy, W., "What is Normal" (March, 1965) Playboy Magazine.
753. *Ibid.*
754. "Sexual Pleasure: The Surprising Preferences of 100,000 Women," (September, 1975) Redbook Magazine. pp. 51-58.
755. Pomeroy, *supra*. n. 752.
756. *Ibid.*
757. Dynes, W., "Homosexuality: Myths Old and New," (August 1978), see Supplement to Commission's Report.
758. McNeil, J., The Church and the Homosexual (Sheed Andrews & McMeel, 1976); Barnett, W., Homosexuality and the Bible: an Interpretation, (Pendle Hill Publications, 1979); Valente, M., "Sex: The Radical View of a Catholic Theologian (New York: McMillan [under its Bruce Imprint] 1970). Boswell, J., Christianity, Social Tolerance and Homosexuality (Chicago: University of Chicago Press, 1979).

759. United Presbyterian Church in the United States, supra. n. 681; Episcopal Church USA (65th General Convention); Society of Friends (1972).
760. Central Conference of American Rabbis (1977 Convention); American Catholic Bishops (1976); Union of American Hebrew Congregations (1977).
761. [deleted]
762. Valente. M., supra. n. 758; also extended interview with Commission staff.
763. [deleted]
764. [deleted]
765. San Francisco Examiner, Aug. 29, 1981, pp. 1,6.
766. Transcript of Public Hearings, SF/154 -- SF/157.
767. Attacks on Gay People, A Report of the Commission on Discrimination, (London: Campaign for Homosexual Equality, 1980).
768. Miller, B. and Humphreys, L., "Lifestyles and Violence: Homosexual Victims of Assault and Murder," Journal of Qualitative Sociology, Vol. 3 (3), Fall 1980, pp. 169-185, at p. 173.
769. Id., p. 174.
770. Ibid.
771. Id., pp. 175-182.
772. San Francisco Safe Streets Committee performed such a function during 1974 to 1976; New York City apparently has two organizations currently monitoring anti-gay violence: Chelsea Gay Association and The Jury Box. Lambda Legal Defense and Education Fund, based in New York City, presented a certificate of merit during its 1981 Awards Banquet to the Chelsea Gay Association, "In appreciation for the work of the Chelsea Gay Association in the area of anti-gay violence. . . . Their organization is providing invaluable service in helping victims as well as trying to prevent violence against our community through programs such as self-defense classes, court monitoring, and a hotline to report anti-gay violence."
773. Miriam Friedlander received an award from Lambda Legal Defense and Education Fund in 1981 because "as a member of the New York City Council, Ms. Friedlander is responsible for the introduction of the resolution on anti-gay violence and its unanimous adoption. "
774. Gayer, D., Attacks on Gay People in the Eureka Valley, (San Francisco: Safe Streets Committee, Dec. 1976).
775. Ibid.
776. Ibid.
777. Stats. 1979, ch. 990 (A.B. No. 23).

778. Testimony of Pat Norman, Coordinator, Gay Health Services, San Francisco Department of Mental Health. California Commission on Crime Control and Violence Prevention, Public Hearing Transcript, Laney College, Oakland, California (May 21-22, 1981), pp. 65-93. Available from State of California, Office of Criminal Justice Planning, 9719 Lincoln Village Drive, Suite 600, Sacramento, CA 95827 - (916) 366-5338.
779. Dew v. Halaby (D.C.Cir. 1963) 317 F.2d 582.
780. Dew v. Halaby (1964) 84 S.Ct. 671.
781. "Government Employment and the Homosexual" (1970) 45 St. John's L. Rev. 303, at p. 304.
782. Dew v. Halaby (1964) 379 U.S. 951.
783. 5 C.F.R. §731.202(b); 40 Fed. Reg. 28047 (1975).
784. *Ibid.*
785. Singer v. U.S. Civil Service Commission (1977) 97 S.Ct. 725, The Chief Justice, Mr. White, and Mr. Justice Rehnquist dissenting; cf. 9th Cir. Opinion at 530 F.2d 247.
786. Appeal of John F. Singer, Seattle Field Office, Federal Employee Appeals Authority, Decision No. SEO71380002, decided July 21, 1978.
787. *Ibid.*
788. Causey, M., "The Federal Diary," The Washington Post, May 14, 1980, p. C-2.
789. Memorandum dated May 12, 1980 from Alan K. Campbell to Heads of Departments and Independent Establishments.
790. *Ibid.*
791. Air Force Reg. 35-66 (1959); Army Reg. 635-200 (1977); Navy Instruction 1900.9c (1978); Ingalls v. Brown (D.C.Cir. 1967) 377 F.2d 151; Crawford v. Davis (Pa. 1966) 249 F.Supp. 943.
792. D.O.D. Reg. 5220.6; 25 C.F.R. §14399; 32 C.F.R. §155.5; Adams v. Laird (D.C.Cir 1969) 420 F.2d 230; Gayer v. Schlesinger (D.C.Cir 1973) 490 F. 2d 740; Marks v. Schlesinger (Cal. 1974) 384 F. Supp. 1373; McKean v. Laird (D.C.Cir. 1973) 490 F.2d 1962; cf. "Security Clearances Granted to Homosexual Men" (1978) 4 Sex.L.Rptr. 50; "Denial of Security Clearance Revised" (1978) 4 Sex.L.Rptr. 58.
793. Matlovich v. Secretary of the Air Force (D.C.Cir. 1978) 591 F.2d 852.
794. "Gay Sergeant's Discharge Upheld" (1976) 2 Sex.L.Rptr. 53, oral opinion of Federal District Judge Gerhard Gessel reprinted in full.
795. Beller v. Middendorf (9th Cir. 1980) 632 F.2d 788.
796. *Id.*, p. 812.

797. Hatheway v. Secretary of the Army (9th Cir. 1981) 641 F.2d 1376.
798. benShalom v. Secretary of the Army (E.D.Wis. 1980) 489 F.Supp. 964.
799. "State and Local Government Employment, by State: October 1978," The Book of the States: 1980-1981 (Lexington, KY: Council of State Governments), p. 271.
800. Minutes - - 150th Meeting, F.E.P.Cal., May 6, 1971, Los Angeles.
801. Executive Order B-54-79, signed by Governor Edmund G. Brown Jr. on April 4, 1979.
802. Ibid.
803. Meeting of State Personnel Board, Los Angeles, June 19, 1979.
804. Memo to "All State Agencies and Employee Organizations," regarding "Discrimination based on sexual preference," from Duane D. Morford, Chief, Policy and Standards Division, issued July 5, 1979.
805. Memo to AA Officers, Personnel Officers, Women's Program Officers, et al., dated August 13, 1979, sent by Duane D. Morford.
806. Meeting in Sacramento with Executive Staff of SPB on August 27, 1979.
807. Memo to "All State Agencies and Employee Organizations," regarding "Employment discrimination based on sexual orientation," issued April 30, 1980, from Ronald M. Kurtz, Executive Officer of SPB.
808. Opinion No. 80-511 - - July 3, 1980, 63 Ops. Cal.Atty.Gen. 583 (1980).
809. Ibid.
810. Ibid.
811. Gay Law Students Assn. v. Pacific Telephone Co. (1979) 24 Cal.3d 458, 467.
812. Government Code §3201.
813. Government Code §3203.
814. Supra, n. 811, at p. 488.
815. 63 Ops.Cal.Atty.Gen. 583, 586 (1980).
816. Morrison v. State Board of Education (Cal. 1969) 461 P.2d 375, 394; cf. White v. Davis, supra, n. 344; Gunn v. Employment Development Department, supra, n. 377; Fults, supra, n. 244; Morales, supra, n. 246.
817. Supra, n. 811.
818. Supra, n. 815, at p. 585.

819. Supra, n. 814.
- 819a. Supra, n. 808.
820. Supra, n. 815, n. 818.
821. Cal. Const., art. VII, §3(a).
822. Id., subdivision (b).
823. [deleted]
824. [deleted]
825. [deleted]
826. [deleted]
827. [deleted]
828. [deleted]
829. [deleted]
830. [deleted]
831. Book of the States, supra, n. 799.
832. Interview with Ed Boyce, Chief, Local Government Services Division, State Personnel Board, August 11, 1982.
833. Gay Law Students Assn., supra, n. 811.
834. Ibid.
835. Supra, n. 816.
836. 63 Ops.Cal.Atty.Gen. 583 (1980); cf. U.S. Gvt. O.P.M. Directive, supra, n. 789; 1972 New York City Personnel Merit Directive, issued February 7, 1972; Detroit City Charter Amendment, July 1, 1974; Michigan Department of Civil Service decision, February 18, 1981 as stated in a letter to Representative David Evans; Illinois Dept. of Personnel decision as stated in a letter to Ilana Rovner, Asst. Deputy to the Governor, November 12, 1981; Directive from New York Governor's Office of Employee Relations to all state agency heads, dated February 17, 1982.
837. National Gay Task Force Survey, updated March 1982; Santa Clara County and the City of San Jose were not on that list but were independently verified by the Commission staff. N.G.T.F. data was also independently verified.
838. Letter to State Personnel Board from Contra Costa County officials.
839. Cal. Const., art. IV, §16.
840. Interview with Commission staff in August, 1982.
- 840a. Interview with Executive Director of Commission on Personal Privacy.

841. Supra, n. 731.
842. Opinion No. 74-174, May 9, 1975.
843. Agenda for May 7, 1976, Board of Civil Service Commissioners, City of Los Angeles; 2 Sex.L.Rptr. 41 (1976).
844. Letter from Chief Daryl Gates on March 20, 1981 to Mr. Stephen Schulte, Executive Director of the Gay and Lesbian Community Services Center, responding to agenda items presented to the Department.
845. Civil Service Commission Rule 34.a.(2).
846. Supra, n. 842.
847. "L.A. Council Overturns Anti-Gay Motion," The Advocate, June 18, 1975.
848. Letter from Arnett L. Hartsfield, Jr., President of the Board of Civil Service Commissioners, to Al Bouchard, Gay Person's Alliance, June 18, 1976.
849. Letter from John B. Rice, Senior Assistant Attorney, Los Angeles City Attorney's Office, to Al Bouchard, Gay Person's Alliance, dated July 21, 1976.
850. [deleted]
851. Letter from Police Chief Daryl Gates to Stephen Schulte, Gay and Lesbian Community Services Center, March 20, 1981.
852. Ibid.
853. Public Hearings Transcript, p. LA/66.
854. Letter from Susan McGrievy, A.C.L.U. staff attorney, to Commission on Personal Privacy, December 22, 1981.
855. Ibid.; Complaints regarding practices engaged in by the Santa Ana and Monrovia Police Departments were also reported to the Commission in Ms. McGrievy's letter of December 22, 1981.
856. Hager, P., "Homosexual Police Report Support of Fellow Officers," Los Angeles Times, February 16, 1981, p. 1.
857. Ibid.
858. Ibid.
859. [deleted]
860. Supra, n. 856.
861. In the matter of the appeal of Denise Kreps, before the Contra Costa County Civil Service Commission, case no. N 14221, Findings of Fact of Judge Michael C. Cohn, March 3, 1980.

862. Rainey v. Civil Service Commission, Contra Costa Superior Court, case no. 212332.
863. *Ibid.*, Memorandum of Decision, August 13, 1980; Findings of Fact and Conclusions of Law, October 23, 1980.
864. Attorneys' Directory of Services and Information: Federal, California State and County Governments (Berkeley: Continuing Education of the Bar, 1977), pp. 151-152.
865. *Ibid.*
866. *Ibid.*
867. *Ibid.*
868. Quote from literature disseminated by California Save Our Children, Fullerton, California, Rev. Louis P. Sheldon, treasurer.
869. 312,404 signatures were necessary to put the measure on the ballot.
870. 2,823,293 voters cast ballots for Prop. 6; 3,969,120 voted against it.
871. Mendenhall, G. "Teacher Rights Approved," The Advocate, July 16, 1975.
872. Information obtained from National Gay Task Force publication "Who's Behind the Gay Rights Movement?" and from Portland Town Council publication "A Legislative Guide to Gay Rights."
873. The defeat of the "Briggs Initiative" was based largely on arguments that it violated the right of privacy. Furthermore the Supreme Court has held that any government entity is prohibited from engaging in sexual orientation discrimination. Cf. *supra*, n. 811.
874. Commissioner Wallace Albertson brought to the Commission's attention the Affirmative Action Policy of the Los Angeles Community College District and that District's contract with the American Federation of Teachers. Both documents contain "sexual orientation" as a category protected against discrimination. Pursuant to a board rule within that district, Community College catalogues have been updated to reflect the revised non-discrimination policy. Furthermore, the Board of Trustees of the California State University and Colleges System, on which Commissioner Albertson sits as a member, has adopted a revised employment non-discrimination policy which includes "sexual orientation as a protected classification. These revisions were initiated by Mrs. Albertson.
875. Morrison v. Board of Education (1969) 1 Cal.3d 214. Cf. Board of Education v. Jack M. (1977) 19 Cal.3d 691; Burton v. Cascade School District (9th Cir. 1975) 512 F.2d 850; Acanfora v. Board of Education (4th Cir. 1974) 491 F.2d 498; Aumiller v. University of Delaware (Del. 1977) 434 F.Supp. 1273.
876. Letter from Assistant Secretary to the California Committee of Bar Examiners responding to a survey by Mr. John Moore, Nov. 14, 1972. Cf. In re Eimers (Fla. 1978) 358 So.2d 7; In re Kimball (N.Y. 1973) 301 N.E. 2d 436; Florida Board of Bar Examiners re: N.R.S., case no. 59,238, decided June 18, 1981.

877. San Francisco was the first city in the state to adopt such an ordinance. Adopting a similar ordinance in 1979, the Los Angeles City Council found that "Discrimination on the basis of sexual orientation exists in the City of Los Angeles. Such discrimination foments strife, unrest, and discord and deprives the City of the fullest utilization of resources and capacity for development and advancement. Such discrimination poses a substantial threat to the health, safety and welfare of the community and existing state and federal restraints on arbitrary discrimination are inadequate to meet the particular problems of this City." L.A.M.C., ch. IV, art. 4, §49.70 et seq.
878. Memorandum from James L. Quillan, Labor Commissioner, to "All Professionals", June 13, 1979.
879. Sexual orientation may be protected under the right of privacy both as an aspect of decisional/associational privacy and informational privacy. Collecting sexual orientation information may constitute an overbroad gathering of personal information. Adverse employment decisions based on the sexual orientation of an applicant or employee may involve an unwarranted interference with his or her right of personal decision making.
880. Gay Law Students Assn, supra, n. 811; Morrison v. State Board of Education, supra, n. 875; cf. 63 Ops.Cal.Atty.Gen. 583 (1980).
881. White v. Davis, supra, n. 190.
882. Prosser, supra, in. 46.
883. The National Gay Task Force Corporate Survey (New York: NGTF, 1981).
884. Health and Safety Code §35700.
885. "DFEH - What is it?" This brochure is distributed by the Department of Fair Employment and Housing to the public. (CS 74147-501 10-79)
886. Ibid.
887. Labor Code §1419(f)(2).
888. Transcript of Public Hearings, pp. LA/21 - LA/23.
889. Hubert v. Williams (1982) 133 Cal.App.3d Supp. 1.
890. Marina Point, Ltd. v. Wolfson (1982) 30 Cal.3d 721, fn. 9.
891. Supra, n. 877.
892. Supra, n.888.
893. Transmittal No. 44, issued September 15, 1978 by Alice A. Lytle.
894. Trans. No. 044 (Rev.) issued September 25, 1979 by Joanne A. Lewis.
895. Directive Number 22 (Field Operations Directive).
896. Field Operations Directive No. 22 - Revised issued by Joanne A. Lewis.
897. Labor Code §1418(g).

898. Wolfson, supra, n. 890.

899. 72 C.J.S., Policy, p. 214.

900. Ibid.

901. Id., at p. 215.

902. Peterman v. International Brotherhood of Teamsters (1959)
174 Cal.App.2d 188, 222. .

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