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Appendix F-1

A. FULL FAITH AND CREDIT LAW OVERVIEW

ERA (+)	Gay Rights Law (+)	Marriage Validation Law	Sodomy Law (-)	ANTI-GAY Marriage Law (+)	Marriage Evasion Law (-)
Alaska	California	Arizona	Alabama	Florida	Arizona
Colorado	Connecticut	Arkansas	Arizona	Illinois	Dist. of Columbia
Connecticut	Dist. of Columbia	California	Arkansas*	Indiana****	Georgia
Hawaii	Hawaii	Colorado	Florida	Kansas	Illinois
Illinois	Massachusetts	Georgia	Georgia	Louisiana	Indiana
Maryland	Minnesota	Idaho	Idaho	Maryland*****	Maine
Massachusetts	New Jersey	Illinois	Kansas*	Minnesota	Massachusetts
Montana	Rhode Island	Kansas	Louisiana	Nevada	Michigan
New Hampshire	Vermont	Kentucky	Maryland	North Carolina	North Dakota
New Mexico	Wisconsin	Michigan	Massachusetts	North Dakota	Vermont
Pennsylvania		Minnesota	Michigan	Oregon	Wisconsin
Texas		Nebraska	Minnesota	Texas****	
Utah		New Mexico	Mississippi	Utah****	
Virginia		North Dakota	Missouri*	Virginia****	
Washington		South Dakota	Montana*	Wyoming	
Wyoming		Utah	North Carolina		
		Wyoming	Oklahoma*		
			Rhode Island		
			South Carolina		
			Tennessee*		
			Texas***		
			Utah		
			Virginia		

The first three columns are characteristics considered positive for gay marriage. A (+) indicates their presence. The last three columns are characteristics considered negative for gay marriage. A (-) indicates their presence as well.

ERA signifies an equal rights amendment regarding gender is part of the state's constitution.

A marriage validation statute is a state law indicating that marriages legally constituted in another state, but not conforming to the laws of the state in question, are nonetheless considered valid. This law is not absolute. If such a validation would, in the court's (or first, in the state's) view contravene a "basic public policy," such marriages can under common law still be held invalid. (See also marriage evasion statute—below.)

In the sodomy law column, (-*) indicates that the law applies only to gay sex. (***) indicates that a sodomy law is still technically on the books, but has been effectively rendered unenforceable, at least as private sex is concerned. Consult statutes and case histories for these states.

An anti-gay marriage law is a law, often part of the marriage statute itself, which explicitly states that marriage can be entered into only by one man and one woman, and/or specifically forbids same-sex marriage (these latter are marked ****).

A marriage evasion statute is a law which says that if a couple has gone to another state in order to obtain a marriage, because that marriage would have been invalid in their home state (the state in question), that marriage is (still) invalid in their home state. This law trumps marriage validation statutes in the states which have both. (See above.)

Source: Forum on the Right to Marriage
227 Chelsea Street
East Boston, MA 02128

Appendix F-1

B. APA POLICY STATEMENTS ON LESBIAN AND GAY ISSUES

APA Policy Statements on Lesbian and Gay Issues

Discrimination Against Homosexuals

At its January 1975 meeting, Council [Ed. note: The Council of Representatives, the governing body of the American Psychological Association] adopted a statement of policy regarding homosexuals, recommended by BSERP [Ed. note: The Board of Social and Ethical Responsibility for Psychology, a Standing Board provided by the American Psychological Association's Bylaws] and amended by the Board of Directors and Council, and adapted from a statement adopted by the Association of Gay Psychologists Caucus Meeting in New Orleans in September 1974. Further, Council voted that the Association's Statement of Policy regarding Equal Employment Opportunity be amended to include sexual orientation among the prohibited discriminations listed in the statement. Following is the Policy Statement regarding Discrimination against Homosexuals:

1. The American Psychological Association supports the action taken on December 15, 1973, by the American Psychiatric Association, removing homosexuality from that Association's official list of mental disorders. The American Psychological Association therefore adopts the following resolution:

Homosexuality per se implies no impairment in judgement, stability, reliability, or general social and vocational capabilities:

Further, the American Psychological Association urges all mental health professionals to take the lead in removing the stigma of mental illness that has long been associated with homosexual orientations.

2. Regarding discrimination against homosexuals, the American Psychological Association adopts the following resolution concerning their civil and legal rights:

The American Psychological Association deplores all public and private discrimination in such areas as employment, housing, public accommodation, and licensing against those who engage in or have engaged in homosexual activities and declares that no burden of proof of such judgement, capacity, or reliability shall be placed upon these individuals greater than that imposed on any other persons. Further, the American Psychological Association supports and urges the enactment of civil rights legislation at the local, and state and federal level that would offer citizens who engage in acts of homosexuality the same protections now guaranteed to others on the basis of race, creed, color, etc. Further, the American Psychological Association supports and urges the repeal of all discriminatory legislation singling out homosexual acts by consenting adults in private. (Conger, 1975, p. 633)

Appendix F-1

C. SELECTED QUOTATIONS

"The deletion of homosexuality from the *Diagnostic and Statistical Manual* of the American Psychiatric Association in 1980 marked a dramatic reversal of the judgment that homosexuality is a behavioral disorder. In the practice of medicine, especially psychiatry, it is important to distinguish between that which is abnormal and that which is not."

--Richard C. Friedman, M.D. and Jennifer I. Downey, M.D., "Homosexuality," *New England Journal of Medicine*, October 6, 1994, Volume 331, No. 14, pg. 923.

"The literature on children of lesbian mothers indicates no adverse effects of a homosexual orientation, as evidenced by psychiatric symptoms, peer relationships, and overall functioning of the offspring. The frequency of a homosexual orientation has not been greater in such children than in children of heterosexual mothers. The data on children of gay fathers is more scant. No evidence has emerged, however, to indicate an adverse effect of sexual orientation on the quality of fathering. Enough information has accumulated to warrant the recommendation that sexual orientation should not in itself be the basis for psychiatric and legal decisions about parenting or planned parenting."

--Richard C. Friedman, M.D. and Jennifer I. Downey, M.D., "Homosexuality," *New England Journal of Medicine*, October 6, 1994, Volume 331, No. 14, pg. 927.

"Patients who seek a change in their sexual orientation are diverse with respect to sexual attitudes, values, and psychopathological features. Some are motivated by homophobia, and the wish to change subsides as this is addressed. Others reject their homosexual orientation for other reasons, often religious. Sometimes the incompatibility between sexual desires and personal values cannot be resolved by therapeutic interventions."

--Richard C. Friedman, M.D. and Jennifer I. Downey, M.D., "Homosexuality," *New England Journal of Medicine*, October 6, 1994, Volume 331, No. 14, pg. 927.

"There are no data from scientific studies to justify the unequal treatment of homosexual people or their exclusion from any group."

--Richard C. Friedman, M.D. and Jennifer I. Downey, M.D., "Homosexuality," *New England Journal of Medicine*, October 6, 1994, Volume 331, No. 14, pg. 928.

"One of the justifications presented for strong anti-gay legislation in these states was the assertion that gays and lesbians are at particularly greater risk to sexually molest children. "Colorado for Family Values," a group lobbying to limit gay rights, asserted that people living a homosexual lifestyle were responsible for 50% of all child molestations..."

--"Atler disputes group's assertions about gays." *Denver Post*, Sept. 3, 1992, B5.

...In addition to noting the relationship to the child, we evaluated the information provided about the alleged perpetrators to determine if they were involved or had been involved in heterosexual relationships. Heterosexual relationships were documented for 237 (88%) of the alleged adult offenders. In 32 cases no "sexual identity" could be inferred from the pattern of relationships documented in the chart. In most of these cases, the person who

brought the child to the clinic was not personally acquainted with the alleged offender and had no knowledge of his or her habits or lifestyle.

--Jenny, MD, MBA, Carole; Thomas A. Roesler, MD; and Kimberly L. Poyer, MSW, "Are Children at Risk for Sexual Abuse by Homosexuals?" *Pediatrics*, Vol. 94, No. 1, July 1994.

"Community-based studies of adults indicate the typical perpetrator is likely to be a trusted person in the child's immediate network of family or friends, and rarely is childhood sexual abuse committed by strangers"

--Jenny, MD, MBA, Carole; Thomas A. Roesler, MD; and Kimberly L. Poyer, MSW, "Are Children at Risk for Sexual Abuse by Homosexuals?" *Pediatrics*, Vol. 94, No. 1, July 1994, citing Russel, D.E.H., "The incidence and prevalence of intrafamilial and extrafamilial sexual abuse of female children," *Child Abuse & Neglect*, 1983, 7:133-146.

"...a child's risk of being molested by his or her relative's heterosexual partner is over 100 times greater than by someone who might be identifiable as being homosexual, lesbian or bisexual."

--Jenny, MD, MBA, Carole; Thomas A. Roesler, MD; and Kimberly L. Poyer, MSW, "Are Children at Risk for Sexual Abuse by Homosexuals?" *Pediatrics*, Vol. 94, No. 1, July 1994.

"...no evidence is available from this data that children are at greater risk to be molested by identifiable homosexuals than by other adults. There is no support for the claim to the effect by groups advocating legislation limiting rights of homosexuals.

--Jenny, MD, MBA, Carole; Thomas A. Roesler, MD; and Kimberly L. Poyer, MSW, "Are Children at Risk for Sexual Abuse by Homosexuals?" *Pediatrics*, Vol. 94, No. 1, July 1994.

"If religious strictures are used to justify oppression by people who regularly disregard precepts of equal gravity from the same moral code, or if prohibitions which restrain a disliked minority are upheld in their most literal sense as absolutely inviolable while comparable precepts affecting the majority are relaxed or reinterpreted, one must suspect something other than religious belief as the motivating cause of the oppression."

--John Boswell, *Christianity, Social Tolerance, and Homosexuality*, Yale, 1980, pg. 7.

"There is a sense in which gay people were the first to introduce romantic love into the Christian system of thought, and following this, marriage as a result of romantic love rather than biological necessity. There is a great irony in the fact that in the 20th century gay people should therefore be made to feel that there is no place for them in that tradition..."

--The Fifth Annual Michael Harding Memorial Address: Rediscovering Gay History, by John Boswell, transcript by Gay Christian Movement, 1982, pg. 21.

"One might view these unions as 'imitative of' heterosexual marriage, but it would be more cautious to see them as modes of 'participating in' the majority culture."

--John Boswell, *Same-Sex Unions in Pre-Modern Europe*, Villard, 1994, pg. 82.

Karl Ulrichs, a German and probably the first gay political activist to ever live wrote in 1869 of the church's refusal to sanction gay marriage:

"That they have omitted doing this...is a sin of hitherto unsuspected significance for the Church, a sin whose burden falls upon the Church itself. It criticizes the [gay person] with: 'You fulfill your...Sexual orientation sinfully.' However, based upon that omission, he parries the entire criticism with: 'You, however, carry the guilt of not making it possible for me to do so without sin'."

--Karl Heinrich Ulrichs, trans. by Michael Lombardi-Nash, *The Riddle of "Man-Manly" Love*, 1994, pg. 563. (Originally published 1864-1879.)

Ulrichs again:

"But to call the blind cry of the masses: 'Punish the [homosexual's] 'awareness of the law' is nothing but a euphemism. Two hundred forty years ago they called out: 'Burn the sorcerer!' and at one time in Rome: 'Christians to the lions!' Would you call those the 'awareness of the law'? In London they once established a committee for the delivery of wood to the funeral piles 'to burn heretic'... Legislators should not subordinate themselves to such an awareness of the law... We have ministers of justice, not ministers of people's passions."

--Karl Heinrich Ulrichs, trans. by Michael Lombardi-Nash, *The Riddle of "Man-Manly" Love*, 1994, pg. 540. (Originally published 1864-1879.)

In his book, *A More Perfect Union: Why Straight America Must Stand Up for Gay Rights*, **Richard Mohr** recounts the following true, not atypical story:

"On their walk back from their neighborhood bar to the Victorian [house] which, over the years, they have lovingly restored, Warren and Mark stop along San Francisco's Polk Street to pick up milk for breakfast...Just for kicks, some wealthy teens from the valley drive into town to 'bust some fags.' Warren dips into a convenience store, while Mark has a smoke outside. As Mark turns to acknowledge Warren's return, he is hit across the back of the head with a baseball bat. Mark's blood and vomit splash across Warren's face. At San Francisco General, Mark is dead on arrival. Subsequently in 1987, a California appellate court holds that under no circumstance can a relationship between two homosexuals--however emotionally significant, stable, and exclusive--be legally considered a 'close relationship,' and so Warren is barred from bringing any suit against the bashers for negligently causing emotional distress, let alone for wrongful death."

--Richard Mohr, *A More Perfect Union: Why Straight America Must Stand Up for Gay Rights*, Beacon, 1994, pp. 33-34.

"They are married to each other in their own eyes, in God's eyes, in the eyes of their church and community--in every eye but the law's."

--Richard Mohr, *A More Perfect Union: Why Straight America Must Stand Up for Gay Rights*, Beacon, 1994, pp. 52-53.

"...in approaching the courts, gays need to acknowledge that there are some cases and moral causes that are advanced for the sake of such important values that they are causes and cases worth losing."

--Richard Mohr, *Gay Ideas: Outing and Other Controversies*, Beacon, 1992, pg. 86.

"I suggest that, for the foreseeable future, dignity rather than happiness or practicality ought to be the ideal and polestar of gay politics."

--Richard Mohr, *Gay Ideas: Outing and Other Controversies*, Beacon, 1992, pg. 94.

The legal philosopher **Ronald Dworkin** explained how ideas that many ideas once seen as radical will come to be seen as obviously true:

"They appeared in law school classrooms and law review articles, then as lawyers' arguments in particular cases at law, then as judicial arguments in dissenting opinions explaining why the majority opinion, reflecting the orthodoxy of the time, was unsatisfactory, then as the opinions of the majority in a growing number of cases, and then as propositions no longer mentioned because they went without saying."

--Ronald Dworkin, *Law's Empire*, Harvard University, 1986, pg. 137.

Legal philosopher **H.L.A. Hart**:

"No doubt it is true that if deviations from conventional sexual morality are tolerated by the law and come to be known, the conventional sexual morality might change in a permissive direction. But even if the conventional morality did so change, the society in question would not have been destroyed or 'subverted.' We should compare such a development not to the violent overthrow of government but to a peaceful Constitutional change in its form, consistent not only with the preservation of a society but with its advance."

--H.L.A. Har, *Law, Liberty, and Morality*, Stanford University, 1963, pg. 52.

Gay legal theorist **William Eskridge**:

"We are gender rebels because that role has been thrust upon us by oppressive dividing practices, including legal discriminations like the exclusion from marriage. If those dividing practices were to collapse, we might tend to meld back into society's mainstream, which does not inevitably strike me as baleful."

--William Eskridge, "A History of Same-Sex Marriage," *Virginia Law Review*, Vol. 79 (1993), pg. 1490.

In response to some gay activists who worry that marriage will somehow create a classes of "good" vs. "bad" gay men and lesbians:

"I am underwhelmed by this argument."

--William Eskridge, "A History of Same-Sex Marriage," *Virginia Law Review*, Vol. 79 (1993), pg. 1492.

In response to the charge that gay men have much more to gain from marriage than do lesbians, the gay legal philosopher William Eskridge responds: "Lesbians are often the plaintiffs in same-sex marriage lawsuits, and the overwhelming majority of same-sex couples who have actually obtained marriage licenses in the United States have been women, including women passing as men and lesbians of color."

--William Eskridge, "A History of Same-Sex Marriage," *Virginia Law Review*, Vol. 79 (1993), pg. 1492.

And finally:

"Once those repressed by dividing practices such as this one recognize that their isolation is unnecessary as well as hurtful, they resist it. And once they resist, there is hell to pay until the system relents, which it ought to do promptly."

--William Eskridge. "A History of Same-Sex Marriage," *Virginia Law Review*, Vol. 79 (1993), pg. 1507.

"THE "GAY ELITE" is a myth. A new University of Maryland study to be released today, found gay workers earn less than others in the same jobs. Gay men earn 11% to 27% less than heterosexual men of similar age, occupation, marital status and residence. Lesbians earn 5% to 14% less.

--Labor Letter, A Special News Report on People and Their Jobs in Offices, Fields and Factories, *The Wall Street Journal*, Aug. 16, 1994.

Appendix F-2

A. "NOT-SO-STRAIGHT NEWS"

THE GAY GENE

Not-so-straight news

"Reporting" on genetic research tells only half the story

BY CAL THOMAS

The "discovery" of "new evidence" of a "gay gene" was trumpeted on the front page of *The Washington Post* as a scientific breakthrough equivalent to a cure for cancer. But the story is another exercise in the uncritical "reporting" by most of the major media when it comes to homosexuality and an example of the loss of credibility the press suffers when it climbs into bed with an advocacy group.

The story quotes another "study" by Dean Hamer, a molecular biologist at the National Cancer Institute. One might ask

Press stories don't mention that Mr. Hamer was reassigned to other areas of research, such as smoking and cancer, after ethical questions arose. Or that co-researcher David Fulker told the *Chicago Tribune* on June 25, "If the second study were the first study, it wouldn't have been published. The second study is not strong enough [statistically] to stand on its own."

The *Post* story tells of researchers "confirming and [extending] ... the discovery that hereditary factors apparently predispose some men to homosexuality." But is it good science for scientists to confirm and extend their own original findings? Such findings must be confirmed by other scien-



At the gay journalists' meeting: Clinton adviser George Stephanopoulos, left, and Rep. Barney Frank.

why federal funds targeted for cancer research are being diverted for another purpose, but the *Post* doesn't.

The *Post* fails to mention that Mr. Hamer's widely trumpeted 1993 "gay gene" study is under investigation for alleged fraud by the federal Office of Research Integrity and that a colleague of Mr. Hamer has charged that Mr. Hamer selectively reported data in ways that enhanced the study's thesis. Nor does the press report on Mr. Hamer's own homosexuality, which might indicate to some readers that he has a bias in favor of discovering a biological cause for homosexual behavior.

tists. Mr. Hamer, who published his original conclusions in *Science* magazine, chose another publication, *Nature Genetics*, for his latest conclusions.

The *Post* notes that the second study, unlike the first, reports on a control group of heterosexual brothers, but downplays the fact that 22 percent of the non-gay brothers had the same genetic markers. If Mr. Hamer's conclusion is that genetic makeup determines homosexuality, why isn't this fifth of the sample of non-gay subjects gay? Mr. Hamer also has never explained why he did not include a heterosexual control group in his first study.

Not only is scientific integrity compromised in such studies, journalistic credibility is, too. Mr. Hamer once told a meeting of Parents and Friends of Lesbians and Gays, "If you tell the press what to write about a scientific study, they'll write it." He added that when he told the press that homosexuality is like being left-handed, it dutifully reported his analogy.

Why has most of the press become a shill for the gay rights movement? Fear is one answer. Most liberals don't want to be labeled "intolerant" and shy away from any moral code that doesn't support their political comfort level. But perhaps the main reason is that the establishment media have developed a relationship with the political objectives of gay-rights activism that has shamefully compromised their ability to report objectively and fairly on the issue.

Evidence of this compromise is everywhere, from the open recruitment of "gay journalists" to a convention of the National Lesbian and Gay Journalists Association meeting in Washington last month. A copy of the program shows that not only were representatives of major press organizations in attendance as participants, they also contributed substantially to the cost of the event. Their names were listed in the program.

The Washington Post contributed \$2,500 to the convention and underwrote a National Press Club awards reception. *The New York Times* kicked in \$5,000 and cosponsored (along with NBC News, an \$8,000 contributor) a luncheon with the Minority Journalism Association presidents.

Other mainstream media underwriters included Knight-Ridder (\$15,000), The Gannett Foundation (\$10,000), CBS News (\$7,500), the *Los Angeles Times* (\$5,000), ABC News Washington Bureau (\$3,000), Hearst Newspapers, and *The Miami Herald* (\$2,500 each).

Would anyone imagine such press giants making contributions to, or cavorting with, the Christian Coalition? Whatever happened to press ethics? Whatever happened to the arm's-length separation journalists were supposed to observe between themselves and the subjects they cover?

Never has it been more necessary for the public to analyze the information it receives from the media in order to determine whether it is truth or propaganda. Increasingly, when it comes to homosexuality, the press cannot be trusted. ☞

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Appendix F-2

B. ACLU PRESS RELEASE



P R E S S R E L E A S E

AMERICAN CIVIL LIBERTIES UNION OF HAWAII

FOR IMMEDIATE RELEASE October 27, 1993

Contact: Vanessa Y. Chong Executive Director (808) 545-1722

Post Office Box 3410 Honolulu, Hawaii 96801 T: 808-545-1722 F: 808-545-2993

COALITION FORMS TO SUPPORT SAME-SEX MARRIAGE AND OPPOSE STATE CONSTITUTIONAL AMENDMENT

President: Collin M. Fritz Vice President: Pamela G. Lichty Secretary: Patrick Toomae Treasurer: Pat M. Hammers National Representative: Roger W. Fonseca Executive Committee Member: A. Joris Welland

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Executive Director: Vanessa Y. Chong Assistant Director: Carl M. Varady Program Director: Bill Wilson

A coalition of community organizations went public today to announce their support of the same-sex marriage case and to oppose a movement for a state constitutional amendment.

The ACLU of Hawaii is coordinating the work of the Coalition. Executive Director Vanessa Chong said, "The Coalition formed to defend Hawai'i's unique and fundamental traditions of diversity, tolerance, acceptance of different cultures and lifestyle, and a commitment to equality."

The groups issued a joint statement (attached) and will be testifying at a hearing in Honolulu this Friday, October 29th, on same-sex marriage.

The House Judiciary Committee has been holding informational hearings state-wide since September. The turn out has been large. No legislation is being proposed, but some are calling for a state constitutional amendment.

The Coalition is especially urging all citizens to contact the House Judiciary Chair, Representative Terrance Tom.

"Every voice of reason counts. The case should get its full day in court. We're going to fight any attempt to subvert the judicial process", said Chong.

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Attachments: - Joint Statement - List of Organizations

Contributions to the ACLU of Hawaii Foundation are tax deductible to the extent permitted by law.

Appendix F-2

C. SELECTED QUOTATIONS

"Approximately thirty per cent of male homosexuals who come to psychotherapy for any reason (not just for help with their sexual preference) can be converted to the heterosexual adaptation.

--Ruth Tiffany Barnhouse, *Homosexuality: A Symbolic Confusion* (New York: The Seabury Press), 1977, pg. 97.

In 1952, Dr. Irving Bieber supervised a nine-year project studying male homosexuality. There were 77 members of the Society of Medical Psychoanalysts who supplied information on two patient samples--106 homosexual males and 100 heterosexual males. The outcome? "Of 106 homosexuals who undertook psychoanalysis... 29 (27 percent) became exclusively heterosexual..."

--Dr. Irving Bieber, *Homosexuality: A Psychoanalytic Study* (New York: Basic Books), 1962, pg. 301.

"During a ten-year period, from 1967 to 1977, I have treated psychoanalytically 55 overt homosexuals.... One can report... that the forty-four overt homosexuals who have undergone psychoanalytic therapy, twenty patients, nearly 50 percent, developed full heterosexual functioning and were able to develop love feelings for their heterosexual partners."

--Charles W. Socarides, M.D., *Homosexuality* (New York: Jason Aronson), 1978, pp. 405-406.

"Five years after publishing our study, a follow-up of patients showed that the one-third whose adaptation had shifted to heterosexuality remained so. And we have personally followed some patients for as long as 20 years who remained exclusively heterosexual."

--Morey, Tom, Committee to Study Homosexuality of the United Methodist Church, General Conference of Ministries, Chicago Meeting on the Sciences, August 1990, pg. 19.

"About eighty percent of homosexual men and women in Syntonic Therapy have been able to free themselves and achieve a healthy and satisfying heterosexual adjustment... These individuals were selected as follows: (1) They were not psychotic and they had the ability to work and function as self-supporting people. (2) They were not psychopathic and they had the ability to experience the emotions of fear and guilt and to be aware that they were not fulfilling their human potential. (3) They came to therapy for themselves, and not to please someone else. (4) They were able to direct their aggression therapeutically and were able to learn to work with themselves, between sessions, when in anxiety or panic states, rather than act out their problem homosexually. (5) They were strongly enough motivated to go through the inevitable rough spots of change without quitting, staying till they had resolved their problems."

--Robert Kronmeyer, *Overcoming Homosexuality* (New York: Macmillan Publishing Company, Inc.), 1908, pg. 135.

"Recently I have worked with seven male homosexuals and three lesbians. The outcome of the therapy of these ten patients has been a successful reorientation in their sexual practices to heterosexuality in seven cases... In evaluating these patients, I found that the classification or the degree of homosexuality was not a factor in the effectiveness of the therapy."

--Dr. William pg. Wilson, *What You Should Know About Homosexuality*, edited by Charles W. Keysor (Grand Rapids: Zondervan Publishing House), 1979, pg. 164.

Masters and Johnson worked with sixty-seven male homosexuals and fourteen lesbians who asked for conversion or reversion therapy to heterosexuality and said their failure rate was 28.4% after a follow-up of six years (pg. 402)... In treating sexual dysfunction in heterosexuals their failure rate was 20%. (pg. 408)

--William H. Masters and Virginia E. Johnson, *Homosexuality in Perspective* (Boston: Little, Brown and Company), 1979, pgs. 402 and 408.

"...Homosexuality has a 30 to 50 per cent chance of reversing with psychiatric treatment." (pg. 519)

"...Combined therapy with homogeneous groups has been... the treatment of choice.... The rate of recovery among the homosexuals treated in these groups is 49 per cent." (pg. 532)

--Dr. Toby Bieber, "Group Therapy with Homosexuals," *Comprehensive Group Psychotherapy*, edited by Harold I. Kaplan and Benjamin J. Saddock (Baltimore: The Williams and Wilkins Company), 1971.

Eleven men, ages 21 through 35, claimed they changed their sexual orientation "from exclusive and active homosexuality to exclusive heterosexuality through participation in a Pentecostal church fellowship. None of these men had ever sought professional treatment for their psychiatric reasons or for their homosexuality. The church had a crisis service for homosexuals which gave these men 'a welcome reception as homosexuals. No attempt was made to make them change their homosexuality. Rather, they were presented with the invitation to commit their life to Christ and the church. All subjects had an explicit Christian conversion or rededication. They were then invited into small church groups where they studied the Bible and learned expected Biblical patterns of mature lifestyle. This included an expectation to engage in loving, nonerotic relationships with both men and women in the fellowship groups.'" (pg. 1558)

"None of the subjects claimed a miraculous deliverance but rather 'the gradual diminution of their homosexual drives...'" (pg. 1555) Supervisor of the study, Dr. E. Mansell Pattison stated "that 8 of our 11 subjects amply demonstrated a 'cure.' The remaining 3 subjects had a major behavioral and intrapsychic shift to heterosexual behavior, but the persistence of homosexual impulses was still significant." (pg. 1560)

"Thus, all subjects in our sample demonstrated a strikingly profound shift in sexual orientation." (pg. 1555)

"The evidence suggest that cognitive change occurs first, followed by behavioral change, and finally intrapsychic resolution." (pg. 1562)

--E. Mansel Pattison and Myrna Loy Pattison, "'Ex-Gays': Religiously Mediated Change in Homosexuals," *American Journal of Psychiatry*, December 1980.

Psychologist Dr. Gerald van den Aardweg has counselled homosexuals for more than 20 years. In an extensive analysis of the 101 homosexual men he's worked with, he said, "Of those who continued treatment--60 percent of the total group--about two-thirds reached at least a satisfactory state of affairs for a long period of time, By this is meant that the homosexual feelings had been reduced to occasional impulses at most while the sexual orientation had turned predominantly heterosexual, or that the homosexual feelings were completely absent, with or without predominance of heterosexual interests. Of this group, however, about one-third could be regarded as having been changed 'radically.' By interests this is meant that they did not have any more homosexual interests but had normal heterosexual feelings..." (pgs. 105-106)

"These results are still far from perfect, but... the radically changed cases--from complete homosexuality to normal heterosexuality--refute the theory that therapy of homosexuality is pointless...." (pg. 107)

--Gerald van den Aardweg, *Homosexuality and Hope: A Psychologist Talks About Treatment and Change* (Ann Arbor: Servant Books), 1986.

Dr. Edmund Bergler (graduated from Vienna's Medical School; served on staff at Freud Clinic from 1927-1937).

"In nearly thirty years, I have successfully concluded analyses of one hundred homosexuals... and have seen nearly five hundred cases in consultation... On the basis of the experience thus gathered, I make the positive statement that homosexuality has an excellent prognosis in psychiatric-psychoanalytic treatment of one to two years' duration, with a minimum of three appointments each week--provided the patient really wishes to change." (pg. 176)

"...And cure denotes not bisexuality, but real and unfaked heterosexuality." (pg. 279)
...The color of a person's eyes cannot be changed therapeutically, but homosexuality can be changed by psychotherapy." (pg. 166).

--*Homosexuality: Disease or Way of Life* (New York: Collier Books), 1962.

Dr. Bernard Berkowitz, Mildred Newman and Jean Owen (Berkowitz got his Ph.D. from New York University. Newman graduated from Hunter College; she trained with Theodore Reik; she completed analytic training at the National Psychological Association for Psychoanalysis.)

"Analysts once thought they had little chance of changing homosexuals' preferences and had little success in that direction. But some refused to accept that and kept working with them, and we've found that a homosexual who really wants to change has a very good chance of doing so. Now we're hearing all kinds of success stories."

--*How to be Your Own Best Friend* (New York: Lark Publishing Company), 1971, pp. 22-23.

Dr. Toby B. Bieber (Ph.D. from Columbia University; lecturer in psychology at New York University; clinical instructor in psychiatry at New York Medical College).

"Few, if any, homosexuals are satisfied with their condition, whether or not this is consciously admitted. Those who cling to their homosexual orientation and avoid contemplating possibilities for change are, by and large, chronically depressed, although

episodes of gloom and despair may be rationalized to other situations. Strident public declarations about happy homosexuality are evidence of denial mechanisms...."

--*Comprehensive Group Psychotherapy*, edited by Harold I. Kaplan and Benjamin J. Saddock (Baltimore: the Williams and Wilkins Company), 1971, pg. 521.

Dr. Anna Freud (studied with her father Sigmund Freud)

In 1950, Dr. Anna Freud, "lectured in New York on the recent advances in treatment of homosexuals, stating that many of her patients lost their inversion as a result of analysis. This occurred even in those who had proclaimed their wish to remain homosexual when entering treatment, having started only to obtain relief from their homosexual symptoms."

--Dr. Charles Socarides, "Homosexuality," *American Handbook of Psychiatry*, 2nd edition, Vol. 3 (New York: Basic Books, Inc.), 1974, pg. 308.

Dr. Samuel Hadden (was associate professor of Psychiatry at University of Pennsylvania Medical School; pioneered use of group therapy in helping homosexuals).

"While there is little doubt that the homosexual is difficult to treat and is prone to break off treatment...if psychotherapists themselves come to adopt a less pessimistic attitude and view homosexuality simply as a pattern of maladaptation, greater numbers of such patients will be significantly helped."

--Samuel B. Hadden, "Treatment of Male Homosexuals in Groups," *The International Journal of Group Psychotherapy*, XVI, No. 1, Jan. 1966, pg. 14.

In another article, Dr. Hadden states that not all mental health professionals are actually qualified to help the homosexual. For treatment to be successful, "a vital factor... is the therapist's attitude toward a particular disorder and those afflicted by it. If, for example, he feels that some aberrations cannot be successfully treated or feels any distaste for treating the condition, he will communicate his pessimism and dislike to the patient and failure is almost inevitable."

--"A Way Out for Homosexuals," *Harper's Magazine*, March 1967, pg. 107.

Dr. Lawrence J. Hatterer (M.D. from Columbia Medical School; basic psychiatric training at New York Medical College; served as Associate Clinical Professor of Psychiatry at Cornell Medical School).

"Over the past seventeen years I have evaluated 710 males troubled and untroubled by a vast spectrum of homosexually fantasy, impulse, act, and milieu. Since 1953 I have successfully and unsuccessfully treated well over 200 of them.... I have also collected two to fifteen year follow-ups on some patients. Of this group, forty-nine patients recovered, nineteen partially recovered, seventy-six remained homosexual." (pgs. vii, viii)

"...Other therapists who have specialized in research and treatment of men troubled by homosexuality reported 23 per cent to 28 per cent of the motivated patients totally capable of a heterosexual readaptation. (pg. 94)

"...I've heard of hundreds of other men who went from a homosexual to a heterosexual adjustment on their own. (pg. 138)

"...A large undisclosed population has melted into heterosexual society, persons who behaved homosexuality in late adolescence and early adulthood, and who, on their own, resolved their conflicts and abandoned such behavior to go on to successful marriages or to bisexual patterns of adaptation. (pg. 14)

--*Changing Homosexuality in the Male* (New York: McGraw-Hill Book Company), 1970.

Dr. Arthur Janov (psychologist and psychiatric social worker at Los Angeles Children's Hospital; consultant to California Narcotic Outpatient Program; developed Primal Scream program.)

"I do not believe that there is a basic genetic homosexual tendency in man. If this were true, the cured patient would still have his homosexual needs, which he does not. (pg. 328)

"The homosexual act is not a sexual one. It is based on the denial of real sexuality and the acting out symbolically through sex of a need for love.... The homosexual has usually eroticized his need so that he appears to be highly sexed. Bereft of his sexual fix, his lover, he is like an addict without his connection; without his lover, he is in the pain that is always there but which is drained off sexually. But sex is not his goal--love is. (pg. 322)

"I have found that homosexual habits that have persisted for years have faded away in the face of reality." (pg. 322)

--*The Primal Scream* (New York: Dell Publishing Company), 1970.

Dr. Jeffrey Keefe (Ph.D. in psychology from Fordham University; interned at Bellevue Psychiatric Hospital; worked at Staten Island Mental Health, St. Vincent Medical Center; taught at Notre Dame).

"Can homosexuals change their orientation? The fact, reported in the literature, proves the possibility. I have seen some homosexuals in treatment--and have met more former homosexuals (including those who were exclusively so)--who now respond physically and emotionally as heterosexuals in successful marriages. Movement toward the heterosexual end of the Kinsey scale ordinarily requires strong motivation on the client's part, a skilled therapist, and unfortunately more often than not, financial resources...."

--Father John F. Harvey, *The Homosexual Person: New Thinking in Pastoral Care* (San Francisco: Ignatius Press), 1987, pg. 76.

Dr. Judd Marmor (M.D. from Columbia University; served as resident neurologist at Montefiore Hospital; president of the American Psychiatric Association; president of American Academy of Psychoanalysis).

"The myth that homosexuality is untreatable still has wide currency among the public at large and among homosexuals themselves...."

"There is little doubt that a genuine shift in preferential sex object choice can and does take place in somewhere between 20 and 50 per cent of patients with homosexual behavior who seek psychotherapy with this end in mind. The single most important prerequisite to reversibility is a powerful motivation to achieve such a change."

"Although some gay liberationists argue that it would be preferable to help these persons accept their homosexuality, this writer is of the opinion that, if they wish to change, they deserve the opportunity to try, with all the help that psychiatry can give them...."

--"Homosexuality and Sexual Orientation Disturbances," *Comprehensive Textbook of Psychiatry II*, second edition, edited by Alfred M. Freedman, Harold I Kaplan, and Benjamin J. Saddock (Baltimore: The Williams & Wilkins Company), 1975, pg. 1519.

Masters and Johnson (Dr. William H. Masters--M.D. from University of Rochester; served as Professor of Clinical Obstetrics and Gynecology for the School of Medicine of Washington University, Director of the Reproductive Biological Research Foundation and Co-director and Chairman of the Board of the Masters and Johnson Institute. Virginia E. Johnson studied at University of Missouri; Research Director of the Reproductive Biological Research Foundation; Co-director of the Masters and Johnson Institute).

"No longer should the qualified psychotherapist avoid the responsibility of either accepting the homosexual client in treatment...or referring him or her to an acceptable treatment source."

Dr. E. Mansell Pattison (studied at University of Oregon and University of Cincinnati; worked for the National Institutes of Mental Health; taught at Georgetown University, University of Washington, The University of California at Irvine and the Department of Psychiatry and Human Behavior of the Medical College of Georgia in Augusta).

Dr. Charles W. Socarides, M.D. (Clinical Professor of Psychiatry at Albert Einstein College of Medicine; in 1995 received Distinguished Professor award from the Association of Psychoanalytic Psychologists, British Health Service; current President of National Association of Research and Therapy of Homosexuality [N.A.R.T.H.]

"Even the most serious cases of homosexuality will yield to therapy if the patient seeks therapy when he feels severely distressed about being homosexual, not only because of guilt or shame but because he finds his homosexual life meaningless... (pg. 418)

"There is at present sufficient evidence that in a majority of cases homosexuality can be successfully treated by psychoanalysis... (pg. 3)

"While I can minimize neither the hard work and resoluteness required of the psychoanalyst in treating this serious disorder, nor the courage and endurance required of the patient, a successful resolution brings reward fully commensurate with their labors." (pg. 6)

--*Homosexuality* (New York: Jason Aronson), 1978.

Dr. William pg. Wilson (M.D. from Duke University; served as president of the Southern Psychiatric Association; chairman of the nuerology/psychiatry section of the American Medical Association).

"Treatment using dynamic individual psychotherapy, group therapy, aversion therapy, or psychotherapy with an integration of Christian principles will produce object-choice reorientation and successful heterosexual relationships in a high percentage of persons.... Homosexuals can change their orientation."

--*What You Should Know About Homosexuality*, edited by Charles W. Keysor (Grand Rapids: Zondervan Publishing House), 1979, pg. 167.

Appendix G

SURVEY OF PUBLIC OPINION POLLS

Polls show Americans often initially resent equal rights being extended to people, but that this opposition recedes in time. Also, in some cases of equal rights, many Americans may report private opposition towards some group of people, but Americans will also often stand up for making sure the government treats everyone equally.

For example, in 1954 the States of Georgia, Louisiana, Mississippi, and South Carolina voted, sometimes by more than two-to-one margins of the voters, to amend their constitutions to allow for selling off all of the public schools so that the schools could be privatized, or other schemes, to permit school desegregation to continue after the Federal Brown v. Board of Education case (see the New York Times, December 22, 1954, page 1). Even in the northern state of Delaware, a poll indicated over 98% opposed school integration (New York Times, November 23, 1954, page 49). Yet, over time, these numbers and hard feelings have declined.

A high level of national disapproval exists in polling data against gays and lesbians, with polls showing a disapproval rate of 50% to 77%, depending on how the poll was phrased (see Susan Hibbard's 1994 survey of polls, page 2); see also the Commission minority's selective poll results included later in this appendix.. At the same time, approximately three-quarters of Americans feel that gays and lesbians should have equal employment rights, and a typical response is that "homosexuality is wrong, but it should be legal" (Hibbard, page 2).

For example, in a February 3, 1994, Hawaii poll, the Honolulu Star-Bulletin reported that "52 percent said allowing gays and lesbians to legally wed would make no difference in Hawaii's image" (page A-1). In a national poll released by People for the American Way, 62 percent said intolerance and discrimination against lesbian and gay people is a serious problem, and 65 percent said "the government should not concern itself with the morality of private activity, such as sexual orientation." Likewise, a poll conducted for the U.S. News and World Report found that two-thirds of voters favor ensuring equal rights for gay people and preventing discrimination against gays, with a majority of every demographic subgroup supporting the idea -- including those who voted for Clinton, Bush and Perot (from Humans Rights Campaign Fund report of national polls).

Likewise, a 1994 poll by the Public Agenda Foundation found that 61 percent of Americans believe it is appropriate for public schools to teach "respect for people who are homosexual" (as reported in the Washington Blade, October 21, 1994).

People are concerned about discrimination because they believe that gays and lesbians are being discriminated against. A 1992 national poll found that 93% said that homosexuals face discrimination and prejudice, with only 4% saying they experienced no discrimination. In a 1993 New York state survey of eight Republican state senate districts found that a minimum of two-thirds of voters, of every age group, political party, ideology and gender, answered yes when asked if gays and lesbians face discrimination (Hibbard, page 5).

Americans respect civil rights. From the days of opposition to African-Americans in the 1950s, Americans today have moved to a general approval of basic human rights for all citizens. For example, while polls show a majority personally opposed to homosexuality in 1993, 42%-53% of various polls agreed that the laws which protect the human and civil rights for other minorities (e.g., racial and religious minorities, some polls included women) should

be extended to include gay men and lesbians. A 1993 poll for the Times Mirror publishing company found that 83% felt that "protecting the rights of gays and lesbians" was either somewhat, very, or critically important (Hibbard, page 8).

Whether someone wanted the government to discriminate against gays and lesbians had a lot to do with the person's gender, age, education level, and acquaintance with lesbians and gays. Women, younger adults, people with higher educations, and those who know gay friends or family members all tend to oppose discrimination more strongly and are more likely to support legislation assisting gays and lesbians (Hibbard, page 1).

A 1993 New York Times/CBS poll asked if homosexuality was "an acceptable alternative lifestyle or not?" Those that found it a more acceptable lifestyle included those 18-44 years old, women, and those with some college (or college graduates). Those over 44 years old, men, and those with high school (or less) education found homosexuality more of an unacceptable lifestyle (Hibbard, page 17).

A 1992 poll of Colorado, which was then considering an anti-gay initiative on its ballot, also found that the strongest support for the anti-gay effort came from persons over 44 years old, men, and those with high school (or less) education. Support for gay rights came particularly from those 35-44 years old, women, and those with a college degree (Hibbard, page 17). A follow-up Colorado poll in 1993 had similar results. Those in favor of governmental discrimination against gays and lesbians were primarily those over 65 years old, men, those with high school or less education. The poll also found that Republicans and Whites tended to be against gay rights. On the other hand, those against the discrimination were primarily those 25-44 years old, women, college-graduates, Democrats, and non-whites (Hibbard, page 17).

In 1992 Oregon also considered an initiative that would discriminate against gays and lesbians. Those more in favor again tended to be older folks, men, and Republicans. Those most strongly against the discrimination were those 18-44 years old, women, Democrats and Independents (Hibbard, page 17).

FIVE HAWAII POLLS ON LEGALIZING SAME-SEX "MARRIAGE"

QUESTION	RESULTS	MARGIN OF ERROR	WHO	POLL		DATE / SOURCE
Should gay couples be allowed to marry?	YES—34% NO—49% NOT SURE 17%	4.9%	425 registered voters	Political Media Research	Star-Bulletin KGMB-Ch.9	April 3-7, 1991 Star-Bulletin 4/24/91
Do you favor or oppose gay marriages in Hawaii?	FAVOR— 30% OPPOSE— 61% UNSURE— 9%	5%	419 registered voters	Political Media Research	Star-Bulletin	June 4-7, 1993 Star-Bulletin 6/19/93
Do you approve or disapprove of a proposed legislative bill legalizing same-sex marriages?	APPROVE—31% DISAPPROVE- 58% UNSURE—11%	5%	423 registered voters	Political Media Research	Star-Bulletin	Oct. 21-23, 1993 Star-Bulletin 11/6/93
Should same-sex couples be allowed to marry in Hawaii?	YES—25% NO—67% DONT KNOW 8%	4%	605 Hawaii residents	SMS Research/ Marketing Services Inc.	Honolulu Advertiser/ KHON-Ch.2	Feb. 12-17, 1994 Advertiser 2/28/94
Should Hawaii allow two people of the same sex to get married?	YES—24% NO—68% DONT KNOW OR REFUSED 8%	3.5%	800 Hawaii residents	SMS Research/ Marketing Services Inc.	Honolulu Advertiser/ KHON-Ch.2	July 19-29, 1994 Advertiser 8/4/94

Appendix H

WRITTEN COMMUNICATIONS BETWEEN COMMISSIONERS

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Commission on Sexual Orientation and the Law
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Phone: (808) 587-0666; Facsimile: (808) 587-0681

Thomas P. Gill, Chairperson
Lloyd James Hochberg, Jr.
Robert H. Stauffer


Morgan Britt
Nanci Kreidman

L. Ku'umeaaloha Gomes
Marie A. "Toni" Sheldon

August 31, 1995

MEMORANDUM

TO: Members, Commission on Sexual Orientation and the Law

FROM: Thomas P. Gill 
Chairman

SUBJECT: Introductory Material for Distribution

Enclosed is a list of items being distributed to members of the Commission so that we can familiarize ourselves with some of the issues and points of view we will need to consider. The items include:

1. The *Baehr v. Lewin* decision. 74 Haw. 530 (1993). Note highlighted portions on pages 560 and 561 regarding rights and benefits effected.
2. The Attorney General's letter dated May 15, 1995 regarding Chapter 92 (Sunshine Law) as it relates to casual meetings of members of the Commission.
3. The Interim Report of the prior Commission. (A more complete version of Appendix B should be available by the first meeting.)
4. The enabling act of the Commission, Act 5, Session Laws of Hawaii 1995, and related committee reports.
5. The enabling act of the prior commission, Act 217, Session Laws of Hawaii 1994.
6. August 1995 Special Report of the Spectrum Institute "Legalization of Same-Sex Marriage is Sure Bet in Hawaii--Or is it?"
7. *McGivern v. Waihee*, January 13, 1995, court order invalidating participation of four members of the prior commission.
8. The New Mexico "gender neutral" marriage law (N.M. Stat. Ann. Sec. 40.1.1) along with some subsequent sections and annotations.
9. An article from the *Hawaii Bar Journal* (February 1995) discussing some of the issues in opposition to same-sex marriage.

10. "God's Way", an unsolicited statement received from Evangelist C.F. Woodard.
11. An analysis of Domestic Partnership ordinances in existence (Special Report, Spectrum Institute).
12. Possible draft legislation for a Domestic Partnership law in Hawaii.
13. Official notice and agenda for September 13, 1995 meeting.

A proposed meeting schedule of once every two weeks will be discussed at the first meeting. Meeting days and times will be arranged to accommodate each commission member's schedule. Schedules may be modified in the future as needed.

If you have any material that you would like to distribute to the Commission at its first meeting, please contact Pamela Martin at 587-0666.

Thank you for responding to our letter of August 21st. It appears that the meeting date and place was agreeable to all members. The meeting will be held at 10:00 a.m., Wednesday, September 13, 1995, in the State Office Tower, Senate Caucus Room, 6th Floor. A parking permit for the meters at Iolani Palace on the Capitol side is enclosed. Be sure to display the permit on your dashboard.

TPG:mm
Enclosures



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Thomas P. Gill, Chairperson
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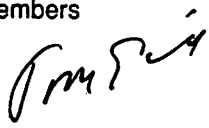
Morgan Britt
Nanci Kreidman

L. Ku'umeaaloha Gomes
Marie A. "Toni" Sheldon

October 2, 1995

MEMORANDUM

TO: Commission Members

FROM: Thomas P. Gill
Chairperson 

SUBJECT: Procedure for Inviting Witnesses to Testify

It would seem, based on our meeting of September 27, that it would be helpful to all of us to have a more orderly procedure for inviting witnesses to testify. I have these suggestions:

The next meeting on October 11 will, after voting on the matters considered at the last meeting, hear testimony on the second item in Section 3 of Act 5: "Examine the substantial public policy reasons to extend or not to extend such benefits in part or in total to same-sex couples;". We need as wide a range of testimony as we can get, particularly from local organizations, churches or religious groups which could be affected by or have positions on the extension of such benefits. Since, at this point, public participation in the hearings has been quite limited I hope each member will help to expand our list of "invited guests". As indicated in our last agenda we have made some contacts and others are being pursued. We would appreciate having the names and affiliations of persons who are willing to appear submitted to the LRB by Friday, the 6th, so they can be circulated to the commission members before the 11th. If a person cannot appear on the 11th, we can hold time at the following meeting on October 25.

There are two categories where we need assistance: (1) trust officers or others in the private sector who administer health, retirement, or other funds which might be affected by the extension of such benefits; and (2) churches or religious groups which oppose, or are likely to oppose such extension of benefits. Since Commissioner Hochberg has expressed an interest in item (1) and through his connection with the Rutherford Institute and the Episcopal Church could have access to organizations covered in item (2), I would strongly suggest that he help us with names of witnesses who are willing to testify. We will also reserve a space for Mr. Makuakane who did not appear at the last meeting. We will also continue our efforts to find such witnesses. Please call Ms. Martin if you need information.

The suggestion was made that we find witnesses from, or hold hearings on the neighbor islands. Our time and funding limitations do not permit hearings off island, but if any of you have witnesses from other islands who are willing to appear at our meetings, please let Ms. Martin know at once.

Also, we expect to submit to you, before the next meeting, a draft of proposed findings based on the research and the testimony submitted regarding the "major legal and economic benefits" considered to date. It would be helpful if proposed amendments or alternate findings were reduced to writing for consideration by commission members on October 11. Thank you for your assistance.



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Marie A. "Toni" Sheldon

October 9, 1995

MEMORANDUM

TO: Commission Members

FROM: Thomas P. Gill
Chairperson *TMS*

SUBJECT: Decision Making, October 11 Meeting

Our Agenda for the third meeting to be held this coming Wednesday, October 11, states, as to the first part of the meeting, that we will "...vote on the 'major legal and economic benefits extended to married opposite-sex couples, but not to same-sex couples.'"

I am suggesting that this vote be limited to the general concepts covered so far, including acceptance of the LRB list of such benefits prepared under instructions from the last commission. A resolution to this end is included for your consideration.

The LRB, and the members of the Commission, have also received a number of draft motions prepared by Dr. Stauffer relating to specific benefits being identified. The motions are lengthy and quite detailed and will no doubt be of assistance in the drafting of the Commission's report. However, our current schedule provides that our fifth meeting on November 8 will include discussion of the contents of the draft report, and receiving public testimony on it. I suggest it would be appropriate to include these current motions, and any other suggestions by Commission members, in that November 8 discussion.

Also please note that at the coming meeting on October 11, one of our members, Ms. Kreidman, will not be able to be present, and under current rules will not be able to vote by proxy. It will be more productive, as well as fair to allow her to review the various suggestions and vote when the time comes.

Any of you who have language or items you would like to see included in the Commission's report, whether it will be a majority or minority position, should draft and circulate this material as soon as possible so it can be fully considered at the November 8th and subsequent meetings.

Thank you for your assistance.

JAMES HOCHBERG
1188 Bishop Street, Suite 1610
Honolulu, Hawaii 96813
(808) 536-1777; FAX 528-3631

October 10, 1995

Thomas P. Gill, Esq.
Chairman, Commission on Sexual
Orientation and the Law
Legislative Reference Bureau
1177 Alakea Street, 6th Floor
Honolulu, Hawaii 96813

Re: Objections to proposed procedure for October 11,
 1995 Commission meeting

Dear Mr. Gill:

As a member of the Commission on Sexual Orientation and the Law, I am concerned about your proposed procedure for the October 11, 1995 meeting. It is important to me that the Commission conduct its work with the openness required of our Commission by law, with intellectual honesty in performing our function, and with unbiased inquiry into the issues we have been charged with examining. For the reasons stated in this letter, I suggest that rather than rush to a vote on the "major legal and economic benefits", that the Commission take the time to evaluate the items on the list provided by the Legislative Reference Bureau and vote after we discuss the various items. Otherwise, our motives appear suspect. The Commission clearly is staffed with a majority of Commissioners who favor extending marriage rights to homosexuals, although the balance of interests on the Commission do not correlate to the balance of interests on these issues in the community. As Commissioners, we are charged with performing this function on behalf of the entire community and not solely the homosexual activists.

Specifically, my objections are based on the following:

1. The Commission has not discussed nor analyzed the 15 page listing of statute sections which the Legislative Reference Bureau attorney collected.
2. We have not considered or determined whether there are any errors in the list due to the author's interpretation, which may differ from ours.
3. The author's work was based upon the 1994 Commission's instructions from the legislature to examine the "precise"

legal and economic benefits which accrue to married couples. However, our Commission has been instructed to examine only the "major" legal and economic benefits accruing to married couples. The difference is important as is evidenced by the definition utilized by the first Commission, namely: to find every statute that contains "anything contributing to an improvement in condition or an advantage that a married couple would have as a result of holding the status 'spouse', 'family' that would not be offered to a same-gendered couple even though they had the same commitments to each other as a married couple." That broad definition does not address the call to examine the "major" legal and economic benefits. Consequently, the 15 page list of statutes must be rejected since it is based on the prior Commission's definition. The Commission should evaluate the statutes to determine which create "major" legal and economic benefits.

4. At every meeting, I have asked the Commission to define "major" legal and economic benefits to enable us to properly evaluate that list of statutes. First you, then the majority of the Commission refused to do so. It is a travesty for this Commission to adopt the 15 page list of statutes under these circumstances while creating the appearance of conducting ourselves as a bona fide Commission under state law. It does not necessarily follow from the absence of directions from the legislature concerning the change in the legislative instructions that the change "indicates no specific difference in the duties assigned to the present Commission." This thinking ignores the simple change in meaning which occurs along with the change in wording. I suggest that the Commission adopt the following definition of "major legal and economic benefits":

A resultant significant improvement in condition or resultant significant advantage, after consideration of concomitant burdens, which a married couple enjoys as a result of holding the status "spouse" or "family" that would not be either offered to a same-sex couple nor available to a same-sex couple by another avenue or means.

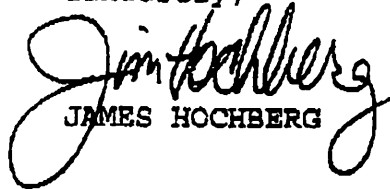
5. The pro-homosexuality majority of the Commission has voted to prohibit expert testimony via telephone, when those identified experts were traditionalists who would opine against extending marriage benefits to homosexuals.

Thomas P. Gill, Esq.
October 10, 1995
Page 3

6. The majority of the Commission is relying on the economic analysis of Dr. LaCroix who has failed to provide the assumptions and methodology he used, and who when asked for that information was unable to provide it although it should have been the basis for his conclusions.

In summary, there is simply insufficient information upon which this Commission can fairly adopt your proposed resolution in an unbiased, intellectually honest manner. I make this objection in the hope that it will encourage openness, intellectual honesty, and unbiased inquiry into the issues we have been charged with examining. This is a very serious matter for the State of Hawaii.

Sincerely,


JAMES HOCHBERG

:JH

cc: Governor Benjamin Cayetano
Senate President Norman Mizuguchi
House Speaker Joseph Souki
Commissioners:
Toni Sheldon 524-2556
Nanci Kriedman 531-7228
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October 11, 1995

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Legislative Reference Bureau
1177 Alakea Street, 6th Floor
Honolulu, Hawaii 96813

**Re: Objections to Proposed Procedure for
October 11, 1995 Commission Meeting**

Dear Mr. Gill:

I received a copy of Mr. Hochberg's letter October 10, 1995 letter to you concerning his objections to your proposed procedure for our October 11, 1995 meeting late in the afternoon of October 10th.

As a member of the Commission, I share the concerns Mr. Hochberg expressed in his letter, and believe the bases for his objections to your proposed procedure are meritorious.

I believe that as Commissioners we are charged with the responsibility of thoroughly investigating the matters before us from all aspects, and carefully considering the interests of the entire community in making our ultimate recommendations to the Legislature.

In order to properly perform our tasks, it is imperative that we agree upon a clear definition of "major" legal and economic benefits, and conduct our investigation of applicable statutes on that basis. The effects of the Commission's failure to properly define the parameters of our investigation may be devastating to the social and economic future of our State. There may be serious implications that will not be considered if we simply adopt the 15-page list of statute sections collected by the Legislative Reference Bureau attorney without further inquiry.

Specific but not exhaustive examples of the effect of our failure to properly define the parameters of our statute search and discussion are the following:

1. The responsibilities to itinerant conferred will not be discussed as the 15-page list does not address them.

2. It appears that no consideration will be given to the impact that domestic partnerships and/or same sex marriage will have on the ability of law enforcement and the family court to

Thomas P. Gill, Esq.
October 11, 1995
Page 2

comply with the requirements of the penal code, such as H.R.S. §709-906, which sets forth the penalty for abuse of family and household members as this statute is not included on the 15-page list.

3. It appears that no consideration will be given to the fact that the results of our statute search and evaluation will greatly impact our public policy considerations.

In addition to the above, reliance on the results of an economic analysis for which the assumptions and methodology used are unknown is not good science or intellectual honesty. Such reliance places the credibility of the Commission's findings in jeopardy.

Finally, the fact that the pro-homosexual majority has voted to prohibit expert testimony via telephone, when the experts identified are traditionalists who would speak against extending marriage benefits to homosexuals also places the credibility of our recommendations in question.

The importance of this matter to the State of Hawaii cannot be overemphasized. Therefore it is imperative that this Commission conduct its business with the utmost intellectual honesty and that our work be conducted with the openness required by law.

Very truly yours,



MARIE A. "TONI" SHELDON

cc: Governor Benjamin Cayetano (via fax)
Senate President Norman Mizuguchi (via fax)
House Speaker Joseph Souki (via fax)
Commissioners (via hand delivery)
James Hochberg
Nanci Kriedman
Morgan Britt
Bob Stauffer
Ku'umeaaloha Gomes
The importance of



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Thomas P. Gill, Chairperson
Lloyd James Hochberg, Jr.
Robert H. Stauffer

Morgan Briis
Nanci Kreidman

L. Ku'umeaaloha Gomes
Marie A. "Toni" Sheldon

October 18, 1995

MEMORANDUM

TO: Commission Members

FROM: Thomas P. Gill
Chairperson

SUBJECT: October 25 Meeting

As indicated in the Agenda for the coming meeting our major task, after settling the minutes of the last meeting and listening to the invited guests on the third topic set forth in Act 5, will be to arrive at a general understanding of the Commission's position on the first two topics: (1) the major legal and economic benefits involved and (2) the policy reasons to extend or not to extend such benefits in whole or in part.

Each of you should feel free to clearly state your respective positions on each of these topics verbally and/or in writing. We should try to keep the discussion orderly and constructive. If we are successful we should identify the basic positions--majority and minority--on these topics.

Since the recurring question of the meaning of "major" benefits will probably be raised again I would like to make a suggestion to Mr. Hochberg. His definition of "major" which has been proposed and voted down at least twice, may suffer from some ambiguity. In order to allow the other members of the Commission to see how it would apply to the various benefits which have been discussed so far I would strongly suggest that he select from the various benefits mentioned by the Supreme Court, the list prepared by the Legislative Reference Bureau, and/or by various speakers including Dr. La Croix, specific examples and apply his definition of "major" to them. This could provide guidance to the Commission in sorting out this portion of the report.

As indicated at the last meeting there may still be additional speakers who have something to contribute to the first two topics considered by the Commission. We still have some invitations outstanding to which we have not received a response. However, there were two specifically mentioned by Mr. Hochberg which we ask him to pursue: (1) Mr. Makuakane, from his law firm, who is skilled in the tax implications of some of the benefits, and (2) someone from the private sector--perhaps a trust company--who is familiar with the impact the extension of certain benefits might have on private retirement, pension, medical or similar plans. Our testimony to date has dealt with public benefit plans.

Let's continue our practice of submitting suggested changes to the minutes or other items before the meeting so that we can all consider them before it is time to vote. Thanks for your help.

JAMES HOCHBERG
1188 Bishop Street, Suite 1610
Honolulu, Hawaii 96813
(808) 536-1777; FAX 528-3631

October 25, 1995

Tom Gill, Chairman
Commissioners
Commission on Sexual Orientation
And the Law

Re: Mr. Gill's October 18, 1995 letter

Dear Commissioners:

In response to Mr. Gill's October 18, 1995 letter, this explores how I would interpret the definition of "major legal and economic benefit" as proposed by me. Each commissioner's interpretation might be little different, but at least we would all be using the same definition. Clearly, interpretation of the statutes using different definition is chaos.

"major legal and economic benefit" shall mean:

"a resultant significant improvement in condition or resultant significant advantage, after consideration of concomitant burdens, which a married couple enjoys as a result of holding the status "spouse" or "family" that would not be either offered to a same-sex couple nor available to a same-sex couple by another avenue or means."

Contains the following four questions in analyzing a given statute:

1. does the statute in question create a significant improvement in condition or advantage for a married couple as a result of holding the status "spouse" or "family"?
2. is there any burden associated with that significant improvement in condition or advantage?

3. after considering the burden associated with the improvement in condition or advantage, is the remaining improvement in condition or advantage still significant?
4. is that remaining significant improvement in condition or advantage not offered to a same-sex couple nor available to a same-sex couple by another avenue or means?

EXAMPLES:

- A. HRS 183D-22: Resident license fee applies to spouse of active duty Military stationed in Hawaii.
 1. does the statute in question create a significant improvement in condition or advantage for a married couple as a result of holding the status "spouse" or "family"?

Perhaps but not likely.
 2. is there any burden associated with that significant improvement in condition or advantage?

Yes, must be spouse of a military person. Quite burdensome if homosexual.
 3. after considering the burden associated with the improvement in condition or advantage, is the remaining improvement in condition or advantage still significant?

NO. Stop analysis. Go to next statute.
- B. HRS 201E-62: Requires the HFDC to consider the size of the family and the family income in determining the qualifications of an "eligible borrower". The family income cannot exceed the requirements of Section 143(f) of the Internal Revenue Code.
 1. does the statute in question create a significant improvement in condition or advantage for a married couple as a result of holding the status "spouse" or "family"?

Maybe, if the family qualifies for the special loans.

2. is there any burden associated with that significant improvement in condition or advantage?

Yes. If both spouses work it is likely that their combined income will disqualify them for the benefit.

3. after considering the burden associated with the improvement in condition or advantage, is the remaining improvement in condition or advantage still significant?

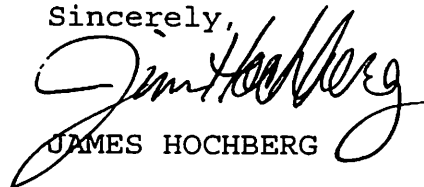
No. Especially if they no longer qualify for the benefit.

4. is that remaining significant improvement in condition or advantage not offered to a same-sex couple nor available to a same-sex couple by another avenue or means?

No. According to HFDC employees, "family" is defined to include household members. Therefore, homosexuals receive this benefit presently, and would not benefit in this statute from creation of domestic partnership to confer the benefit.

I trust that this letter will assist you all in recognizing the necessity of a single definition of "major legal and economic benefit" for our use in analyzing the 15 page list of statutes. The proposed definition, soundly based upon the charge given us by the Legislature, fairly addresses the issues in determining a major legal or economic benefit. As the above examples show, this definition is not biased in favor of a particular political view point. I urge you to adopt this definition and use it in addressing the very serious matters with which we have been charged. If you have any questions, please feel free to address them to me. I remain,

Sincerely,



JAMES HOCHBERG

:JH

MARIE A. SHELDON
1200 Pauahi Tower
1001 Bishop Street
Honolulu, Hawaii 96813
Telephone: (808) 524-2466
Fax: (808) 524-2556

October 27, 1995

Thomas P. Gill, Esq.
Chairman, Commission on Sexual
Orientation and the Law
Legislative Reference Bureau
State Capitol, Room 446
Honolulu, Hawaii 96813

Via Fax

**Re: Governor's Commission on Sexual Orientation
and the Law**

Dear Mr. Gill:

Our Thursday, October 26, 1995 meeting left me with several grave concerns. This letter is an attempt to resolve some of those concerns.

Specifically, I have the following questions and comments:

1. **Why have you refused to permit the Commission to discuss and arrive at a specific working definition of "major legal and economic benefit"?**

I am concerned that Commissioner Robert Stauffer's terminology which purports to replace the Legislature's statutory language of "major" legal and economic benefits with the Hawaii Supreme Court's operative term "salient" has been adopted, ostensibly for definition purposes. See, Commissioner Stauffer's October 6, 1995 First Memo at 4. This is questionable because this Commission is not empowered with the authority to change the language adopted by the Legislature. Further, it is unheard of to divine legislative intent in the change from "precise" to "major" based upon an appellate decision written two years before the legislation. Indeed, even though it had immediate access to the Hawaii Supreme Court's opinion, the Legislature expressly did not use the Court's language.

2. **Why did you insist that we forge ahead without completing our review and approval of the Minutes of the Meeting Held Wednesday, October 11, 1995 (hereafter "the October 11 Meeting")?**

I am concerned about this because, as you will no doubt recall, you insisted on a vote approving the written proposed amendments to the minutes submitted by Commissioner Stauffer even though we only received those proposed amendments upon arrival at the October 25, 1995 meeting, and did not have an opportunity to review or discuss them at

Thomas P. Gill, Esq.

Re: Governor's Commission on Sexual Orientation and the Law

October 27, 1995

Page 2

all. You stated that Commissioner James Hochberg's proposed amendments which were not submitted in writing at that time would be discussed later. Pursuant to your request, Commissioner Hochberg committed some of his proposed amendments to writing and submitted them when we reconvened on Thursday, October 26, 1995. At that time you refused to consider any of his written or oral proposed amendments to the October 11 Minutes. Instead, you insisted that we forge ahead without approving the outstanding minutes.

I believe this is particularly disconcerting given that Commissioner Hochberg's amendments concerned the testimony of expert economists that is crucial to our accomplishing the statutorily-dictated goals of this Commission, including matters you insisted come to a vote in the course of our October 26 session. If the minutes were drafted in a more balanced fashion (if witnesses opposed to homosexual marriage could be properly identified and their testimony represented in a manner equal to that of witnesses who support homosexual marriage), the discussion wouldn't be necessary. In addition to the obvious equitable reasons, it is extremely important that the minutes be presented in a balanced form because they constitute the official records of this Commission's business.

3. Why did you insist that we consider and vote on Commissioner Stauffer's proposed drafts of sections of the Commission's report which deal with the very matters contained in the unapproved October 11 Minutes?

This matter is of particular concern because you insisted that we forge ahead despite the Commission's unanimous approval of Commissioner Hochberg's motion to postpone voting on what major legal and economic benefits are granted in Hawaii as a result of marriage until the Commissioners had the opportunity, consistent with HRS Chapter 92, to publicly discuss each legal and economic benefit including statutes contained in the fifteen-page list submitted by the Legislative Reference Bureau attorney, Pamela Martin. See proposed and still unapproved Minutes of the October 11, 1995 Meeting.

4. Why did you refuse to permit any substantive discussion and/or amendment of the draft report sections submitted by Commissioner Stauffer which you insisted come to a vote at the October 26, 1995 session?

I am really concerned about this since the drafts we purportedly voted on contain specific findings on matters we have never even touched upon let alone discussed.

5. Why do you constantly and continually demean and ridicule Commissioner Hochberg's efforts to make viable contributions to the work of this Commission?

Thomas P. Gill, Esq.

Re: Governor's Commission on Sexual Orientation and the Law

October 27, 1995

Page 3

I am concerned, completely surprised, and frankly, offended by what I perceive to be outrageous conduct on your part toward Commissioner Hochberg. Specifically, every time Commissioner Hochberg asks a question, makes a motion, or attempts to engage in substantive discussion, you chastise him and accuse him of purposeful delay or frivolity. Moreover, at the October 26 session, you vehemently tried to insist that Commissioner Hochberg recite a lengthy statement by Commissioner Kriedman which he was trying to incorporate into a motion or forego bringing the motion. This seems particularly strange to me because you permitted other Commissioners to incorporate lengthy statements by reference to the audio tape. Yet, you chastised and demeaned Commissioner Hochberg when he tried to avail himself of the same courtesy. Even more perplexing was your comment at the close of the session inquiring as to whether Commissioner Hochberg would "gas everybody next week to stop the proceedings". What in the world did you mean by that?

6. Finally, is it your intent that this Commission timely draft and submit a report and recommendation to the Hawaii State Legislature based on a somewhat revised form of the drafts submitted by Commissioner Stauffer and the soon to be voted upon draft submitted by Commissioner Britt even if it means doing so without benefit of any substantive investigation and discussion?

I am extremely concerned about this because it appears that the Commission's majority has already determined the tenor of this Commission's recommendations to our Legislature, and it intends to proceed in that tenor without any substantive discussion of the issues before it. Such a report would mislead the Legislature.

Frankly, I take my appointment to this Commission very seriously, and I have looked forward to making a viable contribution to an intellectually honest and unbiased effort to consider the interests of the entire Hawaii community in performing my tasks as a Commissioner. Unfortunately, I find that the Commission is staffed with a clear five to two majority of individuals who favor extending marriage rights to homosexuals. This imbalance is not consistent with the often adamantly voiced interests of a clear majority of Hawaii's citizens. Thus, I fear that the public interest is being sacrificed in order to satisfy a personal agenda predicated on the behavioral desires of what amounts to a "tiny fraction" of the population. One cannot help but notice that the "tiny fraction" happens to be represented by a majority of this Commission's membership.

Thomas P. Gill, Esq.

Re: Governor's Commission on Sexual Orientation and the Law

October 27, 1995

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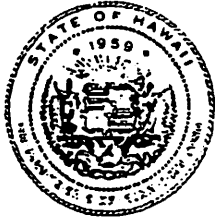
I look forward to receiving your response to my inquiries.

Very truly yours,



MARIE A. "TONI" SHELDON
Commissioner

cc: **Governor Benjamin Cayetano**
Senate President Norman Mizuguchi
House Speaker Joseph Souki
Commissioners:
 Jim Hochberg 528-3631
 Nanci Kriedman 531-7228
 Morgan Britt 599-1965
 Bob Stauffer 237-8042
 Ku'umeaahola Gomes 956-9880



COMMISSION ON SEXUAL ORIENTATION AND THE LAW

Legislative Reference Bureau

State Capitol, Room 446

Honolulu, HI 96813

Phone: (808) 587-0666

Facsimile: (808) 587-0681

*Thomas P. Gill, Chairperson
Lloyd James Hochberg, Jr.
Robert H. Stauffer*

*Morgan Britt
Nanci Kreidman*

*L. Ku'umeaaloha Gomes
Marie A. "Toni" Sheldon*

MEMORANDUM

October 30, 1995

TO: Commission Members
FROM: Thomas P. Gill
Chairperson
RE: Setting Aside Time for Future Meetings

When we recessed last Thursday, October 26, the Commission was still attempting to finish its agenda for the October 25 meeting which involved considering motions on the first two items in Act 5--identifying benefits and policy reasons to extend or not to extend those benefits to same-sex couples.

*Room 1008
State Office Tower!*
We had considered Dr. Stauffer's list of benefits and agreed to adopt substantial benefits Nos. 1 through 4. We then recessed until 10:00 a.m., Wednesday, November 1, ~~Room 329, State Capitol Building~~. Our agenda for the meeting on the 1st will start where we left off on the preceding Thursday. We will first consider the remaining suggested substantial benefits, Nos. 5 through 14, and the subsequent list of "general benefits" as listed in Memorandum No. 13. Following consideration of Dr. Stauffer's list we will move on to Mr. Britt's list of "policy reasons".

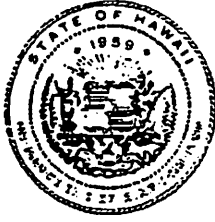
If Commission members have additional "benefit" or "policy reasons" they wish considered they should submit them in writing prior to or at the November 1 meeting.

It seems obvious from our experience at recent meetings that we will not have time to complete the agenda in the two hours allotted to the November 1 meeting. I am therefore suggesting that we set aside the morning, or perhaps all day, on Thursday, November 2, to complete this phase of our work.

You will note that the agenda for the next regular meeting on Wednesday, November 8, includes voting on item (3) of Act 5. This involves recommending appropriate action to be taken by the Legislature. At this meeting we will also be discussing the contents of the draft report.

Given this schedule and work load please examine your schedule and see if you can set aside time on Thursday, November 2 and 9. If this is not possible for some of you we can consider other days or, possibly, proceeding with less than the entire membership.

Thanks for helping. Suggestions are always welcome!



Commission on Sexual Orientation and the Law
Legislative Reference Bureau
State Capitol, Room 446
Honolulu, HI 96813

Phone: (808) 587-0666 Facsimile: (808) 587-0681

Thomas P. Gill, Chairperson
Lloyd James Hochberg, Jr.
Robert H. Stauffer

Morgan Britt
Nanci Kreidman

L. Kuumeaaloha Gomes
Marie A. "Toni" Sheldon

October 31, 1995

Marie A. Sheldon, Esq.
1200 Pauahi Tower
1001 Bishop Street
Honolulu, HI 96813

Re: Your Letter of October 27, 1995

Dear Ms. Sheldon:

Let me respond very briefly to your letter. There are some inaccuracies in it which you may want to correct.

1. We have not "refused to permit" the Commission to discuss and arrive at a definition of "major" benefits. Mr. Hochberg's proposed definition was considered and voted down twice by the Commission. The legislature did not define "major". Mr. Hochberg's definition seemed to some to be a bit convoluted and would impose on the Commission the duty of not only identifying such benefits, but then proving that they met Mr. Hochberg's definition. You might remember I suggested to Mr. Hochberg that he take some of the benefits suggested by the Supreme Court and others and apply his definition to them. He did so and the examples he used turned out to not be "benefits" under his definition. If the purpose of the Commission was to determine that there would be no "benefits" conferred by marital status or its equivalents on same-sex couples, and therefore the Legislature should do nothing, the definition would be quite helpful. However, most would agree that the Commission's function is somewhat broader than that.

2. You might recall that the October 11 minutes were considered and approved with some minor amendments by a majority of the Commission. Mr. Hochberg apparently had not had time to prepare and submit his proposed amendments. Both you and he were allowed to reserve your approval or disapproval until such amendments were submitted. With that understanding, final approval of the minutes was deferred until the rest of the agenda was completed. Do you now disagree with that action?

3. Commissioner Stauffer's list of benefits, including some noted by the Supreme Court and some included as possible benefits in the LRB report, was next on the agenda. We took each item, one at a time, and after four or five hours of rather intense argument or discussion, extending over the rest of the meeting on October 26 and the recessed meeting on the 27th, we were able to cover only about a third of them. Both you and Mr. Hochberg participated in this discussion, at considerable length. Are you now suggesting that we go back and discuss the entire listing of possibly relevant statutes mentioned in the LRB report before proceeding with specifically suggested benefits? Of course you are free to suggest your own list of benefits, if you want to do so, and the Commission can discuss them too, with the same intensity as you have discussed Dr. Stauffer's list.

4. There was no refusal to permit substantive discussion and/or amendment to Dr. Stauffer's material. It was made clear that the material was not considered to be in final form but subject to editing and modification by staff; further, when a draft report was given to the Commission, hopefully on November 8, it would be subject to further consideration and amendment. If you say there was no "substantive discussion" on the points considered, what was going on during the four to five hours we spent on these topics in the last two meetings? Perhaps you would also want to mention the numerous motions you and Mr. Hochberg presented during this discussion, and the fact that most of them were voted down four to two by the Commission. Is that your basic complaint?

5. Your reference to demeaning or ridiculing Mr. Hochberg's efforts is unfortunate. I will continue to attempt to extend to Mr. Hochberg the same level of courtesy and tolerance he extends to the Chair and to other Commission members with whom he disagrees. However, may I point out the obvious: We were given a very limited time to produce a report and little over a month remains. In the last month we have heard and/or received testimony from an extensive list of witnesses, including those suggested or produced by you and Mr. Hochberg. The time has come to move ahead with the material to be included in the report. We have little time to spend picking over footnotes and arguing at length over minute or procedural matters which would have the necessary result--even if unintended--of delaying or preventing the production of the report. Please bear that in mind.

6. It is our intention to consider the proposal made and submitted in writing to the Commission by commissioners Stauffer and Britt, along with others which may be timely submitted, and have the LRB produce a draft which can be further considered and refined by the Commission. This was made clear at the last two meetings. It was also made clear several times that you and Mr. Hochberg will have an opportunity to submit a minority report if you do not agree with the majority. Please prepare to do so.

I hope this brief response to your letter of October 27 which I received via FAX from the LRB on the 30th meets your legitimate concerns. Please note our concerns: constructive discussion is certainly in order, but not dances intended to delay. We must complete our work on time.

Sincerely yours,


Thomas P. Gill
Chairperson

cc: Commission Members

JAMES HOCHBERG
1188 Bishop Street, Suite 1610
Honolulu, Hawaii 96813
(808) 536-1777; FAX 528-3631

October 31, 1995

Thomas P. Gill, Esq.
Chairman, Commission on Sexual
Orientation and the Law
Legislative Reference Bureau
1177 Alakea Street, 6th Floor
Honolulu, Hawaii 96813

Transmitted via fax
to: 587-0681

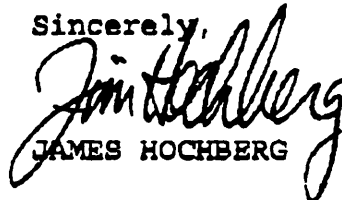
Re: Objections to proposed procedure for November 1,
1995 Commission meeting

Dear Mr. Gill:

You have made it abundantly clear that you will timely produce a report from the Commission to the Legislature as requested in Act 5 (1995) whether the report is valid. I agree that it is very important that our Commission complete its work, however, I disagree with putting a looming deadline ahead of taking the time to perform the work we have been given to do. In looking over your letter of October 30, 1995, you have left behind several very important items which I request that you place back on the agenda for the November 1, 1995 meeting.

Please take up these issues before moving on to force adoption of new draft language. The integrity of the work product of the commission depends on a drastic change in our work.

Sincerely,



JAMES HOCHBERG

:JH

cc: Governor Benjamin Cayetano
Senate President Norman Mizuguchi
House Speaker Joseph Souki
Commissioners:
Toni Sheldon 524-2556
Nanci Kriedman 531-7228
Morgan Britt 599-1965
Bob Stauffer 237-8042
Ku'umeaaloha Gomes 956-9880

JAMES HOCHBERG
1188 Bishop Street, Suite 1610
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November 15, 1995

Thomas F. Gill, Esq.
Chairman, Commission on Sexual
Orientation and the Law
Legislative Reference Bureau
Room 413, State Capitol
Honolulu, Hawaii 96813

Transmitted via fax
to: 587-0681

Re: Commission on Sexual Orientation and the Law

Dear Mr. Gill:

In striving to complete the first draft of our minority report, several questions have arisen related to the publication schedule. As I understand the time-table, on November 17, 1995 we will receive the draft of the majority report (and they, ours). Then we will meet November 22, 1995 to vote on the drafts distributed November 17, 1995. The drafts will then be sent for public review on November 22, 1995. Then December 6, 1995, we will meet to give the public an opportunity to comment on the two drafts, and a final report will be voted on that day. I am uncertain of the schedule for making changes to the drafts. As I trust you can understand, the minority is in a difficult position writing its report without having a final version long before December 6, 1995. If the final version on December 6, 1995 is substantially different from the prior drafts that, of course would necessitate a further revision to the minority report. I understand the reason for that schedule in light of the ultimate publication deadline, however, at what time does the minority address the final version of the majority report? Do we truly receive the final when it voted on December 6, 1995?

It appears to me therefore, that the draft we are presenting November 17, 1995, will be a very rough draft, subject to substantial revision depending on what the majority report states November 17, 1995 and what it actually ends up containing November 22, 1995. In order for the minority to present a true final draft December 6, 1995, no further revisions to the majority report should occur after the November 22, 1995 meeting. All things being possible, I suppose the content of the majority report on November 22, 1995 could eliminate the need for a minority report if its content was acceptable to the current minority.

A further difficulty with the content of the final report is also complicated by the fact that the official record of the commission proceedings after September 27, 1995, upon which the report is supposed to be based, won't have been

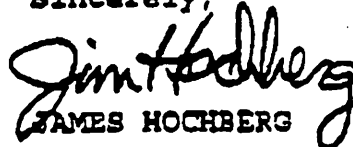
Thomas P. Gill, Esq.
November 15, 1995
Page 2

addressed until November 22, 1995. That, of course, is after the final draft of the reports are due. As you and I discussed and you agreed at the November 7, 1995 meeting, the status of the minutes from the October 11, 1995 meeting is that the only changes considered or adopted so far are those contained on the one page submitted by Mr. Stauffer, and the balance of the minutes are not yet reviewed. That includes the changes I did submit in writing and those I have not yet put down to writing. In addition, the October 25, 1995 changes made from that one page are also still subject to further change if requested by another commissioner.

The importance of this can be seen in the fact that the settlement of the record of our prior meetings at which testimony of legal and economic experts was taken has not been completed. I understand that minutes of that meeting have been made available to the public even though they have not been completely reviewed or submitted to the commission for approval. I have not received a copy of such minutes for review and or approval, and I would appreciate a copy at your earliest convenience. Remember, I have additional substantial changes to request.

On another matter, due to the issue of public access to the commission process, I believe it is appropriate that any and all input received by the commission be included as part of the majority report. This confirms that I asked Pam Martin on Tuesday, November 14, 1995, to collect all correspondence and telephone records of contact from the public (including Oahu people) and to commence keeping a log of all telephone calls to the commission. I would appreciate receiving a copy of this information at the November 22, 1995 meeting and any additional information at the December 6, 1995 meeting.

Sincerely,


JAMES HOCHBERG

:JH
cc:

Commissioners:
Toni Sheldon 524-2556
Nanci Kriedman 531-7228
Morgan Britt 599-1965
Bob Stauffer 237-8042
Ku'umeaaloha Gomes 956-9880

JAMES HOCHBERG
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November 30, 1995

Thomas P. Gill, Esq.
Chairman, Commission on Sexual
Orientation and the Law
Legislative Reference Bureau
Room 413, State Capitol
Honolulu, Hawaii 96813

Transmitted via fax
to: 587-0681

Re: Commission on Sexual Orientation and the Law

Dear Mr. Gill:

From a telephone conversation I had today with Pam Martin, Esq., I understand that the majority of the commission have decided the following:

1. They will add appendices to the report to "balance" the information appended by the minority; but
2. The minority will not be permitted to add information to the minority report between now and December 6, 1995 as previously agreed.

This is particularly troubling in light of the following:

1. From the outset of our proceedings the commission allowed for the possibility of a minority and majority report;
2. During the commission proceedings, you made it abundantly clear that the minority would not be permitted to insert information into the draft commission report (before it became a majority report) but instead instructed me to plan to present material in the minority report rather than in the commission discussions;
3. Your scheduling of meetings consumed so much time that it was very difficult to craft a minority report within the deadline you established especially since you would not permit us to take advantage of the commission meeting time to work on the issues;
4. To meet your very arbitrary deadlines, Toni Sheldon and I provided a draft minority report on time, even though it was not at the level of completion we desired on or about November 22, 1995, and consequently, as we

explained to Pam and the commission as a whole, we would be revising it;


5. On November 22, 1995, the majority finally disclosed the content of the long awaited Appendix containing the list of statutes upon which the majority based its recommendations;
6. Since our minority report was also delivered the same day, we have obviously not had an opportunity to address that Appendix;
7. In addition, unlike the majority report which was furnished as if it was a final product, the minority report required significant time simply to respond to the majority report, which could not be completed before the majority report was delivered (as I am sure you understand in light of the majority response to the minority report); and
8. Finally, throughout the proceedings, you and the majority made it clear that since the minority could not address our perspectives in the meetings during which the majority draft was reviewed, the majority would not edit or in any other manner "touch" the minority report.

As you can see, things have evolved over the course of our time together. I would rather that they remained somewhat fixed in order for both the majority and minority to be able to appreciate the "rules of the road." At this point, for the record, please be advised that, like the majority, the minority is amending its report for the December 7, 1995 meeting. Even if the majority decides not to add information to its report, the minority will do so because it expects to provide the legislature and Judge Chang with a full report. We simply have not yet completed it.

Thomas P. Gill, Esq.
November 30, 1995
Page 3

Please inform me at your earliest convenience if I have
misunderstood the intentions of your majority commissioners.

Sincerely,


JAMES HOCHBERG

:JH

cc: Commissioners:
Toni Sheldon 524-2556
Nanci Kriedman 531-7228
Morgan Britt 599-1965
Bob Stauffer 237-8042
Ku'umeaaloha Gomes 956-9880
Governor Benjamin Cayetano
Senate President Norman Mizuguchi
House Speaker Joseph Scuki