
LOS ANGELES COUNTY BAR ASSOCIATION

COMMITTEE ON SEXUAL ORIENTATION BIAS

REPORT

**ADOPTED BY THE LOS ANGELES COUNTY BAR ASSOCIATION
BOARD OF TRUSTEES ON JUNE 22, 1994**

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EXECUTIVE SUMMARY.

Introduction. Sexual orientation discrimination in employment violates both California law and the California Rules of Professional Conduct. At least 6% and perhaps as many as 10% of Los Angeles County lawyers are gay. In late 1992, the Los Angeles County Bar Association established a Committee on Sexual Orientation Bias to study sexual orientation discrimination among Los Angeles County legal employers. Of the Committee's 13 members, eight (including its chair) are heterosexual and five are gay.

Findings. The Committee surveyed legal employers as well as both heterosexual and gay attorneys, conducted focus group discussions with gay attorneys and obtained from the State Bar of California data comparing the income and professional situations of heterosexual and gay attorneys. Based upon the data and input from these sources, the Committee made several findings:

- **A troubling degree of sexual orientation discrimination exists in the employment of attorneys in Los Angeles County.** Almost two in five attorneys reported witnessing or experiencing some kind of sexual orientation discrimination against an attorney in a professional setting in Los Angeles County. This discrimination manifests itself in all stages and aspects of attorney employment.
 - **Recruitment and Hiring.** Roughly one in seven attorneys reported that his or her employer engaged in some form of anti-gay discrimination in the recruitment and hiring of attorneys. The incidents reported ranged from unconscious bias to subtle, and sometimes overt, discrimination against gay attorneys. Many employers do not want "too many" gay attorneys. Moreover, reports of frank and open anti-gay hostility -- sometimes reported by the discriminating attorneys themselves -- were common.
 - **Work Environments.** Over half of the attorneys believe that their work environment is less hospitable to gay attorneys than to heterosexual attorneys. Over two-thirds reported that attorneys in their office make anti-gay comments and jokes -- about half of the time relating to someone in their offices who is gay or perceived to be gay. Many heterosexual attorneys appear to be unaware of or unconcerned with relevant laws and rules of professional conduct barring anti-gay discrimination. Reports of stereotyping gay attorneys -- as "effeminate" and HIV-infected (for gay men), as unattractive and "aggressive" (for lesbians), as "unstable," "uncontrolled" sexually or criminally-inclined (for both lesbians and gay men) -- were not uncommon.
 - **Work Assignments.** Roughly one in seven attorneys reported that clients, partners or supervisors in his or her office prefer not to work with gay attorneys; roughly one in ten reported witnessing or experiencing discrimination against gay attorneys in work assignments. It appears that some attorneys, even those who have no personal anti-gay prejudices, limit the

opportunities of gay attorneys out of fear of the reactions of third parties -- clients, judges and others who might interact with them. This suggests that employers may be unwilling to confront external sources of anti-gay bias.

- **Evaluation, Promotion and Advancement.** Roughly one in six attorneys reported that his or her employer engaged in some form of sexual orientation discrimination in attorney evaluation, promotion and advancement. There appears to be a "glass ceiling" for gay attorneys. For example, among lawyers with less than 10 years in practice, heterosexual attorneys in law firms are almost three times more likely to be partners than their gay peers. Anti-gay discrimination in attorney evaluation and promotion sometimes takes cover in vague judgments -- the attorney does not "fit in" -- or in disparate application of necessarily subjective standards for decisions.
- **Retention and Career Path.** Sexual orientation discrimination has adverse career consequences for gay attorneys. Not only are gay attorneys less likely to become law firm partners, they also appear to have career paths different from those of their heterosexual peers. Generally, gay attorneys appear to have less "prestigious" or "powerful" positions than their heterosexual peers. Attorney reports indicate that these career path differences result in part from active discrimination by employers and in part from strong perceptions among gay attorneys that certain employment settings -- government, educational and non-profit institutions, some in-house law offices and some smaller firms -- offer more secure long-term employment for them than larger law firms or private practice generally.
- **Monetary Compensation.** Gay attorney incomes are substantially lower than those of their heterosexual peers. For example, among heterosexual lawyers with 10 or more years in practice, 41% earn over \$125,000 per year and only 25% earn under \$75,000 while, among their gay peers, only 27% earn over \$125,000 but 44% earn under \$75,000. Roughly 30% of all attorneys and 40% of gay attorneys appear to believe that this income disparity results, at least in part, from compensation discrimination by employers. It may also be a result of the "glass ceiling" for gay attorneys seeking law firm partnership.
- **Employee Benefits.** Most employers do not provide gay attorneys -- particularly those with same-sex domestic partners -- with employee benefits comparable to those provided to married heterosexual attorneys. Many attorneys, both heterosexual and gay, see this disparity as unjust and discriminatory. Potential fraud, administrative problems and cost -- especially fear of HIV/AIDS-related health claims -- are often cited as reasons for disparate benefits treatment of gay attorneys. However, the experience of the growing number of California law firms and corporate employers that now extend benefits to same-sex domestic partners of employees suggests that this can be done practically and economically.

- **General Ignorance about Gay Attorneys.** The data and focus group input suggest that, in large part, the bias suffered by gay attorneys is rooted in ignorance. It appears never to occur to many heterosexual attorneys that a job applicant, subordinate, colleague or other attorney could be gay or have gay relatives and friends. Accordingly, when conversations turn to gay people or related issues, many heterosexuals feel unrestrained by the usual rules of professional decorum and consideration. Similarly, when making attorney employment decisions, many heterosexuals are not mindful of the legal and ethical prohibitions on anti-gay discrimination.
- **In response to discriminatory pressures, most gay attorneys in Los Angeles County remain invisible as such -- that is, "in the closet."** Many gay attorneys believe that hiding "in the closet" is the most certain and, in some instances, the only path to job security.
 - **Invisibility and the Understatement of Anti-Gay Discrimination.** Because of gay attorney invisibility, reports of sexual orientation discrimination may understate the true magnitude of the problem. Many gay attorneys will not take the risk that their visibility as gay people will be increased by confronting discrimination. Among heterosexuals, unless gay attorneys are visible, the problem of anti-gay discrimination is not perceived as significant or not perceived at all.
 - **"The Closet" as Evidence of Discrimination.** Maintaining their invisibility comes at a profound personal cost to many gay attorneys. Numerous gay attorneys reported that "the closet" produces destructive anxiety, a sense of isolation, and alienation from colleagues and employers. That so many gay attorneys would choose "the closet" attests to the weight of sexual orientation discrimination in the legal profession.
 - **Employer Pressure to Remain "Closeted."** Despite the pain and isolation it can cause, many employers exert pressure on gay attorneys to remain "in the closet." Roughly a quarter of gay attorneys reported that their employers advised them to be "closeted" or criticized them for "bad judgment" in being "out." No comparable restrictions are imposed on disclosures of the private lives and public relationships of heterosexual attorneys. Moreover, a near majority of gay as well as heterosexual attorneys believe that an attorney's career can be damaged by indications of a gay sexual orientation -- even an otherwise neutral comment that reveals the gender of a gay attorney's domestic partner. Attorneys registered the most concern over actions that would let clients know that an attorney is gay.
 - **Relations Between Gay Attorneys and Heterosexuals.** While socializing and personal relationships can be important to success in the legal profession, gay attorneys often encounter severe problems when it comes to "networking."

Many attorneys, gay and heterosexual alike, reported a "chill" in interpersonal relations with attorneys known to be gay. These problems are particularly painful to gay attorneys in committed same-sex relationships. Generally, it appears that same-sex couples are consciously or unconsciously excluded from many office-sponsored social events. The social exclusion of gay attorneys highlights a double standard: while few would see the social introduction of an opposite-sex spouse or domestic partner as any sort of "sexual" statement, many heterosexuals view the mention or social introduction of a same-sex domestic partner as inappropriate "flaunting" of one's sexuality.

- **While most employers responding to the Committee's survey have a non-discrimination policy that expressly prohibits sexual orientation discrimination, many employers have yet to put those policies into practice effectively.**
 - **Employer Policies.** Although 67% of the employers reported having a non-discrimination policy that expressly prohibits sexual orientation discrimination, 22% had a policy that expressly prohibited gender, race and ethnicity discrimination but not sexual orientation discrimination. The balance had no formal non-discrimination policy.
 - **Implementation of Employer Policies.** Both employer and attorney reports indicated that, even if employers have non-discrimination policies on paper, many have yet to take steps to implement them to counteract sexual orientation discrimination. Roughly a third of attorneys reported believing that their employers have failed to take steps necessary to control sexual orientation discrimination in recruitment, hiring, work assignment, evaluation, retention and promotion. Moreover, most employers reported that they have not taken steps to counteract sexual orientation discrimination comparable to those they have taken to counteract gender, race or ethnicity discrimination.
 - **Employer Awareness of Anti-gay Bias.** Reports of incidents of anti-gay bias were substantially higher among attorneys than employers. This suggests that employers may seldom hear of incidents of anti-gay bias. Attorney reports also suggest that this may be due to attorney reluctance to report anti-gay bias. On the part of gay attorneys, this appears to stem both from a fear of being too "out" and a fear of being labelled a "troublemaker."
 - **Employer Response to Complaints.** It appears from employer reports that even employers who are aware of incidents of anti-gay bias are unlikely to respond. Of employers aware of anti-gay comments or jokes by attorneys in the workplace, for example, no more than a quarter reported that they treated the incident seriously or tried to learn the relevant facts, and only about half of the employers identifying a problem acted to correct it.

- **Communication of Policies Against Sexual Orientation Discrimination.** Over half of the attorneys, heterosexual as well as gay, believe that their employers have not made their policies against sexual orientation discrimination known to applicants and employees. Similarly, employer reports indicate that most employers do not publicize their policies against sexual orientation discrimination to the same extent as they publicize their policies against gender, race and ethnicity discrimination.

Recommendations for Employers. Many Los Angeles County legal employers have failed to recognize the need to modify and implement employment policies with respect to gay attorneys. This failure not only causes strain between gay attorneys and employers or potential employers -- often unseen by employers -- but also needlessly exposes employers to risks of violating laws and ethical rules prohibiting sexual orientation discrimination. Accordingly, the Committee formulated several recommendations for employers:

- **Adopt, Implement and Publicize a Non-discrimination Policy Relating to Gay Attorneys.** Employer policies should prohibit discrimination and harassment on the basis of sexual orientation, should be enforced by clearly-established grievance and complaint follow-up procedures and should be broadly publicized throughout the workplace.
- **Encourage Non-discriminatory Recruitment and Hiring of Qualified Gay Attorneys.** Hiring efforts should include procedures and practices to ensure non-discriminatory recruitment and hiring of qualified gay attorneys, training for interviewers to eliminate even subtle anti-gay bias, inclusion of an employer's gay attorneys in all aspects of the hiring process and identification of a gay-sensitive contact to whom applicants can address questions relating to the treatment of gay employees which might not otherwise be raised.
- **Promote a Workplace Climate That Ensures Equal Employment Opportunities for Gay Attorneys.** In addition to adopting express non-discrimination policies, employers should ensure that their other policies and practices promote equal opportunity in work assignment, evaluation, compensation, advancement and retention, regardless of sexual orientation. For example, any mentoring program or support group system should be utilized to create an open and cooperative work environment for gay attorneys. Employers should take steps to educate and sensitize their workforces regarding anti-gay bias, to prevent harassment of gay employees and to discourage inappropriate anti-gay comments and jokes. Employers should support, acknowledge and promote the interests and activities of gay attorneys to the same extent as the interests and activities of other attorney employees are supported, acknowledged and promoted.

- **Provide Gay Attorneys and Their Same-Sex Domestic Partners with Employee Benefits Comparable to Those Provided to Heterosexual Attorneys and Their Opposite-Sex Spouses.** Employers should provide employee benefits, including insurance, employee leave and employee assistance programs, to gay attorneys and their same-sex domestic partners comparable to those provided to heterosexual attorneys and their opposite-sex spouses. In particular, employers should provide health and other insurance benefits to the same-sex domestic partners of gay employees on the same terms as such benefits are provided to opposite-sex spouses of employees; children of gay employees or their same-sex domestic partners should be covered to the same extent as children of heterosexual employees or their opposite-sex spouses.
- **Provide Gay Couples the Same Opportunities to Socialize with Colleagues as Heterosexual Couples.** In employee rosters and invitations to office-sponsored events, employers should treat same-sex domestic partners in the same manner as opposite-sex spouses. Employers should provide gay couples the same opportunities to socialize with colleagues as it provides heterosexual couples, both at office-sponsored events and in other efforts to facilitate socializing among colleagues.
- **Do Not Encourage Gay Attorneys to be "Closeted" at Work or in Their Professional Activities.** Employers should ensure that gay attorneys have the same freedom as heterosexual attorneys to determine when and the extent to which their personal relationships are revealed at work. Employers should not, however, pressure a gay attorney to be more "out" than he or she wishes to be. The appropriate goal for legal employers should be to create a workplace in which gay attorneys may choose freely whether to be open about their sexual orientation without fear of discriminatory reprisal.

Recommendations for the Association. As it has with respect to gender, race and ethnicity bias, the Association should lead the Los Angeles legal community in the elimination of sexual orientation bias. Accordingly, the Committee recommended that the Association publish this report, encourage legal employers to adopt the Committee's recommendations, provide information on domestic partner benefits, sponsor relevant CLE programs and sponsor other programs to counteract sexual orientation discrimination. The Committee also recommended that the Association establish an ongoing committee on Sexual Orientation Bias in the Legal Profession, charged with responsibility for the implementation of these recommendations and follow-up on this study.

Conclusion. We urge all members of the Association and legal employers to consider carefully the findings and recommendations contained in this report. We hope that these findings and recommendations, when viewed in the light of the law and rules of professional conduct prohibiting sexual orientation discrimination, will help the Los Angeles legal community to recognize the seriousness of the problem of sexual orientation bias and to take appropriate steps to remedy it.

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I. INTRODUCTION.

A. The Issue of Sexual Orientation Discrimination.

Discrimination based upon sexual orientation is, in most employment contexts, a violation of California law. The California Labor Code prohibits sexual orientation discrimination by any California employer with five or more employees; a violation of this statute exposes the discriminating employer to the risk of administrative action and civil litigation.¹ In addition, California Rules of Professional Conduct prohibit members of the State Bar of California and California law firms from discriminating on the basis of sexual orientation in employment or in accepting or terminating the representation of a client.² Despite the laws intended to control discrimination, anti-gay bias appears to be a widespread and often virulent problem throughout California.³

While the number of lawyers directly affected by this bias cannot be stated precisely, the data reviewed for this study suggest that it is substantial. It is clear from a number of studies, ranging from the path-breaking work of Alfred C. Kinsey and his colleagues to recent polls by Louis Harris & Associates, that at least 5%⁴ and perhaps as many as 10%⁵ of the general population is comprised of men and women who are lesbian, gay or bisexual. In the 1991 Demographic Survey of the State Bar of California (the "State Bar Demographic Survey"), approximately 4% of State Bar members under 40 years of age and approximately 3% of all State Bar members identified themselves as "a member of the lesbian, gay or bisexual community."⁶ Those self-identified gay attorneys⁷ appear to be concentrated in California's largest urban centers, Los Angeles and the San Francisco Bay area.⁸ Responses from the random sample of attorney members of the Los Angeles County Bar Association (the "Association") surveyed for this report suggest that at least 6% to 7% of the Association's attorney members are gay.⁹

¹ Cal. Lab. Code §§ 1101, 1102 and 1102.1. See generally Thomas H. Cadell, Jr., "Enforcing the New Sexual Orientation Discrimination Law," Los Angeles Lawyer, July/August 1993, 26.

² Rule 2-400, Rules of Professional Conduct of the State Bar of California (effective March 1, 1994). See Supreme Court of California, Order No. S034144 (Feb. 3, 1994).

³ See, e.g., "Gay Men Become No. 1 Hate-Crime Targets," The Los Angeles Times, May 10, 1994, B1 (according to the 14th Annual Report of the Los Angeles County Commission on Human Relations, "[f]or the first time since the county began keeping track, African Americans have been supplanted by gay men as the leading target of hate crimes").

⁴ See, e.g., "Polling on Sexual Issues Has Its Drawbacks," The New York Times, April 25, 1993, Sec. 1 at 23, Col. 1 (reporting on a poll by Louis Harris & Associates).

⁵ See, e.g., Alfred C. Kinsey, Wardell Pomeroy, Clyde Martin & Paul Gebherd, "Sexual Behavior in the Human Male" (1948).

⁶ SRI International, "Demographic Survey of the State Bar of California" at 7, Table 1-1 (3% figure), and S-2 (4% figure extrapolated based upon the relative ages of gay and all respondents) (August 1991). To the extent that some gay attorneys may be unwilling to identify themselves as gay, even in a confidential State Bar survey, these figures may understate the true percentage of gay attorneys in California.

⁷ This report uses the adjective "gay" to mean either homosexual or bisexual. Similarly, terms such as "gay people" or "gay attorneys" are used to refer, collectively, to lesbians, gay men and bisexual men or women. In addition, this report uses the terms "gay male" and "gay men" to refer, collectively, to bisexual and homosexual men and uses the term "lesbian" to refer, collectively, to bisexual and homosexual women.

⁸ See State Bar Demographic Survey, above, at S-4.

⁹ Of the 255 respondents from the random sample of Association members, 30 (11.8%) identified themselves as gay. As discussed in Appendix A-1, however, the response rate from the separate sample of gay attorneys was just under twice the response rate from the random sample of

(continued...)

Because one's sexual orientation¹⁰ generally is not discernable from visible characteristics, both gay people themselves and anyone wishing to understand sexual orientation bias must address the so-called "closet."¹¹ Gay people may choose whether and in what circumstances to be "out" as well as when to conceal their sexual orientation. While most heterosexuals take for granted the freedom to disclose their own sexual orientation in, for example, routine discussions or introductions of their spouses, straddling the line between concealment and disclosure of their sexual orientation is a daily, and often painful dilemma for many gay people.

The frequent invisibility of homosexuality or bisexuality poses a problem for any study of sexual orientation discrimination.¹² The number of individuals who are willing to identify themselves as gay is likely less than -- and perhaps even a minority of -- all gay people. Further, the data reviewed for this study suggest that the invisibility of gay people is not only a manifestation of anti-gay discrimination, but also works to minimize the perception as well as the reporting of sexual orientation discrimination. Among gay people themselves, it appears that many individuals choose to remain "in the closet" and endure discrimination rather than take the risk that, by confronting it, their visibility as gay people will be increased and expose them to further discrimination. Among heterosexuals, it appears that, if gay people are not readily visible, many do not perceive the problem of anti-gay discrimination as significant or do not perceive it at all.

Whatever the true percentage of gay people in society and in the legal profession may be, professional ethics and the law both dictate that the Association and the legal profession have an obligation to address sexual orientation discrimination. The legal profession has been a leader in attacking ethnic, racial and gender discrimination; discrimination based upon sexual orientation is not only illegal but is similarly hurtful in its impact and consequences for Association members and other members of the bar.

B. The Preparation of this Report.

In late 1992, Richard Chernick, then President of the Association, established an *ad hoc* committee (the "Committee") to study the issue of sexual orientation

⁹(...continued)

Association members. See Appendix A-1, Part (2). Assuming that the higher response rate held true for gay attorneys in the random sample of Association members, that 30 of 255 respondents from the random sample identified themselves as gay suggests that roughly 6% to 7% of the Association's attorney members are gay. But this may understate the true percentage of gay attorneys in the Association's membership to the extent that some Association members may not be willing to identify themselves as gay, even in a confidential Association survey.

¹⁰ As do the California Labor Code and the California Rules of Professional Conduct, this report uses the term "sexual orientation" rather than "sexual preference" or other terms to describe the phenomenon of human sexuality. In doing so, this report intends no comment as to the nature of human sexuality. We simply note that the extent to which sexuality is inborn or developed, immutable or flexible, or learned or beyond conscious influence is subject to much debate among experts and well beyond our expertise. In any event, because sexual orientation discrimination is in California both illegal and a violation of professional ethics, these matters are irrelevant to the questions addressed by this report: the extent to which sexual orientation discrimination exists in the legal profession in Los Angeles County and what steps should be taken to remedy it.

¹¹ Phrases like "in the closet" or "closeted" refer to a gay person whose sexuality is not known to others -- either because he or she actively conceals it or simply because he or she does not take steps to correct the common presumption that all people are heterosexual. Similarly, terms like "out of the closet" or "out" refer to a gay person whose sexuality is known to others or who takes steps to let it be known.

¹² See, e.g., "Statistics On Gays Called Unreliable," The Los Angeles Times, May 1, 1994, A1, A3; "Polling on Sexual Issues Has Its Drawbacks," The New York Times, above.

discrimination by legal employers in Los Angeles County. President Chernick charged the Committee with the responsibility to recommend whether the Association should adopt and promote a policy among legal employers on the subject of sexual orientation discrimination. In November 1992, President Chernick appointed Joseph D. Mandel, Vice Chancellor-Legal Affairs at the University of California, Los Angeles ("UCLA") and former President of the Association, to chair the Committee. In December 1992, President Chernick appointed 12 additional Association members. Upon assuming the office of President of the Association on July 1, 1993, Gerald L. Chaleff reappointed the chair and each of the Committee members for another term, ending June 30, 1994.¹³

The Committee membership represents a microcosm of the Association's diverse membership, including gender, racial and ethnic diversity and representation from public, corporate and private law offices of various sizes. The Committee also reflects sexual orientation diversity; eight of the Committee's 13 members (including its chair) identify themselves as heterosexual, three are openly lesbian and two are openly gay men.

Prior to the Committee's first meeting, two other metropolitan bar associations, the Bar Association of San Francisco ("BASF")¹⁴ and the Association of the Bar of the City of New York ("ABCNY"),¹⁵ conducted studies on sexual orientation bias in the workplace.¹⁶ The Committee reviewed the work of the BASF and ABCNY studies prior to undertaking its own study.¹⁷

The Committee convened for the first time in January 1993. At that meeting, the chair organized the Committee into two principal subcommittees, each comprised of six Committee members: one to explore the policies and practices of legal employers regarding gay attorney employees and the other to explore the experiences and perceptions of attorneys concerning sexual orientation discrimination. The Committee secured the services of an attitudinal survey expert, Curtis F. Shepard, Ph.D., to assist it in developing appropriate surveys and in tabulating and interpreting the survey responses.¹⁸

With the assistance of Dr. Shepard, the Committee developed two surveys. One survey (the "Attorney Survey") was designed to be completed by individual attorneys

¹³ Since then, two members of the Committee resigned in connection with acceptance of employment outside California. Both were replaced at the request of the Committee chair.

¹⁴ Bar Association of San Francisco, "Creating an Environment Conducive to Diversity: A Guide for Legal Employers on Eliminating Sexual Orientation Discrimination" (August 1991) (the "BASF Study").

¹⁵ The Committee on Lesbians and Gay Men in the Legal Profession, "Report on the Experience of Lesbians and Gay Men in the Legal Profession," 48 The Record of The Association of the Bar of the City of New York 843 (Vol. No. 7, November 1993) (the "ABCNY Study").

¹⁶ The Committee also understands that at least two other voluntary bar associations in California, the San Diego County Bar Association and the Santa Clara County Bar Association, are currently engaged in studies of sexual orientation bias.

¹⁷ Although the Committee's methodology was different in material respects from the methodologies employed in the BASF and ABCNY Studies, the findings of the Committee are consistent with the findings contained in the BASF and ABCNY Reports.

¹⁸ At the time of his retention, Dr. Shepard was serving as Acting Director of UCLA's Student Affairs Information and Research Office ("SAIRO"), an in-house research consulting department. Prior to assuming the Acting Director position, Dr. Shepard, among other professional activities, had managed attitudinal survey projects as a research analyst with SAIRO. Dr. Shepard is currently Director of the Campus Project of the National Gay & Lesbian Task Force.

to assess their views of sexual orientation discrimination and the quality of work life for gay attorneys. In September 1993, the Attorney Survey was mailed to a sample of Los Angeles County attorneys including both heterosexual and gay attorneys: 550 attorneys belonging to local gay attorney associations and a random sample of 1,634 Association members. The total response rate for the Attorney Survey was approximately 20%.

The Committee's other survey (the "Employer Survey") was directed at managing partners (or their equivalent) at a variety of law firms and other settings at which lawyers are employed in Los Angeles County. Many of the Employer Survey questions paralleled those in the Attorney Survey, but the Employer Survey also included questions concerning specific employer policies and practices. In September 1993, the Employer Survey was mailed to a random sample of 400 Los Angeles County legal employers. The response rate from the Employer Survey was approximately 17%.

In addition to the information from the Committee's own surveys of attorneys and employers,¹⁹ the Committee used information from two other sources as the basis of its study and this report. First, the Committee conducted four focus group discussions (the "Focus Groups") for the purpose of gathering anecdotal information from gay attorneys concerning their experiences with and perceptions of sexual orientation discrimination.²⁰ Second, the State Bar of California provided the Committee with an analysis of certain data from the State Bar Demographic Survey comparing gay and heterosexual members of the State Bar (the "State Bar Data").²¹

During late 1993 and early 1994, Dr. Shepard tabulated and analyzed the results from the Committee's own two surveys.²² At meetings in February and March 1994, the Committee reviewed, analyzed and discussed the results of the Committee's own surveys, the State Bar Data and the anecdotal information elicited at the Focus Groups.²³ The Committee chair thereafter appointed a special drafting subcommittee, which prepared an initial draft of this report. The report was reviewed, debated and refined in meetings held in May 1994. The final report was approved unanimously by the Committee on June 9, 1994.

¹⁹ Data collected from the Attorney and Employer Surveys include responses to standardized "forced answer" questions as well as extemporaneous comments written by respondents in places provided on the survey forms. Tabular summaries of responses to selected "forced answer" questions in the Attorney Survey and Employer Survey appear in Appendix C-1 and Appendix C-2, respectively. Excerpts from the comments written on the Attorney Survey and Employer Survey forms appear in Appendix B-1 and Appendix B-2, respectively. Appendix B-1 combines comments from the Attorney Surveys with excerpted comments from the Focus Groups (discussed below), all organized under various subject matter headings. Appendix B-1 also identifies the source of each comment (Attorney Survey or Focus Group Discussion) as well as the sexual orientation of the commentator. Appendix B-2 identifies the source of each comment by type of employer. In both Appendices B-1 and B-2, information identifying the persons or institutions to which the comments relate has been excised.

²⁰ Appendix B-1 combines excerpted comments from the Focus Groups with extemporaneous comments from the Attorney Surveys.

²¹ SRI International, "1991 Demographic Survey of the State Bar of California: Comparisons of Gay and Non-gay State Bar Members" (January 1994). Tabular summaries and graphic representations of the State Bar Data appear in Appendix C-3.

²² Sandra Frith, a research analyst for the UCLA Business Enterprises Administration, assisted in this process.

²³ Appendices A-1 through A-7 contain a more detailed discussion of the methods used for the Employer and Attorney Surveys, the characteristics of the sample and respondents for both surveys, the methods used for the Focus Groups, the source of and methods used for the State Bar Data, as well as the scope and limitations of the Committee's analysis of this data.

II. FINDINGS.

A. Sexual Orientation Discrimination in the Employment of Attorneys.

The data reviewed by the Committee provide convincing evidence of discrimination against gay attorneys in the legal profession in Los Angeles County. The data from the Attorney Survey and State Bar Data suggest that sexual orientation discrimination in the employment of attorneys is widespread and manifests itself in all stages and aspects of attorney employment: recruitment and hiring; general work environments; work assignments; evaluation, promotion and advancement; compensation; and retention and career path.

As a general matter, 39% of the Attorney Survey respondents -- almost two in five -- report that they have experienced or witnessed some kind of sexual orientation discrimination against gay or gay-perceived attorneys in a professional setting in Los Angeles County.²⁴ Almost 68% of lesbian attorneys, 58.3% of gay male attorneys, 24% of heterosexual female attorneys and 17.2% of heterosexual male attorneys report having witnessed or experienced such anti-gay discrimination in Los Angeles County.²⁵

Comments from the Attorney Survey responses and Focus Groups support the findings of sexual orientation discrimination in the legal profession in Los Angeles County. The comments also illustrate the range of problems gay attorneys face. As reported by heterosexual and gay attorneys alike, the ills suffered by gay attorneys range from unconscious bias to subtle as well as overt forms of discrimination -- including open hostility. Viewed in the light of legal and ethical prohibitions of sexual orientation discrimination, these findings are troubling.

1. Recruitment and Hiring.

The Attorney Survey responses indicate that discrimination against gay attorneys in recruitment and hiring is a serious problem in Los Angeles County. Approximately 15% of the Attorney Survey respondents -- more than one in seven -- believe that their offices apply hiring criteria less favorably to an applicant who is gay or perceived to be gay.²⁶ By comparison, the percentages of Attorney Survey respondents

²⁴ Appendix C-1, Table 12. The more specific data on the incidence of anti-gay discrimination in particular employment contexts are discussed in detail below.

²⁵ *Id.* Here and elsewhere in this report where such differential responses appear, the differences by gender and sexual orientation could be attributed to several factors. It may be that heterosexual women, lesbians and gay men are more attuned to the problem of bias generally -- and in the case of gay attorneys, sexual orientation bias in particular -- and are therefore both more likely to monitor their employers for discriminatory actions and also more likely to detect them when they occur. But it may also be that some heterosexual women, heterosexual men, lesbians and gay men are more inclined to perceive discrimination even when it did not really occur -- perhaps particularly so if they themselves are members of a protected group.

²⁶ Appendix C-1, Table 2. Breaking this response out by gender and sexual orientation, 20.5% of lesbian attorneys and 19.7% of gay male attorneys believe that their offices apply hiring criteria more severely to gay or gay-perceived applicants, while 6.7% of heterosexual female attorneys and 11.8% of heterosexual male attorneys believe that their offices do so. *Id.*

who believe that their offices similarly discriminate against people of color and women are, respectively, approximately 12% and 10%.²⁷ Similarly, 15.3% of the Attorney Survey respondents report that they have witnessed or experienced anti-gay discrimination in attorney hiring.²⁸ In addition, 9.4% of the Attorney Survey respondents -- almost one in ten -- believe that one or more attorneys applying for employment in their office were turned down as a result of being or being perceived to be gay.²⁹

Attorney comments support the finding that gay attorneys are subject to discrimination in recruitment and hiring. The comments indicate that overt hostility and blatant discrimination against gay attorneys are not uncommon. Several heterosexual Attorney Survey respondents were straightforward, even defiant, about their admitted bias against gay attorneys. One stated, "We ... do not believe we ... have to hire gay or lesbian attorneys -- ever. ... Don't have any; don't want any."³⁰ Similarly, another stated: "We do not seek out [gay] applicants and have no interest in hiring them. ... We are not interested in lawyers with that type of disability -- a mental and emotional problem of obvious magnitude."³¹ A heterosexual attorney from a "multi-national" firm said,

We will not hire [gay attorneys]. ... We have discussed the issue and how to prevent having them as lawyers. ... I and the rest of the firm do not want to work with them.³²

Yet another said, "I would not knowingly hire any [gay] attorney."³³

Another heterosexual attorney commented that, in his firm, "recruiting is controlled by the male labor group which is both sexist and very homophobic. ... All of the lawyers [who were openly gay] are gone. ... I have watched gay men be deprived of work and eased out of jobs."³⁴ Other heterosexual attorneys observed:

Openly gay attorneys or candidates [are] subject to overt criticism and discrimination by partners; ... being openly gay is fatal to any professional advancement in the firm. [The] work environment [is] openly hostile to gay or pro-gay attorneys.³⁵

²⁷ Id.

²⁸ Appendix C-1, Table 12. Breaking this response out by gender and sexual orientation, 29.8% of lesbian attorneys, 22.3% of gay male attorneys, 5.3% of heterosexual female attorneys and 8.2% of heterosexual male attorneys report that they have witnessed or experienced anti-gay discrimination in attorney hiring. Id.

²⁹ Appendix C-1, Table 1. Breaking this response out by gender and sexual orientation, 15.0% of lesbian attorneys and 17.3% of gay male attorneys believe that their office has engaged in anti-gay discrimination in recruitment or hiring, while 4.1% of heterosexual female attorneys and 2.3% of heterosexual male attorneys believe that their office has done so. Id.

³⁰ Appendix B-1, Comment 13.

³¹ Id., Comment 11.

³² Id., Comment 18.

³³ Id., Comment 17. See also id., Comment 14.

³⁴ Id., Comment 7.

³⁵ Id., Comment 1.

I believe there is "unofficial" discrimination in hiring -- the firm, as an institution, thinks of itself as a tolerant, diverse community -- but I do not doubt that individuals involved in recruiting and hiring have their own biases which affect their decision-making. The overwhelming majority of the approximately 200 attorneys in my firm are married, with kids. ... I think most of the attorneys (and probably almost all of the partners) don't even think about these issues.³⁶

The comments of gay attorneys also confirm the problem:

At my former firm, attorneys are encouraged to eliminate candidates perceived as gay or lesbian through initial interviews.³⁷

When I put Lawyers for Human Rights [a lesbian and gay attorneys group] on my resume, a number of my job interviews were essentially terminated once I explained what kind of organization it is.³⁸

When seeking to change firms several years ago, a number of firms ... made it clear how unpleasant it would be [because I am gay].³⁹

The subjective nature of employment criteria was also cited as opening the door to more subtle forms of anti-gay discrimination. A heterosexual attorney stated, "It takes only one homophobe to blackball a qualified attorney from being hired."⁴⁰ Similarly, one gay attorney stated,

Interviewing/recruiting procedures make it very easy for a single attorney interviewing an applicant to blackball him/her for completely subjective reasons (e.g., the applicant won't "fit in"). This is a problem at all firms, and I don't have any solutions to suggest, but I'm aware of a number of instances when this resulted in an otherwise qualified applicant being rejected.⁴¹

Another commonly cited manifestation of more subtle discrimination was the concern that an employer not have "too many" gay attorneys. For example, one heterosexual attorney reported,

[W]e have something of a reputation as a "liberal" firm. ... Nevertheless, two of my partners -- people [who] wouldn't dream of saying that we shouldn't have "too many" Jews or Catholics, for example -- have expressed a desire that we not have "too many" gays, out of the concern that we might become known as a "gay firm" or attract too many gay candidates we'd have to turn down. ... Being a good liberal firm, of course, no one would articulate these concerns publicly.⁴²

³⁶ Id., Comment 3.

³⁷ Id., Comment 27.

³⁸ Id., Comment 45.

³⁹ Id., Comment 26.

⁴⁰ Id., Comment 8.

⁴¹ Id., Comment 99.

⁴² Id., Comment 74. See also id., Comment 52.

2. General Work Environments.

In Los Angeles County, attorney work environments frequently are described as not hospitable, supportive or secure places of employment for gay attorneys. Over 40% of the Attorney Survey respondents -- more than two in five -- believe that their work environment is less hospitable to gay attorneys than to heterosexual attorneys.⁴³ In addition, more than half of the Attorney Survey respondents -- 51.7% -- believe that their employers do not acknowledge, address and support the interests and activities of gay attorneys to the same extent as those of heterosexual attorneys.⁴⁴

a. Inappropriate Statements and Jokes.

In particular, derogatory statements and jokes about gay people are commonplace in Los Angeles County attorney workplaces. Approximately 66% of the Attorney Survey respondents -- almost two-thirds -- report that attorneys in their office make such anti-gay statements or jokes.⁴⁵ Moreover, it appears that about half of the time such derogatory statements or jokes by attorneys are directed at a particular person in the office who is gay or perceived to be gay. Over a third of the Attorney Survey respondents report that attorneys in their office made anti-gay comments specifically relating to someone in their office.⁴⁶

Numerous Attorney Survey respondents cited anti-gay comments and jokes as the basis for their perceptions of a generally hostile attitude towards gay attorneys:⁴⁷

At [my old firm], there were a number of comments evidencing bias, including the use of the term "faggot" relatively consistently. At one point, a partner was talking about a letter he got from BALIF, the lesbian and gay bar association in San Francisco, inquiring as to the terms of the firm's policy regarding lesbians and gays. The partner said, "How could I answer that with a straight face? ... They should know that we don't allow homosexuality in associates."⁴⁸

⁴³ Appendix C-1, Table 3. Breaking this response out by gender and sexual orientation, 52.3% of lesbian attorneys and 49.3% of gay male attorneys believe that their work environment is less hospitable to gay attorneys, while 34.9% of heterosexual female attorneys and 28.8% of heterosexual male attorneys believe so. Id.

⁴⁴ Id. Breaking this response out by gender and sexual orientation, 59.1% of lesbian attorneys and 59.6% of gay male attorneys believe that their office does not support gay attorneys to the same extent it supports heterosexual attorneys, while 45.0% of heterosexual female attorneys and 42.5% of heterosexual male attorneys believe so. Id.

⁴⁵ Appendix C-1, Table 5. These reports are very consistent when broken out by gender and sexual orientation: 64.4% of lesbian attorneys, 65.5% of gay male attorneys, 61.2% of heterosexual female attorneys and 69.5% of heterosexual male attorneys report anti-gay comments by attorneys in their offices. Id.

⁴⁶ Id. Breaking this response out by gender and sexual orientation: 40.9% of lesbian attorneys, 38.2% of gay male attorneys, 29.8% of heterosexual female attorneys and 27.5% of heterosexual male attorneys report specifically-targeted anti-gay comments. Id.

⁴⁷ See generally Appendix B-1, Comments 6, 26, 41, 68, 81, 83, 87, 106 and 149-69.

⁴⁸ Id., Comment 162.

In the last law firm I was with, the managing partner said that I could not be affiliated with the lesbian and gay bar association because that was not something a partner of his firm should be doing. Another partner continually made negative remarks about the fact that I was a lesbian.⁴⁹

It is acceptable in my office to verbally ridicule gays and lesbians in a way that is not acceptable towards other minorities. The manager of my department participates in this verbal gay bashing.⁵⁰

One gay male associate reported that a senior partner's secretary, surmising that he was gay, commented loudly to his own secretary and another attorney with lewd and graphic speculations about his weekend activities.⁵¹ A lesbian attorney reported, "In court, I was referred to as 'the dyke attorney.'"⁵²

Some heterosexual attorneys seem to recognize the harm in verbal "gay bashing."⁵³ At the least, anti-gay comments and jokes strongly imply bias. One heterosexual attorney explained, "[T]he one gay attorney we had was not comfortable disclosing his sexual preference at work except to 2 or 3 of us, and understandably so -- the male attorneys of the firm consistently and frequently made jokes at the expense of gays."⁵⁴ Further, purported "jokes" can easily cross the line into outright harassment. An example provided by another gay attorney illustrates this:

I was walking out to my car one night and [the managing partner] screamed out at me, "Are you now going to play with your homosexual friends?" ... [I]n the office, ... six months to a year later, he placed his foot on my rear end, basically out in the open hallway, when I was leaning over to pick up some files. ... [T]he fact is he was in a position of power. He made me feel very uncomfortable. In a subsequent incident, I was down on the floor looking at some files and he said, very provocatively, "Well why don't you get off your knees?" and chuckled. I knew clearly what the inference was. He also made a comment to me in the rest room about if I didn't use my penis that he was going to cut it off. You know, in a jovial, good ol' boys type way.⁵⁵

Anti-gay comments and jokes have a corrosive effect in the workplace. One gay attorney said, "[W]hat's so disturbing about [anti-gay comments] is the realization that things aren't as safe as you'd hoped or believed."⁵⁶ Similarly, another stated that at his firm, where attorneys showed "open hostility [to gay people] through snide jokes about sexuality and gender, ... it was just very difficult to feel completely welcome."⁵⁷ These

⁴⁹ Id., Comment 34.

⁵⁰ Id., Comment 151.

⁵¹ Id., Comment 152.

⁵² Id., Comment 157.

⁵³ But see id., Comment 147 ("People should be able to tell nasty jokes and make fun of anyone"). See also id., Comments 146 and 148.

⁵⁴ Id., Comment 6. See also id., Comment 149 ("This is a small firm with no gays, lesbians, minority or women attorneys, or disabled. So derogatory statements [about gay people and others] are accepted and forgotten ... there is no one to complain about them").

⁵⁵ Id., Comment 163.

⁵⁶ Id., Comment 168.

⁵⁷ Id., Comment 166.

sorts of comments and jokes are insulting and hurtful not only to gay people, but to others who may have gay family, friends or colleagues.

Like sexist and racist comments and jokes, anti-gay comments and jokes are inappropriate behavior in a professional setting. As one gay attorney stated,

The same people who tell "fag" and "dyke" jokes today are the people ten years ago that were discriminating blatantly against women. And they wouldn't think about it today. They just need to be told -- as they have about sex discrimination -- clearly and repeatedly that it is not acceptable behavior.⁵⁸

Attorney Survey responses suggest that this workplace hostility stems in part from a lack of recognition of gay people and sexual orientation bias. Apparently, it never occurs to many heterosexual attorneys that a job applicant, subordinate, colleague or other attorney could be gay. One stated that the matter of gay attorneys "has never come up at my firm as far as I know; I have no idea if there are gay or lesbian attorneys in my office."⁵⁹ Another heterosexual attorney wrote, "My prior firm was essentially 'clueless' and insensitive regarding gay issues."⁶⁰ Similarly, a gay attorney said, "I don't think the hiring partners are aware of any issue [concerning the hiring of gay attorneys]. They probably don't think they have had any gay or lesbian applicants."⁶¹ Accordingly, when conversations turn to gay people or related issues, many heterosexuals feel unrestrained by the usual rules of professional decorum and consideration.

b. Regard for Relevant Law and Professional Ethics.

Even more troubling, some heterosexual attorneys appear unaware of or unconcerned with relevant laws and rules of professional conduct barring discrimination. One gay attorney reported,

A lot of people have the attitude that sexual orientation discrimination ... is not covered, or that it's not as well established under the law, or it's not an important area of discrimination. I went to a firm seminar in employment law about a year ago and I noticed in their sample non-discrimination clause that sexual orientation wasn't included. I asked the partner in charge about it and he said, "Well, we just don't think it's covered in the law."⁶²

Another said,

At a firm lunch, the senior litigation partner raised a hypothetical concerning anti-discrimination protection for persons with HIV and whether you should advise a corporate client to adhere to

⁵⁸ *Id.*, Comment 167.

⁵⁹ *Id.*, Comment 206.

⁶⁰ *Id.*, Comment 207.

⁶¹ *Id.*, Comment 208. See also *id.*, Comment 155 ("I was told a 'gay' joke by a partner who did not know I was gay").

⁶² *Id.*, Comment 211.

that statute. ... [His view] was that you would advise them not to adhere to that statute out of concerns about communication of the disease by casual contact. Even when told at this luncheon that that was not the mode of transmission for the HIV virus, he continued to insist that, indeed, it was ... proper ... to advise the client to ignore the law because of the liability concerns.⁶³

Attorneys should not disregard laws against discrimination, whether in their own actions or in advice to their clients. Moreover, the hostility reflected in anti-gay comments and jokes is unacceptable in a professional workplace. Whatever their personal views on homosexuality, heterosexual attorneys should conform their words and actions to professional standards and the law. Although their exact number cannot be stated precisely, gay people are numerous enough that almost every attorney in Los Angeles County -- knowingly or not -- comes in contact with gay applicants, colleagues, clients, judges and other government officials each week, if not each day, he or she practices law. Disregard of this reality makes it harder to remedy the problem of sexual orientation discrimination. It can also produce myriad problems -- misunderstandings, unintended offense and, potentially, complaints about discrimination.

c. Unconscious Bias.

Unconscious bias often appears to promote workplace discrimination against gay attorneys. The Attorney Survey and Focus Group comments reported the existence of harmful generalizations, stereotypes and misperceptions of gay attorneys in the workplace. For example, in response to an Attorney Survey question about incidents of bias, one heterosexual attorney said, "The only gay or lesbian attorney I know of did horrible work (in addition to running up thousands of dollars of 900 number phone bills to a psychic)."⁶⁴ One gay attorney -- who had a copy of the September 1992 California Lawyer cover story, "Gays at Law," on his office desk -- reported,

[O]ne of the senior executives said "Why do you have that out there? ... What does it do, talk about all the crimes that the gays do?"⁶⁵

Gay attorneys, both male and female, are viewed by some as more sexually aggressive or predatory than heterosexuals -- or less "stable" or committed in their romantic relationships.⁶⁶ For example, one gay attorney stated:

I don't think I have been the victim of intentional discrimination because I am gay, but I have been treated unfairly because of other related factors or characteristics, such as being unmarried, not having children, being thought of as not having any responsibilities or pressures outside of

⁶³ Id., Comment 173.

⁶⁴ Id., Comment 136.

⁶⁵ Id., Comment 217.

⁶⁶ Id., Comment 137.

work, being thought of as immature or "unsettled" as well as a greater degree of secrecy about my private life than is typical.⁶⁷

One lesbian attorney wrote that, after she shook hands with the clerk of the court, a government official "commented to the clerk of the court, knowing that I was a lesbian, 'How can you stand her putting her hands on you?'"⁶⁸ Similarly, another gay attorney reported,

The partners on one matter seemed intent on keeping me away from one of the client's Vice Presidents, whom they apparently regarded as attractive -- though I did not. ... [T]hey all knew I've been in a committed relationship with another man for 12 years, but seemed to think I would be so unable to control myself that I would land a big, wet kiss on this guy if I had a chance.⁶⁹

Another gay attorney stated, "If a straight male associate brings a series of different dates to firm events he is likely to be perceived as 'sowing his wild oats,' [but] if a gay male associate or a female associate were to do so, ... they would be perceived as 'unstable.'"⁷⁰

The common stereotype of gay men as "effeminate" appears to be particularly problematic for gay male attorneys. One gay attorney observed,

My firm does encourage "machoism" and "aggressiveness." Anyone perceived as either "feminine" or "weak" may not be as easily promoted. This hinders both men and women with "feminine" qualities. There is an assumption in my firm that "feminine" men are gay.⁷¹

Ironically, several attorneys commented that the common stereotype of lesbians as "aggressive," "macho" women is less of a problem -- and perhaps even a benefit -- in the practice of law. One lesbian attorney stated,

As a lesbian, I was sexually harassed less than heterosexual women -- the male partners wouldn't flirt with me and so there wouldn't be that dynamic where I had to either flirt back or not have a relationship with them -- which was extremely helpful to me. Also, I was perceived as being more assertive or aggressive, as were the other lesbians, than the heterosexual women. So, we were given opportunities ... when heterosexual women were not.⁷²

On the other hand, lesbians are also subject to negative stereotyping, most usually that they are unattractive, crude or unsophisticated. One lesbian attorney commented, "the comment that people have made to me -- which I think they thought was a compliment -- is that I didn't look like I was gay."⁷³

⁶⁷ Id., Comment 100.

⁶⁸ Id., Comment 153.

⁶⁹ Id., Comment 91.

⁷⁰ Id., Comment 137.

⁷¹ Id., Comment 134. See also id., Comments 143 and 144.

⁷² Id., Comment 139. See also id., Comments 134 and 142.

⁷³ Id., Comment 141.

Another stereotype reported several times in the Focus Groups and Attorney Survey responses is the view that all gay men have or will contract AIDS.⁷⁴ One gay attorney reported that he was told by a partner in his firm, "[W]e have to be very, very careful about who we hire, because of the insurance costs," and that, "The clear meaning was: no more gay men."⁷⁵ Another told this story:

After a partner at my firm died of AIDS, being out myself, I was constantly fielding questions from very senior partners who would come to me and say "Okay, who are they and are they sick?" ... [T]here was a McCarthyite aspect to it. ... It was very disturbing.⁷⁶

These various stereotypes are inaccurate and serve to promote discrimination against gay attorneys. Like heterosexual attorneys, gay attorneys possess a wide variety of personal and professional qualities. It is incumbent upon employers, individual attorneys and the legal profession generally to ensure that gay attorneys are seen as individuals, rather than caricatures, and judged on their individual merits.

3. Work Assignments.

The Attorney Survey data also evidence substantial problems of anti-gay bias in attorney workplaces by colleagues, supervisors and clients. Approximately 15% of the Attorney Survey respondents said that clients of their office have expressed a preference not to work with gay attorneys.⁷⁷ Over 12% of the Attorney Survey respondents said that partners or supervisors in their office have expressed a preference not to work with gay attorneys.⁷⁸ Over 8% said that attorneys in their office have been denied work assignments because of their actual or perceived sexual orientation.⁷⁹ Over 11% of the Attorney Survey respondents report that they have witnessed or experienced sexual orientation discrimination in attorney work assignments.⁸⁰

Numerous Attorney Survey and Focus Group comments suggest that many heterosexual attorneys, even those who may have no personal anti-gay prejudices, treat gay

⁷⁴ In this connection, it is important to note that discrimination based upon HIV/AIDS is also limited by law, including the Rehabilitation Act of 1973. See, e.g., Chalk v. U.S. District Court for the Central District of California, 840 F.2d 701 (9th Cir. 1988).

⁷⁵ Appendix B-1, Comment 171.

⁷⁶ Id., Comment 175.

⁷⁷ Appendix C-1, Table 6. Breaking this out by gender and sexual orientation, 21.0% of lesbian attorneys, 23.6% of gay male attorneys, 4.2% of heterosexual female attorneys and 9.4% of heterosexual male attorneys report that clients have expressed such a preference. Id. See also Appendix C-1, Table 12 (regarding reports of client discrimination in attorney selection).

⁷⁸ Appendix C-1, Table 6. Breaking this out by gender and sexual orientation, 16.6% of lesbian attorneys, 18.7% of gay male attorneys, 2.8% of heterosexual female attorneys and 10.0% of heterosexual male attorneys report that partners or supervisors in their offices have expressed such a preference. Id.

⁷⁹ Id. Breaking this out by gender and sexual orientation, 14.3% of lesbian attorneys, 17.3% of gay male attorneys, no heterosexual female attorneys and 0.8% of heterosexual male attorneys report that attorneys in their offices have been denied work assignments on such a basis. Id.

⁸⁰ Appendix C-1, Table 12. Breaking this out by gender and sexual orientation, 17.0% of lesbian attorneys, 16.9% of gay male attorneys, 9.3% of heterosexual female attorneys and 3.8% of heterosexual male attorneys report that they have witnessed or experienced anti-gay discrimination in attorney work assignments. Id.

attorneys differently from their heterosexual peers out of fear of third party reactions. In particular, when it comes to matters relating to a gay or suspected gay colleague, heterosexual attorneys often act on the assumption that clients, judges and others will have a problem with that attorney's sexual orientation.

One gay attorney reported, "An important case with media attention was taken from me and given to another attorney by a supervisor ... who was concerned about my openness on being gay."⁸¹ According to one gay attorney, at his firm, "openly gay and lesbian attorneys are held back because of fears (generally, of older, straight lawyers) of client discomfort."⁸² Similarly, another reported, "I remember as a young lawyer being counseled not to be very out in client relationships until I somehow knew it was safe. And I do think that in some respects it affects work opportunity."⁸³ One gay attorney noted the difficult conflicts often presented by these concerns:

I distrust internal education to affect decisions ... to avoid confrontations with powerful people and institutions [over anti-gay bias]. ... It's always easier to decide ... that, "Well, no one wants to offend all our good friends ... and all these very good fellows who send us work." ... That kind of unthinking lack of awareness of issues that are of importance to gay and lesbian lawyers can go on even in ... the best of organizations.⁸⁴

Fears about the reactions of clients and others may in fact be rooted as much in the discomfort of those who voice them as in reality. As one gay attorney stated, "My senior partners profess not to be prejudiced themselves, but express concern for 'others' -- i.e., clients."⁸⁵ Another observed, "[T]here are ... many attorneys who project some of their own internal discomfort by saying, 'Well, clients won't understand.'"⁸⁶ Sometimes, of course, clients may actually be prejudiced. One gay attorney stated, "[I] was removed from a major case in one office due to a client's objections to my sexual orientation."⁸⁷

Whether real or imagined, however, the objections of third parties should not be allowed to hold back gay attorneys whose professional abilities would otherwise dictate they get the job -- any more than should a perceived "customer preference" against women, people of color or members of other protected groups. While the task may often require considerable delicacy and some compromise, heterosexual attorneys also have a legal and professional duty to overcome the discomfort of clients, court authorities, government officials and others with whom gay attorneys must deal professionally. As is true for

⁸¹ Appendix B-1, Comment 48. See also *id.*, Comment 210.

⁸² *Id.*, Comment 92.

⁸³ *Id.*, Comment 204.

⁸⁴ *Id.*, Comment 212.

⁸⁵ *Id.*, Comment 93.

⁸⁶ *Id.*, Comment 204.

⁸⁷ *Id.*, Comment 37.

female and non-white attorneys, gay attorneys should not be denied opportunities to employ their talents because of indirect sources of bias.

4. Evaluation, Promotion and Advancement.

The data reviewed by the Committee also contain substantial evidence of discrimination against gay attorneys in work evaluation, promotion and advancement. Approximately 17% of the Attorney Survey respondents -- more than one in six -- believe that their offices apply advancement criteria less favorably to an attorney who is gay or perceived to be gay.⁸⁸ By comparison, the percentages of Attorney Survey respondents who believe that their offices similarly disadvantage people of color and women are, respectively, approximately 16% and 20%.⁸⁹ Further, almost one in eight of the Attorney Survey respondents -- 12.4% -- report they have witnessed or experienced anti-gay discrimination in attorney work evaluations.⁹⁰ Finally, 14.4% of the Attorney Survey respondents -- more than one in seven -- report they have witnessed or experienced anti-gay discrimination in attorney promotion or advancement decisions.⁹¹

The State Bar Data support the finding of anti-gay discrimination with respect to attorney evaluation, promotion and advancement -- particularly in law firms.⁹² The State Bar Data reveal that, controlling for age and years of practice, gay attorneys are far less likely to become law firm partners than heterosexual attorneys.⁹³ These differences in the positions of gay and heterosexual attorneys are statistically significant -- that is, highly unlikely to be the result of random sampling errors. Among lawyers in law firms with less than 10 years in practice, the State Bar Data show that heterosexual lawyers are almost three times more likely to be partners than gay lawyers: 17% versus 6%.⁹⁴ Looked at another way, partners comprise a significantly larger portion of heterosexual lawyers with less than 10 years in practice (11%), than of gay lawyers at the same

⁸⁸ Appendix C-1, Table 4. Breaking this response out by gender and sexual orientation, 32.6% of lesbian attorneys and 23.0% of gay male attorneys believe that their offices apply their advancement criteria more severely to gay or gay-perceived applicants, while 9.6% of heterosexual female attorneys and 9.6% of heterosexual male attorneys believe that their offices do so. Id.

⁸⁹ Id.

⁹⁰ Appendix C-1, Table 12. Breaking this response out by gender and sexual orientation, 25.5% of lesbian attorneys, 18.9% of gay male attorneys, 8.0% of heterosexual female attorneys and 3.0% of heterosexual male attorneys report that they have witnessed or experienced anti-gay discrimination in attorney work evaluations. Id.

⁹¹ Id. Breaking this response out by gender and sexual orientation, 19.1% of lesbian attorneys, 23.6% of gay male attorneys, 8.0% of heterosexual female attorneys and 6.0% of heterosexual male attorneys report that they have witnessed or experienced anti-gay discrimination in attorney promotion or advancement. Id.

⁹² See also California Women Lawyers, "Glass Ceiling Survey: Women Lawyers in Large California Law Firms" (September 1993) (the "CWL Glass Ceiling Study") (reaching similar conclusions with respect to women attorneys based on a survey of 161 California law firms).

⁹³ Because analysis of the State Bar Data cannot control for whether gay attorneys were "out" in their workplaces, it may understate the effects of sexual orientation discrimination; gay attorneys who are "closeted" may avoid adverse career consequences. In addition, although the analysis of the State Bar Data controls for age and years of practice, other factors such as systematic differences in the education and training of gay and heterosexual attorneys may also explain the differences in attorney status. Finally, it may be that gay attorneys have systematically different career aspirations than heterosexual attorneys and simply do not wish to invest the effort required to become law firm partners or achieve higher incomes. But see CWL Glass Ceiling Study, above, at 7 (dismissing similar arguments with respect to women attorneys).

⁹⁴ Appendix C-3, Table 1 and Figures 1-A, 1-B, 1-C and 1-D.

experience level (4%).⁹⁵ Among lawyers in law firms with 10 or more years in practice, heterosexual lawyers are still significantly more likely to be partners than gay lawyers: 86% versus 67%.⁹⁶ Partners also comprise a significantly larger segment of all heterosexual lawyers with 10 or more years in practice (38%), than of all gay lawyers at the same experience level (26%).⁹⁷

This data and comments from several attorneys, both gay and heterosexual, suggest the existence of a "glass ceiling" for gay attorneys -- particularly in law firms.⁹⁸ One gay attorney wrote,

A minority (sometimes, even one member) of the partnership can easily block any associate's chances. They are, of course, too smart to articulate blatantly discriminatory grounds for doing so. But I've seen it happen to gay associates three times in the last five years and it seems clear what's really going on. And the other partners are either unable or unwilling to counterbalance it -- and would never confront it honestly as homophobia. As a result, qualified gay attorneys usually leave after five to seven years.⁹⁹

Similarly, another gay attorney stated, "[p]artners do not want to risk terminating a gay attorney, but will not offer a partnership to one. For me, there is no possibility of promotion here because of my sexual orientation."¹⁰⁰ Another reported,

I was denied advancement to partner status after five successful years as an associate in my former firm. A friend who was one of the partners privately advised me of what was going on. One of the partners did not like gays and blocked my being offered a partnership.¹⁰¹

And yet another stated, "I was told I would not be able to advance after I disclosed I was gay."¹⁰²

Similarly, one heterosexual attorney observed, "[w]hen the gay associate was up for partner, it was made clear that any reference to his sexuality would result in his loss of the partnership opportunity."¹⁰³ Another heterosexual attorney noted, "[a]dvancement and pay criteria are subjective so that individual partners and the firm as a whole can tiptoe through the issues professing liberal attitudes."¹⁰⁴

⁹⁵ Id. This is true even though the percentage of all gay lawyers with less than 10 years' experience who practice in law firms (64%) is almost identical to the percentage of non-gay lawyers with less than 10 years' experience who practice in law firms (65%). Id.

⁹⁶ Id.

⁹⁷ Id.

⁹⁸ See, e.g., Appendix B-1, Comments 27, 92 and 104.

⁹⁹ Id., Comment 104.

¹⁰⁰ Id., Comment 24.

¹⁰¹ Id., Comment 19.

¹⁰² Id., Comment 30.

¹⁰³ Id., Comment 49.

¹⁰⁴ Id., Comment 65.

Discrimination in evaluation, promotion and advancement sometimes takes cover in the expression of subjective judgments, such as remarks that a certain gay attorney does not "fit in." One heterosexual attorney commented, "In my firm, there would be no overt discrimination [against gay people,] ... it would be more subtle -- i.e. the 'need to fit in' or failure to do so."¹⁰⁵ Similarly, a gay attorney observed:

The process of advancement and promotion is even more subjective than hiring -- and even harder to ensure as being non-discriminatory. ... [I]n my first few years at this firm, I had absolutely stellar reviews. But when my main mentors left the firm, the new senior partner in my department told me that my prospects with the firm were limited because, in his view, I "didn't fit in." Afterwards, he seemed to go out of his way to make my work situation difficult and unpleasant -- berating me in front of clients, giving me last-minute jobs with vague instructions, etc. I also started getting very bad work reviews from that partner. It all seemed personal to me. I am very "out" at this firm, but I can't be sure if that was part of my problem.¹⁰⁶

Another gay attorney explained this way how discrimination at his law firm was cloaked in subjective judgments about work quality:

[The kind of discrimination] I experienced ... most, both against gay people and against women, was a ... lesser tolerance for error. I saw many times where a straight male associate -- who was a deacon at the Methodist Church, you know -- could have the sorts of little mistakes that come up in litigation and be immediately forgiven But God forbid that a female associate or, worse yet, a gay associate should make such a mistake. If so, suddenly it speaks to fundamental questions about their competence and basic skills. ... It is the issue that, I think, is most critical to fair treatment [of lesbians and gay men] and yet also the most difficult to get your arms around. The problem is the different standards you use when judging someone whom you perceive to be like you versus someone whom you perceive to be alien. And, unfortunately, I think many people -- even relatively enlightened people -- tend to see lesbians and gay men as alien in the extreme.¹⁰⁷

Sexual orientation discrimination is probably more common in evaluation, promotion and advancement than in recruitment and hiring for several reasons. First, biased employers may be less likely to discover in the hiring process that an attorney is gay than after the attorney has been employed for a period. Second, the necessarily more subjective standards for work evaluation, promotion and advancement make such discrimination easier to accomplish without detection or objection; a discriminatory decision often is difficult to distinguish from a valid decision based on the merits. Third, employers with anti-gay bias may have fewer qualms about hiring entry-level gay attorneys than about investing those attorneys with the power and authority of supervisors or firm partners later in their careers.

¹⁰⁵ *Id.*, Comment 73.

¹⁰⁶ *Id.*, Comment 78.

¹⁰⁷ *Id.*, Comment 112.

5. Retention and Career Path.

Gay Attorneys appear to have career paths different from those of their heterosexual peers.¹⁰⁸ The State Bar Data suggest that, even controlling for age and years of practice, gay attorneys generally have less "prestigious" or "powerful" positions than heterosexual attorneys.¹⁰⁹ As discussed above, among attorneys in law firms, gay attorneys at all age and experience levels are more likely to be associates and less likely to be partners than heterosexual attorneys.¹¹⁰ Among attorneys with less than 10 years in practice, gay attorneys, as compared to heterosexual attorneys, are more likely to be in larger firms (67% versus 56%) and less likely to be in smaller firms (33% versus 44%).¹¹¹ Among attorneys with 10 or more years in practice, this tendency is diminished: as compared to heterosexual attorneys, gay attorneys are about as likely to be in larger firms (52% versus 50%) as to be in smaller firms (48% versus 50%).¹¹² But, again, more experienced gay attorneys in those firms are less likely to be partners than their heterosexual counterparts (67% versus 86%).¹¹³

In addition, the State Bar Data suggest that, at all age and experience levels, gay attorneys are more likely to be employed "in house" than heterosexual attorneys.¹¹⁴ Among attorneys with 10 or more years in practice, gay attorneys are more likely to be in government jobs (19% versus 12% for their heterosexual counterparts); but among attorneys with less than 10 years in practice, gay attorneys are less likely to be in government jobs (10% versus 15% for their heterosexual counterparts).¹¹⁵ Among attorneys with 10 or more years in practice, gay attorneys, as compared with heterosexual attorneys, appear less likely to be sole practitioners (35% versus 31%) and less likely to practice in a law firm (39% versus 44%).¹¹⁶

These differences in gay and heterosexual attorney career paths may, in part, result directly from sexual orientation discrimination. As one heterosexual attorney reported,

¹⁰⁸ Gay attorneys also earn substantially less than heterosexual attorneys of similar age and experience. See Section II.A.6.a, below (discussing Appendix C-3, Table 3 and Figures 3-A, 3-B, 3-C and 3-D).

¹⁰⁹ See footnote 93, above, for a discussion of how the State Bar Data may either understate or overstate the effects of sexual orientation discrimination on attorney career paths.

¹¹⁰ See Section II.A.4, above (discussing Appendix C-3, Table 1 and Figures 1-A, 1-B, 1-C and 1-D).

¹¹¹ Appendix C-3, Table 2. Similarly, among attorneys under 40 years of age, gay attorneys, as compared to heterosexual attorneys, are even more likely to be in larger firms (74% versus 54%) and even less likely to be in smaller firms (26% versus 46%). *Id.*

¹¹² *Id.* Among attorneys 40 or older, this is also true: gay attorneys, as compared to heterosexual attorneys, are about as likely to be in larger firms (40% versus 39%) as to be in smaller firms (60% versus 61%). *Id.*

¹¹³ Appendix C-3, Table 1 and Figures 1-A, 1-B, 1-C and 1-D.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

My firm has never employed an openly gay or lesbian attorney The gay attorney was eventually given 60 days termination notice, reportedly for quality of work reasons; however, he found another job (an in-house position at a prestigious, large company, doing similar work to what he had done in the firm) and has done very, very well there. After he left, I learned that the male attorneys he'd worked with at the firm had in fact suspected or been told of his sexual preference.¹¹⁷

The effects of discrimination on gay attorney career paths may also be indirect. Attorney Survey responses suggest that gay attorneys in Los Angeles County are generally more dissatisfied with their jobs than their heterosexual counterparts.¹¹⁸ It also appears that the dissatisfaction of gay attorneys stems, at least in part, from actual or perceived sexual orientation discrimination. Attorney Survey responses indicate that substantially more gay attorneys than heterosexual attorneys perceive that they were at a disadvantage in their current job.¹¹⁹ This dissatisfaction may lead to more frequent job changes by gay attorneys.

Attorney comments confirm the influence of perceived discrimination on retention and career path. One lesbian attorney reported,

I left one large corporate law firm to go to another after two years of practice, in part because it was extremely uncomfortable at my first firm to be openly lesbian. In fact, there were times where, even though I was open as a lesbian, people pretended not to know -- even if I'd bring a same-sex partner, or a date, to a firm function. People would actually treat us as though I was bringing some single woman to meet men there. That's why I chose the second firm, where there were people encouraging of gay men and lesbians.¹²⁰

Another lesbian wrote that she left a firm out of "fear of discrimination regarding making partner and the nature of work assignments and the likely deteriorations in training/mentoring once my orientation came out."¹²¹ Another gay attorney said,

[F]or me [the effect of being gay] has been a job progression. ... [W]hen I was at [my first law firm,] it was uncomfortable to be out, so I left. I went to [another law firm,] where one of the conditions ... was that I would be completely out or I wouldn't come there. And it's actually been a good experience. But now I even want more than that, so I'm going to start a firm. I just want to control my life and I really don't want to worry about who I am anymore.¹²²

¹¹⁷ Appendix B-1, Comment 6.

¹¹⁸ Gay male Attorney Survey respondents report consistently and substantially higher levels of job dissatisfaction than do heterosexual male attorneys -- with the exceptions of work hours and relations with female co-workers. Appendix C-1, Table 10. Similarly, lesbian attorneys report levels of job dissatisfaction consistently and substantially higher than heterosexual male attorneys and -- with the exception of relations with female co-workers, support staff help and job security -- also higher than heterosexual female attorneys. Id.

¹¹⁹ Gay male attorneys report consistently and substantially higher perceptions of disadvantage in their current jobs than do heterosexual male attorneys. Appendix C-1, Table 9. Similarly, lesbian Attorney Survey respondents report levels of perceived disadvantage in their current jobs consistently higher than do heterosexual male attorneys and sometimes, but not always, higher than do heterosexual female attorneys. Id.

¹²⁰ Appendix B-1, Comment 194.

¹²¹ Id., Comment 199.

¹²² Id., Comment 203.

Some gay attorneys leave larger firms and corporations for practice in smaller firms or on their own. One gay attorney stated,

In my old firm, the concern was expressed [that clients would prefer not to work with a gay attorney] and this was part of the reason I opened my own office.¹²³

Other gay attorneys may opt for practice in government, educational institutions or other non-profit organizations -- because those employers are perceived to be relatively less hostile places for gay people than private practice. One gay attorney said,

[A] lot of [gay attorneys] seek out smaller firms, government jobs in some places, public interest jobs -- jobs that, you know, create a place where you ... get to control your own thing. I think that that is a large factor in the distribution of where gay attorneys are found, the gay attorneys who want to be out, in particular.¹²⁴

Yet other gay attorneys find themselves frustrated with any aspect of the legal profession. One said "After 12 years, I'm changing careers. I'm giving up being a lawyer for many reasons -- but mostly I need to leave -- this is a socially conservative profession."¹²⁵

6. Compensation.

a. Monetary Compensation.

The data reviewed by the Committee show a distinct disparity between the incomes of heterosexual attorneys and their gay peers. Controlling for age and years of practice, the State Bar Data indicate that gay attorneys earn substantially less than their heterosexual peers.¹²⁶ These income differences are in most cases statistically significant -- that is, highly unlikely to be the result of random sampling error. For instance, among lawyers with 10 or more years in practice, 41% of heterosexual lawyers earn over \$125,000 per year from the practice of law while only 27% of their gay counterparts earn as much.¹²⁷ Likewise, 21% of heterosexual lawyers with 10 or more years in practice earn over \$200,000 per year from their practice while only 16% of their gay counterparts earn over \$200,000.¹²⁸ These differences are also reflected at the lower attorney income levels. Only about 25% of heterosexual attorneys in practice more than 10

¹²³ Id., Comment 195. See also id., Comment 196.

¹²⁴ Id., Comment 202.

¹²⁵ Id., Comment 201. See also id., Comment 199.

¹²⁶ As noted above, factors other than age or years of practice experience cannot be analyzed in the State Bar Data and may suggest that these findings either understate or overstate the true effects of sexual orientation discrimination on attorney income. See footnote 93, above.

¹²⁷ Appendix C-3, Table 3 and Figures 3-A, 3-B, 3-C and 3-D. These statewide statistics on the relative income of gay and lesbian California lawyers compare roughly to national statistics on the relative income of gay and lesbian employees. According to the first nationally-conducted econometric study of sexual orientation discrimination based upon the General Social Survey conducted by the National Opinion Research Center, "[g]ay/bisexual men earn from 9.5% to 25.9% less, and lesbian/bisexual women earn from 5.0% to 14.8% less." M.V. Lee Badgett, "Economic Evidence of Sexual Orientation Discrimination," School of Public Affairs, University of Maryland (Nov. 1993).

¹²⁸ Appendix C-3, Table 3 and Figures 3-A, 3-B, 3-C and 3-D.

years earn less than \$75,000, but 44% of gay attorneys in the same experience level earn less than \$75,000.¹²⁹ Further, at this experience level, only 9% of heterosexual lawyers earn under \$50,000 per year from their practice while 15% of gay lawyers earn under \$50,000.¹³⁰

It is likely that the "glass ceiling" for gay attorneys in law firms plays a role in this income disparity.¹³¹ Inasmuch as partnership in a law firm generally constitutes the highest potential income opportunity from the practice of law, the exclusion of gay attorneys from that opportunity no doubt diminishes their income potential as lawyers, particularly later in their careers.

The Attorney Survey responses also evidence a strong perception of sexual orientation discrimination in employer compensation of gay and heterosexual attorney peers. Almost 30% of all Attorney Survey respondents believe that gay attorneys fare worse than similarly-situated heterosexual attorneys in terms of income.¹³² Roughly 40% of gay attorneys believe so.¹³³ Among Attorney Survey respondents, over 42% of lesbians believe that their own compensation is less than that paid to heterosexual white male peers.¹³⁴ Almost 11% of lesbian attorneys reported that they had experienced pay discrimination based specifically upon sexual orientation; an additional 8.5% reported that they had witnessed sexual orientation discrimination in pay against others.¹³⁵ More than 11% of the gay male attorneys said that their own compensation was less than heterosexual white male peers.¹³⁶ Over 8% of them reported that they had experienced pay discrimination based specifically upon sexual orientation; an additional 7.4% reported that they had witnessed sexual orientation discrimination in pay against others.¹³⁷

¹²⁹ Id.

¹³⁰ Id. The State Bar Data show similar income differences between gay and heterosexual attorneys according to age. For example, 67% of gay attorneys under the age of 40 earn less than \$75,000 per year and only 5% earn more than \$125,000 per year; while 57% of heterosexual attorneys under 40 earn less than \$75,000 and 15% earn more than \$125,000. Id. Half of heterosexual attorneys over 40 earn more than \$100,000, while only 25% of gay attorneys over 40 earn more than \$100,000. Id.

¹³¹ See CWL Glass Ceiling Study, above.

¹³² Appendix C-1, Table 11. Breaking this response out by gender and sexual orientation, 40.5% of lesbian attorneys, 37.2% of gay male attorneys, 25.7% of heterosexual female attorneys and 18.8% of heterosexual male attorneys believe that gay attorneys fare worse than similarly-situated heterosexual attorneys in terms of income. Id.

¹³³ Id.

¹³⁴ Appendix C-1, Table 14A. To some extent, these reports by lesbians may reflect discrimination based on gender. Nevertheless, by comparison, only 22.4% of heterosexual women said their compensation was less than heterosexual white male peers. Id. The reports by lesbians and heterosexual women may to some extent also reflect discrimination based on race, ethnicity, religion and disability.

¹³⁵ Appendix C-1, Table 12.

¹³⁶ Appendix C-1, Table 14A. To some extent, these reports may reflect discrimination based on race, ethnicity, religion and disability.

¹³⁷ Appendix C-1, Table 12.

b. Employee Benefits.

Benefits such as health insurance, life insurance, disability insurance, employee assistance programs, pensions, family leave, bereavement leave, sick leave, service discounts, company cars and paid parking can comprise a substantial portion of an employee's compensation.¹³⁸ Therefore, disparate treatment of gay attorneys with respect to benefits can result in gay attorney compensation being substantially less than that of their heterosexual peers.

Some employers appear to limit benefits in ways that expressly exclude gay attorneys. For example, while approximately 35% of Employer Survey respondents reported that they pay membership dues for gay bar associations to the same extent as dues for other minority or women's bar associations, 28.6% reported that they do not do so.¹³⁹

According to the Attorney and Employer Survey results, moreover, most gay attorneys with same-sex domestic partners¹⁴⁰ are not compensated the same as married heterosexual attorneys with respect to employee benefits.¹⁴¹ Even at firms with policies against sexual orientation discrimination, such benefits disparities appear to be common. Roughly two-thirds of the gay Attorney Survey respondents and half of all Attorney Survey respondents believe that their employers have not taken steps necessary to ensure that lesbian and gay lawyers are provided employee benefits comparable to those provided heterosexual lawyers.¹⁴² While 54% of Employer Survey respondents reported that they have reviewed their benefits policies to ensure that gay attorneys are treated fairly and equitably, 46% reported that they have not done so.¹⁴³

In particular, while Employer Survey responses suggest that most respondents' parental leave and part-time policies are gender neutral (67.2%), marital status neutral (67.8%) and apply irrespective of the biological relationship between parent and child (70.2%), only 50.8% of Employer Survey respondents reported that their bereavement or

¹³⁸ See Jean Latz Griffin, "Push for Domestic Partner Benefits Picking Up Steam," The Chicago Tribune, Nov. 8, 1993, Sec. C, at 3 (according to a 1989 U.S. Department of Commerce report, benefits comprise 37% of average U.S. employee compensation); "Employer 1993 Costs Rose 3.5 Percent, Reflecting Drop in Benefits Expenditures," BNA Pensions & Benefits Daily, Jan. 27, 1994 (according to a BNA study, benefits costs constitute about 29% of total compensation costs).

¹³⁹ Appendix C-2, Tables 17 and 18. The balance, 35% did not pay dues for any minority or women's bar associations.

¹⁴⁰ As do several municipal ordinances in California permitting the registration of such relationships, this report uses the term "domestic partner" to refer to the relationship between a same-sex or opposite-sex couple in a committed, long-term relationship similar to a marriage. Other terms commonly used to describe such relationships include, for example, "partner," "life partner," "companion," "long-term companion," "significant other" or "spousal equivalent."

¹⁴¹ Similarly, however, unmarried heterosexual attorneys with opposite-sex domestic partners usually are not compensated comparably to married heterosexual attorneys. The difference between unmarried heterosexual couples and gay couples is that most heterosexual couples have the option of marriage while no gay couples in California currently have that option. As a result, most unmarried heterosexual attorneys can cure disparate employee benefits treatment if they choose to marry their domestic partners, while gay attorneys with same-sex domestic partners cannot overcome disparate employee benefits treatment without a policy change by their employers.

¹⁴² Appendix C-1, Table 3. The figure for gay men is 63%, for lesbians is 67.4%, for heterosexual women is 35.1% and for heterosexual men is 31.5%. *Id.* See, e.g., Appendix B-1, Comment 360 ("No benefits extend to gay lawyers' significant others as would happen for heterosexuals"). See also *id.*, Comments 362, 369 and 379.

¹⁴³ Appendix C-2, Table 15.

family leave policies allow leave for the death or caretaking of a same-sex domestic partner.¹⁴⁴ Only 19.6% of Employer Survey respondents reimburse the cost of moving a same-sex domestic partner on the same terms as the cost of moving an opposite-sex spouse.¹⁴⁵ Similarly, only 15.1% provide employee assistance benefits (such as substance abuse and crisis counseling) that cover same-sex domestic partners and children of a same-sex domestic partner on the same terms as opposite-sex spouses or children of an opposite-sex spouse.¹⁴⁶

Most significantly, the great majority of gay attorneys are not able to obtain coverage for their same-sex domestic partners under employer-provided health insurance programs. Some employers do not provide health care benefits even to employees; others do not offer such benefits to family members of employees.¹⁴⁷ But when firms provide health benefits for the immediate family members of heterosexual attorneys, they usually do not provide similar benefits for same-sex domestic partners of gay attorneys.¹⁴⁸ Only 15% of Employer Survey respondents reported that they offer health benefits to the same-sex domestic partner of an attorney on the same or similar terms as benefits available to an opposite-sex spouse of an attorney; 64% reported that they did not do so and the balance, 21%, did not offer health benefits to any spouse of an attorney.¹⁴⁹

Perhaps as a result of these disparities, far more gay attorneys than heterosexual attorneys are dissatisfied with their pay and fringe benefits.¹⁵⁰ Moreover, it appears that most gay and many heterosexual attorneys see the absence of comparable benefits for the domestic partners of gay employees as inequitable and discriminatory.¹⁵¹ Some attorneys believe that, because marriage is not a legally-mandated requirement for extension of employee benefits, it is unjust for an employer to decline to offer such benefits on the grounds that same-sex couples cannot marry.¹⁵²

Gay attorneys seek benefits for their same-sex domestic partners for the same reasons that spousal benefits are considered important to heterosexual attorneys. One said, "My long term companion should be provided with the identical benefits a spouse is provided with."¹⁵³ Another said, "We need insurance and pension benefits for same-sex

¹⁴⁴ Appendix C-2, Tables 16 and 17.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *See, e.g.*, Appendix B-1, Comments 364 and 351.

¹⁴⁸ *See, e.g., id.*, Comment 350 ("Unfortunately ... the corporate dictates of this firm as an in-house legal firm don't allot family-oriented benefit packages for non-traditional couples") and 373 ("There is no insurance for same-sex partners (mates) of employees/attorneys").

¹⁴⁹ *See* Appendix C-2, Table 17.

¹⁵⁰ Appendix C-1, Table 10.

¹⁵¹ *See, e.g.*, Appendix B-1, Comment 374 ("There is no same-sex health coverage for domestic couples -- a clear discrimination against gay and lesbian attorneys").

¹⁵² *See id.*, Comments 359, 366 and 386. *But see id.*, Comment 353 ("Gays should receive no better treatment than other unmarried individuals, whether they live together or not").

¹⁵³ *Id.*, Comment 381.

partners."¹⁵⁴ Yet another pointed out the powerful message equitable benefits sends: "Spousal equivalent benefits ... that says it all to gay employees."¹⁵⁵

On the other hand, employers reported several concerns with extending benefits to the domestic partners of gay employees. One heterosexual attorney said, "Management would probably be supportive of benefits for same sex partners if coverage could be obtained at reasonable cost and if coverage standards were reasonably clear and limited to relatively stable, committed relationships."¹⁵⁶ Easy and effective ways exist to avoid potential fraud.¹⁵⁷ For example, some employers offering domestic partner benefits require that the employee submit an affidavit that his or her domestic partner is a true spousal equivalent -- that the couple lives together, that both partners consider themselves life partners, that neither is married to or partnered with anyone else, that they are financially interdependent and that they take joint responsibility for one another's common welfare.¹⁵⁸

Other reasons for disparate benefits policies may relate to neglect or ignorance of the minimal economic and administrative costs involved. One heterosexual attorney said, "There are no efforts to achieve equity [for gay attorneys] in benefits or other policies. I would guess this is due to neglect, not deliberate discrimination."¹⁵⁹ Some employers fear high costs based upon the perceived incidence of AIDS among gay attorneys.¹⁶⁰ This fear is unsupported by the data reviewed by the Committee.¹⁶¹ One study, when comparing the costs of average lifetime AIDS treatment with the costs of routine pregnancy, concluded that:

"it is probably more expensive to cover female heterosexual spouses. Maternity costs are among the biggest budget items in many insurance pools, but no one has seriously proposed eliminating dependent wives from eligibility. Lesbians and gay men are the only group for whom cost is advanced to justify discrimination."¹⁶²

¹⁵⁴ *Id.*, Comment 383.

¹⁵⁵ *Id.*, Comment 384. *See also id.*, Comment 385.

¹⁵⁶ *Id.*, Comment 347.

¹⁵⁷ It should be noted, however, that most employers do not require heterosexual employees claiming to be married to submit any proof when they sign up for spousal benefits. "Understanding the Domestic Partner Dilemma: Perspectives of Employer and Insurer," City of West Hollywood, California, at 21, n.42 (2d ed., Oct. 1993).

¹⁵⁸ *See id.* at 21.

¹⁵⁹ Appendix B-1, Comment 367.

¹⁶⁰ *Id.*, Comment 355 ("The firm will not consider extending benefits to same-sex domestic partners on cost grounds -- largely, fear of AIDS-related health claims").

¹⁶¹ Lesbians are in the lowest risk group for HIV/AIDS. "Understanding the Domestic Partner Dilemma," above, at 18, n.31 and n.32. Moreover, the rate of HIV infection among gay men has slowed significantly while the rate of heterosexual HIV infection continues to climb. *Id.* at 18, n.33. In any event, the cost of AIDS is much less than the cost of other common catastrophic health problems. For example, the average cost of lifetime AIDS treatment is much lower than the cost of heart disease, cancer, high-risk pregnancies and caesarian-section births; it is comparable to the cost of a single coronary. *Id.* at 18-19.

¹⁶² *Id.* at 19 (quoting a study of domestic partner benefits experience at Lotus Development Corporation).

Substantial evidence exists that domestic partner benefits for gay employees do not significantly increase economic or administrative costs. All of the studies on the subject reviewed by the Committee indicate that the cost of providing domestic partner health care benefits is nominal. For example, a report by the United States Bureau of National Affairs, a university report by Stanford University, a municipal report by the City of West Hollywood and a study of the experience of several large corporate employers offering such benefits all conclude that the economic and administrative costs associated with providing same-sex domestic partner health care benefits are minimal.¹⁶³ The experience of employers in the studies reviewed by the Committee suggest that the financial cost of providing health care benefits for same-sex and opposite-sex domestic partners and their children amounts to only 0.5% to 3% of total health care costs.¹⁶⁴

Many employers find that some insurers or health maintenance organizations from which they purchase group health benefits resist providing domestic partner coverage. Nonetheless, many large insurers and HMO's now do so.¹⁶⁵ In any event, where negotiations with insurers are unsuccessful, some employers subsidize the premiums on individual policies for domestic partners of gay employees to the extent the employer would have contributed toward the coverage of an opposite-sex spouse under the group plan.¹⁶⁶ From the perspective of gay employees, such a subsidy is a welcome statement of employer support but is also second-best to domestic partner coverage under the employer's group plan. The cost of individual policies is almost always higher than that of group plan coverage and, in some instances, individual policies may be unavailable.

In addition to the studies reviewed by the Committee, the large and growing number of employers offering domestic partner health insurance benefits suggest that such benefits can be provided practically and economically.¹⁶⁷ In 1991, Lotus Development Corporation became the first large, private employer to extend benefits, including health care benefits, to the domestic partners of gay employees.¹⁶⁸ Since then, large numbers of

¹⁶³ The Bureau of National Affairs (BNA), "Recognizing Non-Traditional Families," Special Report #38 (Washington, D.C., 1991); Stanford University, "Report of the Subcommittee on Domestic Partners' Benefits, University Committee on Faculty and Staff Benefits" (June 1992); "Understanding the Domestic Partner Dilemma," above; and Steward D. Lawrence & John J. Fadel, "'Total Compensation' Plan Design: The Dollars and Sense of Adding Domestic Partner Health Coverage," *Compensation & Benefits Management*, Autumn 1993, 82-86 (studying the cost experience with such benefits at Lotus Development Corporation, Levi Strauss & Co. and other employers). Part of the reason the cost of such benefits is so low is that enrollment tends to be low: few employees have domestic partners and few of those have domestic partners who are not otherwise insured. See "Understanding the Domestic Partner Dilemma," above, at 15-18.

¹⁶⁴ See, e.g., "Understanding the Domestic Partner Dilemma," above, at 13-20. Obviously, the cost would be even lower if such benefits were offered to same-sex couples but not to unmarried heterosexual couples.

¹⁶⁵ These include Blue Cross in some locations, Cigna and Kaiser Permanente. Even more insurers, including Aetna, will cover domestic partners for employers who are self-insured.

¹⁶⁶ Among Los Angeles law firms, these include both large firms (for example, Heller, Ehrman, White & McAuliffe) and smaller firms (for example, Hedges & Caldwell).

¹⁶⁷ It also appears that, while an employer may deduct amounts paid for domestic partner benefits as "ordinary and necessary" business expenses, the value of employer-provided benefits for domestic partners is taxable as income to the employee, unlike the value of employer-provided benefits for opposite-sex spouses. See Glenn W. Carlson, CEBS, & Susan E. Goodwin, "COBRA and Tax Implications of Domestic Partner Coverage," *Employee Benefits Journal* 6 (June 1993); "Understanding the Domestic Partner Dilemma," above, at 52-53.

¹⁶⁸ See, e.g., Keith H. Hammonds, "Lotus Opens A Door for Gay Partners," *Business Week*, Nov. 4, 1991, 80, 85.

employers have followed suit. Many other California corporate employers¹⁶⁹ and public employers¹⁷⁰ now offer domestic partner benefits to gay employees. The trend towards such benefits is even more pronounced among colleges and universities¹⁷¹ and non-profit organizations.¹⁷² Most significantly for the legal community in Los Angeles, a significant and growing number of California law firms now provide domestic partner benefits to gay attorneys.¹⁷³

B. The Visibility of Gay Attorneys in the Profession.

In Los Angeles County, sexual orientation discrimination is sufficiently pervasive that hiding "in the closet" is often the most certain and, in some instances, the only path to job security. Gay attorneys thus face difficult choices deciding when, if ever, to be "out" in their professional lives. The Attorney Survey responses reveal that many gay attorneys believe, as one stated, "[At this firm,] the policy is to discriminate against gay men and lesbians. ... I have to stay in the closet at work and would never have been hired if they knew."¹⁷⁴ The Committee's findings suggest that these fears are, in fact, often well-founded.

The data reviewed by the Committee also suggest that "the closet" imposes substantial costs on both gay attorneys and their employers. Requiring gay attorneys to separate their personal and professional lives in a fashion not required of heterosexuals is not only unlawful, but it also denies gay attorneys access to informal and formal networking and professional opportunities within the workplace and the profession. This negatively affects an attorney's productivity and predictable tenure with his or her employer, and takes its toll on the individual's sense of professional collegiality and emotional well-being.

¹⁶⁹ Among these are Adobe Systems, Ask/Ingres, Apple Computer, Autodesk, Inc., Borland International, California Pacific Medical Center, HBO, Levi Strauss Corporation, Lotus Development Corporation, MCA/Universal, Microsoft Corporation, NeXT Computer, Oracle Corporation, Para Transit Inc., Silicon Graphics Inc., Sun Microsystems, SuperMac Technologies, Sybase Inc., Viacom International and Warner Brothers Pictures.

¹⁷⁰ Among these are Bay Area Rapid Transit, Berkeley Unified School District, City of Santa Cruz, City of San Francisco, City of West Hollywood and Santa Cruz Transit Employees. In addition, the Los Angeles City Council on November 16, 1993 passed a resolution to offer domestic partner health care benefits.

¹⁷¹ Among these are Pomona College, Pitzer College and Stanford University in California, as well as many well-known higher education institutions across the country, including: Harvard University, MIT, Columbia University, University of Chicago, Middlebury College, Colby College, Princeton University, Smith College, Swarthmore College, University of Colorado, University of Iowa, University of Minnesota, University of Pennsylvania, University of Vermont, Wellesley College, Williams College, Yale University and University of Wisconsin.

¹⁷² Among these are American Civil Liberties Union, American Friends Services Committee, Episcopal Church of Newark, Greenpeace International, Human Rights Campaign Fund, Lambda Legal Defense and Education Fund, Los Angeles Philharmonic, Museum of Modern Art - NY, National Organization for Women, National Public Radio, the Union of American Hebrew Congregations and the Writers Guild of America West.

¹⁷³ These include Cooley, Godward, Castro, Huddleson & Tatum (San Francisco, Menlo Park and San Diego); Hedges & Caldwell (Los Angeles); Heller, Ehrman, White & McAuliffe (Los Angeles, San Francisco and Palo Alto); Howard, Rice, Nemerovski, Canady, Robertson & Falk (San Francisco and Irvine); Irell & Manella (Los Angeles/Downtown, Los Angeles/Century City and Newport Beach); Milbank, Tweed, Hadley & McCloy (Los Angeles); Morrison & Foerster (Los Angeles, San Francisco and Irvine); Orrick, Herrington and Sutcliffe (Los Angeles and San Francisco) and Pillsbury, Madison & Sutro (Los Angeles, San Francisco, San Diego, San Jose, Orange County and Menlo Park).

¹⁷⁴ Appendix B-1, Comment 9.

The pressures upon gay attorneys to hide their sexual orientation also serve to suppress discussion of sexual orientation bias generally and to suppress complaints about sexual orientation discrimination in particular. One gay attorney stated,

There's a powerful person, not a lawyer, but someone important in my current company ... who does not acknowledge his relationship of 14 years with his significant other. ... There needs to be recognition [of gay people] from the top. I would like to think that if, from the bottom, we all came out, that would really do something. But as long as the top is the way it is, realistically, that's not going to happen.¹⁷⁵

Another observed that, although his firm has "at least three" gay attorneys, "the issues ... simply have not arisen since none of these attorneys, including myself, is 'out' in the firm or otherwise self-identified."¹⁷⁶

This is an important fact: it suggests that, troubling as all of the above findings of discrimination are, they may substantially understate the amount of sexual orientation discrimination that would be evident but for the fact that so many gay attorneys remain closeted. Further, "the closet" itself is both a form and evidence of invidious discrimination against gay attorneys.

1. "The Closet" as Evidence of Sexual Orientation Discrimination.

The Attorney Survey data show that the vast majority of gay attorneys in Los Angeles remain "in the closet" to some or most colleagues and coworkers in their workplace and within the legal profession generally. Slightly more than half of the gay respondents report that they are "out" to most or all of their superiors and nearly half report that they are "out" to most or all of the non-attorney staff in their workplace.¹⁷⁷ Only 39.4% are out to most or all of their peers and less than 10% are "out" to most or all clients, judges, opposing counsel and courtroom personnel.¹⁷⁸ Although it appears that most gay attorneys attempt to avoid unlawful discrimination by leaving their sexuality ambiguous, or even making it appear mainstream,¹⁷⁹ it is also apparent that "the closet" is at best an incomplete and personally costly solution to the problem of anti-gay bias.

The repercussions flowing from the apprehensions of "closeted" gay attorneys are profound and destructive. Many gay Attorney Survey respondents and Focus Group participants described the fear, isolation and other negative consequences that are often related to being "closeted" in the workplace:

¹⁷⁵ *Id.*, Comment 237.

¹⁷⁶ *Id.*, Comment 229. *See also id.*, Comments 243, 269 and 272.

¹⁷⁷ Appendix C-1, Table 15.

¹⁷⁸ *Id.*

¹⁷⁹ *See, e.g.*, Appendix B-1, Comment 205 ("One closeted lesbian actually got married so she would make partner").

The emotional cost of being in the closet is enormous -- you can't underestimate the potential lost. The most important function we have is to make sure that the younger people coming along will be the last to have to deal with this sort of anxiety.¹⁸⁰

I have to sit anxiously in the office and, at every moment, try to figure out whether and when I can say "we" and risk someone asking who "we" is. ... [I]f someone asks, "What happened this weekend?" and I slip and [say] "we" instead of "I," then I go through a kind of turmoil. That really requires energy that ... prevents you ... from achieving any peace and assurance.¹⁸¹

There is a strong culture of conformity -- of not sticking out. For gays and lesbians, that means we must keep our personal life private. But, in our work reviews, we get criticized for being private and quiet.¹⁸²

That so many gay attorneys would select "the closet" over facing the difficulties presented to an "out" gay attorney is itself evidence of the power of anti-gay bias in the legal profession. As one heterosexual attorney observed, "The reluctance of gay lawyers to identify themselves attests to the weight of the few lawyers who I believe would not be receptive."¹⁸³

2. Employer Pressure to Remain "Closeted."

Despite the pain and isolation "the closet" can inflict on gay lawyers, many employers appear to exert pressure on gay attorneys to remain "in the closet."¹⁸⁴ These practices are plainly discriminatory: no comparable restrictions are imposed upon direct or indirect disclosure of the private lives and public relationships of heterosexuals. A male attorney would, for example, never be instructed to hide the fact that his significant other is a woman. A female attorney would never be adversely affected by the fact that her committed relationship with a man reveals her to be heterosexual.

Approximately 28% of lesbians and 18% of gay men reported that a gay attorney in their workplace had been asked or advised to conceal his or her sexual orientation.¹⁸⁵ Gay attorneys stated:

I was told [by management] I would never have certain jobs because I was openly gay. They said not to tell anyone, to be grateful that I have that job.¹⁸⁶

¹⁸⁰ *Id.*, Comment 282. See also *id.*, Comment 199.

¹⁸¹ *Id.*, Comment 281.

¹⁸² *Id.*, Comment 278.

¹⁸³ *Id.*, Comment 349.

¹⁸⁴ See, e.g., *id.*, Comments 240-83. Policies that pressure gay people to conceal their sexual orientation are sometimes known euphemistically as "don't ask; don't tell" policies.

¹⁸⁵ Appendix C-1, Table 7. In contrast, only 2.7% of heterosexual women and no heterosexual men reported that this had occurred. *Id.* It may be that, because gay attorneys are uniformly more affected by restrictions on workplace disclosures of sexual orientation, heterosexual attorneys do not perceive such restrictions to be significant or do not perceive them at all.

¹⁸⁶ Appendix B-1, Comment 280.

[D]uring interviewing/hiring, [I was] told to "stay closeted" to improve [my] advancement potential.¹⁸⁷

[T]o one recruiter, I said that I would like to be out. And they just wanted to drop me like a hot potato. They encouraged me not to tell anyone, ever, and particularly not to tell another recruiter about my orientation, which was kind of a dampening experience for me.¹⁸⁸

[After coming out,] the General Counsel, ... a close personal friend [who] could not have been more supportive, begged me ... not to tell anybody, saying that it would destroy my career.¹⁸⁹

Similarly, nearly 25% of all gay Attorney Survey respondents report that lawyers in their offices have said that an attorney demonstrates "bad judgment" by openly identifying as gay.¹⁹⁰ One gay attorney stated,

In my old office, I was deemed to show poor judgment by being openly gay. ... In my old firm, my advancement to partnership was in dispute because I was gay. I turned down the eventual offer because I realized it would continue to be an issue for the dissenters.¹⁹¹

Although far fewer heterosexual than gay Attorney Survey respondents reported specific incidents of gay attorneys being pressured to remain "closeted,"¹⁹² the comments of many heterosexual attorneys confirm the prevalence of employer pressure on gay attorneys to conceal their sexual orientation.¹⁹³

Here, you can "be" gay, but not "act gay" or show it at the office.¹⁹⁴

I don't think the firm would care if a lawyer was gay, but would care if he/she was openly gay at office, social events, etc. Support staff would be up in arms.¹⁹⁵

My sense is that being gay or lesbian is not a hinderance to advancement as long as one is quiet (although not necessarily secretive) about one's sexual orientation.¹⁹⁶

Moreover, large numbers of gay and heterosexual lawyers alike believe that being "out" can be harmful to an attorney's career. The Attorney Survey included a range of questions about whether an attorney's career would be harmed if the attorney

¹⁸⁷ Id., Comment 27.

¹⁸⁸ Id., Comment 58.

¹⁸⁹ Id., Comment 238.

¹⁹⁰ Appendix C-1, Table 7. In contrast, only 5.5% of heterosexual men and only 1.4% of heterosexual women report that attorneys in their offices have said so. Id. As to what may explain this difference between gay and heterosexual reports, see footnote 185, above.

¹⁹¹ Appendix B-1, Comment 195. One gay attorney agreed that being "out" is foolish, stating, "[sexual orientation] is a non-issue. It doesn't even come up – unless it's thrown in my face by the applicant – at which time I would seriously question that individual's discretion and judgment, two qualities important to being an effective attorney." Id., Comment 244.

¹⁹² See footnotes 185 and 190, above.

¹⁹³ See, e.g., Appendix B-1, Comments 2, 49, 65, 240-43, 245-49 and 253-57.

¹⁹⁴ Id., Comment 240.

¹⁹⁵ Id., Comment 241.

¹⁹⁶ Id., Comment 250.

participated in certain activities, or merely displayed certain cues, that might suggest a gay sexual orientation.¹⁹⁷ The responses reveal a general perception that being "out" is often harmful to a gay attorney's career.¹⁹⁸

The strongest Attorney Survey response concerning "out" gay attorneys related to clients: nearly three quarters of all respondents believe that it will harm a gay attorney's career to let most or all clients know that he or she is gay.¹⁹⁹ This concern about "customer preference" or biased clients was echoed in several attorney comments. For example, gay attorneys reported:

[At my large firm,] firm-wide functions included all significant others; functions at private homes or where clients would be present did not.²⁰⁰

I was told that clients wanted an attorney that was "more aggressive" or that "liked sports." I was also told that the firm would not take on a gay *pro bono* case because it would upset clients.²⁰¹

We had lots of Pacific Rim clients. Gay and lesbian attorneys were told not to have client contact.²⁰²

In addition to the concern about letting clients know, many Attorney Survey respondents perceived several other indicators of homosexuality to be especially harmful to an attorney's career: displaying indicators of gay or lesbian community involvement in one's office (48.0%); discussing one's personal or family life involving a same-sex partner (46.3%); and bringing a same-sex date to an outside social or professional event (46.2%).²⁰³ The perception of career harm declined slightly when the indicators of an attorney's homosexuality stayed within the employer workplace. For example, only 37.9% of respondents believe it would be harmful to bring a same-sex date to an internal office event (without clients or outsiders).²⁰⁴ Similarly, when indicators of homosexuality are kept within the gay community, the perceived risk of career harm was somewhat lower: 26.6% believe it harmful to take on gay-related *pro bono* work and 32.3% believe it harmful to become active in gay community organizations.²⁰⁵

¹⁹⁷ The ways of being "out" identified in the Attorney Survey included: (1) letting peers know; (2) letting subordinates know; (3) letting supervisors/superiors know; (4) letting "selected" clients know; (5) letting most/all clients know; (6) taking on gay-related *pro bono* work; (7) becoming active in gay community organizations; (8) discussing gay issues or gay community activities in the office; (9) discussing one's same-sex partner in the office; (10) displaying a picture of one's same-sex partner in the office; (11) displaying evidence of gay community activities in the office; (12) bringing a same-sex date to an internal office event (without clients or outsiders) where opposite-sex dates were appropriate; and (13) bringing a same-sex date to a social or professional event where clients or outsiders attended and where opposite-sex dates were appropriate.

¹⁹⁸ Appendix C-1, Table 8.

¹⁹⁹ *Id.*

²⁰⁰ Appendix B-1, Comment 302.

²⁰¹ *Id.*, Comment 31.

²⁰² *Id.*, Comment 205.

²⁰³ Appendix C-1, Table 8.

²⁰⁴ *Id.*

²⁰⁵ *Id.* But were an attorney to display indicators of this gay community work in his or her office, the "harmful" rating went up to 48.0%. *Id.*

There were also differences of opinion between heterosexual and gay Attorney Survey respondents as to when being "out" is harmful to a gay attorney's career. Generally, gay respondents are more likely to perceive harm from being "out."²⁰⁶ But on the subject of career harm if clients know that an attorney is gay, heterosexual women are most likely to believe it harmful and heterosexual men, the least likely.²⁰⁷ Also, with respect to all but three ways of communicating one's homosexuality,²⁰⁸ heterosexual men were the least likely to perceive being "out" as harmful to a gay lawyer's career. By contrast, nearly half of all respondents, regardless of gender or sexual orientation, believe that simply discussing one's personal or family life in a manner that revealed the gender of one's partner -- a matter of no consequence whatsoever for a heterosexual attorney -- would harm a gay attorney's career.²⁰⁹

3. Social and Professional Relations Between Gay Attorneys and Heterosexuals.

In the legal profession, socializing and personal relationships -- with other attorneys, court and other government officials, business people and other current or potential clients -- are important to professional advancement.²¹⁰ Approximately 52% of Attorney Survey respondents believe that social activities are important to advancement in their offices.²¹¹ In private practice, social activities are particularly important to business development and advancement.²¹² Among Attorney Survey respondents in private firms, 58.2% believe that social activities are important to advancement while only 38.2% of respondents in in-house law departments and 39% of respondents in non-profit or government employment believe so.²¹³

²⁰⁶ See id.

²⁰⁷ Id.

²⁰⁸ The three were: (1) letting supervisors (as opposed to peers or subordinates) know; (2) letting "selected" clients know; and (3) discussing one's personal life with a same-sex partner. Id.

²⁰⁹ Id.

²¹⁰ See, "For Minority Lawyers, It's Who You Know, Bar Survey Suggests," The Los Angeles Times, March 1, 1994, D1, D10 (according to a recent American Bar Association survey, "[w]ithout business contacts on the outside and the mentoring and support network needed on the inside, minority lawyers fail to generate the numbers of clients and cases that are a key requirement of partnership and successive executive ranks within law firms"); "Barriers Still Exist, Women Lawyers Say," The Los Angeles Times, March 10, 1994, D1, D4 (according to a recent survey by the Women Lawyers Association of Los Angeles, there is a "lack of mentors within law firms or government agencies that could help women learn the ropes of legal practice" and "female attorneys are at a great disadvantage compared to their male colleagues, who network with clients and each other").

²¹¹ Appendix C-1, Table 16. Almost 62% of gay attorneys believe that social activities are important to advancement in their offices while just under 43% of heterosexual attorneys believe so. Id.

²¹² See "For Minority Lawyers, It's Who You Know," above, at D1 ("Minorities remain rare in partnership ranks at major U.S. law firms, largely because they have few contacts in white-dominated corporate suites -- where decisions about hiring lawyers are made"); "Barriers Still Exist, Women Lawyers Say," above, at D4 (on a woman attorney's career path to "power, prestige and standing in the profession, ... [o]ne primary roadblock, according to this survey and others, is exclusion from formal and informal settings designed to bring in new clients and sharpen so-called rainmaking skills").

²¹³ Appendix C-1, Table 16.

When it comes to professional "networking," their sexual orientation often presents gay attorneys with problems not encountered by heterosexual attorneys. Generally, it appears that heterosexual and gay attorneys alike recognize the nature and magnitude of these problems.²¹⁴ One heterosexual attorney remarked that "Once it's out [that an attorney is homosexual], interpersonal relationships with co-workers change."²¹⁵ Another heterosexual attorney admitted frankly, "I would feel uneasy about socializing with gay people."²¹⁶ A gay attorney said, "There was a subtle chill in my relations with the office after I came out."²¹⁷ Another said,

I was out in a big firm but I knew I would never make partner because I knew I would not even stay long enough to be considered for partnership. How could I network with the partners? They were all white male, over 60 and married. We didn't belong to the same country club, if you know what I mean. I left that firm out of fear.²¹⁸

Other gay attorneys noted the frequent internal conflicts presented in their relationships with heterosexual colleagues:

[At my firm,] the choice of confronting or acquiescing in bigotry was a double-edged sword. I didn't want to partake in any of the sexist or anti-gay jokes that were being made in the groups who would gather to socialize in the office ... , so I typically removed myself from the situation as opposed to vocalizing my objection, knowing what hostility that would bring me. But in removing myself from those situations, ... I got the reputation of being aloof. ... When I did speak up I was seen as a malcontent, a troublemaker. When I didn't speak up, I was seen as aloof and held off onto my own.²¹⁹

[For an openly gay attorney,] it is very easy ... to become perceived as the aggressive rabble-rouser -- the odd man out [Y]ou could even try to laugh at the jokes and be part of the game, but you are not going to be "in" because people are hyper-cautious around you.²²⁰

Perhaps even more than for "single" gay attorneys, the dysfunction in social and professional relations with heterosexuals presents a particularly painful choice for gay attorneys in long-term, committed relationships with a same-sex partner. One gay attorney wrote, "Firm social events were painfully formal and boring -- but necessary for success. I was always uncomfortable not having my lover present and politely fending off 'marriage' type questions."²²¹ Another said, "I am very reluctant to bring my same-sex partner due

²¹⁴ Nonetheless, some heterosexual attorneys suggest that, at least for gay attorneys, personal and professional relationships should be segregated strictly. One said, "What's the point of all this openness [about homosexuality]? Work is unrelated to sexual preference -- why try to mix them? These are personal matters, not work matters." Appendix B-1, Comment 249. See also id., Comments 248, 251, 256 and 257.

²¹⁵ Id., Comment 218.

²¹⁶ Id., Comment 219.

²¹⁷ Id., Comment 220.

²¹⁸ Id., Comment 221.

²¹⁹ Id., Comment 222.

²²⁰ Id., Comment 225.

²²¹ Id., Comment 303.

stigma or unacceptance."²²² Another gay attorney remarked that it is at law- or office-related social events

when gay and lesbian attorneys are most likely to feel and be perceived as "different" -- usually attending events without a date/spouse, making it more difficult to enjoy the event and participate fully. As a result, they are often perceived by other attorneys as antisocial or mysterious ... not fitting in.²²³

As was the case many years ago for inter-racial couples and heterosexual couples where the wife is the employee, gay couples have become a reality that employers can no longer simply ignore. While 93% of the Employer Survey respondents reported that their policy is that gay attorneys are welcome to bring same-sex guests to office-sponsored social events,²²⁴ only 13% of Employer Survey respondents reported that gay attorneys in their office always did so, 71.7% reported that they only did so "sometimes" and 15.2% reported that they never did so.²²⁵

Further, Attorney Survey questions that inspired the most written comments were those relating to same-sex couples at office-sponsored social events. Most respondents reported conscious or unconscious exclusion of same-sex couples.²²⁶ Many employers apparently do not consider the possibility that an attorney may have a same-sex domestic partner²²⁷ and many gay attorneys appear to be unwilling to test the waters where the welcome is uncertain.²²⁸ A heterosexual attorney wrote that, at his firm's social events, "Same sex partners would not be welcome and would be subjected to harassment."²²⁹ A gay attorney said, "Although same-sex partners are tolerated, not

²²² *Id.*, Comment 329.

²²³ *Id.*, Comment 325. *See also id.*, Comment 338.

²²⁴ Appendix C-2, Table 19. Only 4.8% of the Employer Survey respondents reported that same-sex guests were only "sometimes" welcome and 1.6% reported that they were never welcome. *Id.*

²²⁵ Appendix C-2, Table 19.

²²⁶ *See generally* Appendix B-1, Comments 284-338. Some of these comments, however, reported a welcoming environment for same-sex partners. *See id.*, Comments 287 ("Our attorneys feel free to bring same-sex significant others to the firm's annual retreat, holiday party, summer associate events, etc."), 298 ("This [large] firm is comfortable with gay and lesbian attorneys bringing [same-sex] guests to social functions"), 313 ("Before I was hired, the firm went out of its way to include my significant other in various activities, so that she could meet the firm") and 318 ("The firm is very social. There are two out attorneys (including me) and we bring our partners to events where spouses are welcome (usually recruiting events). However, this is fairly new for the firm").

²²⁷ For example, one heterosexual attorney said, "[At my office,] no effort has ever been made to reach out to gay and lesbian attorneys and to make them feel welcome at social events." *Id.*, Comment 291. One gay male attorney said, "At firm social events, it is assumed I am heterosexual and, if I am welcome to bring a guest, I am told that I may bring 'a girlfriend.'" *Id.*, Comment 323. Another gay attorney said, "No one is going to go out of his or her way to specifically invite same-sex guests in this corporate environment. I bring my same-sex partner because I treat him as a spouse and assume that he is welcome." *Id.*, Comment 299. *See also id.*, Comment 304.

²²⁸ For example, one gay attorney said, "[On invitations to office social events,] the word 'guest' is used for single attorneys and probably anticipates an opposite-sex guest." I have never tested it by bringing a same-sex guest." *Id.*, Comment 296. Another said, "Gay attorneys have been afraid to bring same-sex spouses to social events. As a result, it is difficult to evaluate whether the firm 'welcomes' same-sex spouses, or what its real reaction would be." *Id.*, Comment 306.

²²⁹ *Id.*, Comment 284. Similarly, a gay attorney said, "During the firm's [long] history, there was only one openly-gay attorney hired. ... He attended one firm function ... with his life partner, [who] was isolated and alienated from the heterosexual group during the entire evening." *Id.*, Comment 309.

'welcome' at firm events, there is much informal socializing -- that is important to one's career -- from which gay couples are often excluded."²³⁰ Another gay attorney reported,

In my year of being "out" at the firm, my partner was invited only to one small (6 person) function. My partner has not been invited to any firm-wide functions, particularly those [at] which clients with heterosexual spouses attend.²³¹

Another reported that, immediately after a gay attorney brought his domestic partner to a firm Christmas party, "he noticed a marked change in the way partners related to him, he noticed a significant drop off in the work assigned to him by a number of the partners and, the following year, he was asked to leave the firm."²³²

Despite the easy acceptance of heterosexual relationships, the routine introduction of a gay attorney's same-sex domestic partner is still viewed by many as "flaunting" one's "sexuality." One gay attorney wrote, "I have been the object of critical statements about 'dragging in' my 'personal' life because I mentioned my life partner."²³³ And as another noted, "there are certain people, generally more senior people in many firms, who are uncomfortable with many of the issues relating to people's sexuality ... they just don't want to know."²³⁴

Many of the concerns over same-sex relationships highlight a double standard. Most heterosexuals are not conscious of the myriad ways that their own sexual orientation is "out" in the workplace and in other professional contexts. Family photographs in the office, appearing in public with one's spouse and conversations about one's spouse and one's community activities are only a few examples of how the nature of one's personal and community affinities communicate sexual orientation in ordinary interactions with colleagues and clients. In most social and professional contexts, no heterosexual attorney would imagine that the simple introduction of his or her spouse or domestic partner would be understood as a "sexual" statement or an invitation to discuss sexuality. Acceptance of the relationship between gay domestic partners is no more -- and no less -- a "sexual" matter than acceptance of the relationship between opposite-sex spouses.

²³⁰ Id., Comment 300. See also id., Comment 302. Similarly, a heterosexual attorney reported, "The partners are fairly accepting of same-sex spouses showing up at ... social events, though I don't think that would apply if clients were also invited -- unless they could be fairly certain that the nature of the relationship would not be revealed. Also, ... I don't think it would be wise to bring a same-sex boyfriend or girlfriend, as opposed to a domestic partner, to a firm event. I'm pretty sure that would be frowned upon." Id., Comment 292.

²³¹ Id., Comment 307. Another gay attorney said that, at his employer's social functions, "the guest was expected to be of the opposite sex. On a firm retreat where spouses were included, it was clear that my companion was not invited." Id., Comment 328. See also id., Comments 333 and 334.

²³² Id., Comment 335. See also id., Comments 315, 327 and 336.

²³³ Id., Comment 273.

²³⁴ Id., Comment 274.

C. Employer Policies Against Sexual Orientation Discrimination.

Sexual orientation discrimination in employment cannot be overcome without effective employer policies. Several gay attorneys spoke to the positive effects of strong institutional support for non-discrimination. One reported, "That [the head of my office] has made it very clear about sexual orientation discrimination not being tolerated made a big difference this time -- I was in the office before and I was not out and it was not comfortable."²³⁵ Another said,

There's a male-locker-room attitude among senior management. It's redneck macho. But, when someone said they weren't sure the lawyers would be comfortable with my sexual orientation, a senior partner said to "judge him on his work, not his sexual orientation." Although risky, in reality, I take my significant other to events -- though we stick out a lot. The lawyers are trying -- despite their backgrounds.²³⁶

Reflecting the double standard regarding disclosures of sexual orientation, however, some legal employers would prefer to avoid addressing sexual orientation discrimination by ignoring the fact that they have gay attorney applicants and employees.²³⁷

Through both the Employer and Attorney Surveys, the Committee sought to evaluate the steps Los Angeles County legal employers have taken to counteract sexual orientation discrimination. Specifically, the Attorney Survey included several questions asking the respondents to evaluate the steps taken by their employers to counteract sexual orientation discrimination. In addition, the Employer Survey sought responses to several basic questions concerning the respondents' non-discrimination policies: (1) whether the employers have such policies in written form;²³⁸ (2) if so, whether those policies expressly extend protections to gay attorneys; and (3) whether the employers have taken steps to counteract sexual orientation discrimination comparable to steps taken to counteract gender, race and ethnicity discrimination.²³⁹

Employer Survey responses reveal that a majority of respondents have non-discrimination policies that expressly prohibit sexual orientation discrimination, but it also appears from both Employer and Attorney Survey responses that many employers have yet to put these policies into practice effectively with respect to gay attorneys.

²³⁵ *Id.*, Comment 182.

²³⁶ *Id.*, Comment 184.

²³⁷ See, e.g., *id.*, Comment 242 ("We do not have a policy on sexual orientation. [Sexual orientation] is not an issue and therefore nothing needs to be said about it. Such things should not be discussed in the office anyway.").

²³⁸ The Employer Survey did not ask the precise nature of the non-discrimination policies. Instead, it asked whether the employer's policy covers hiring, retention and promotion and whether the policy covers gay employees to the same extent as women and people of color. The Employer Survey also asked employers if they had a policy that did not specifically identify the groups protected by the policy or had no non-discrimination policy at all.

²³⁹ In this regard, it is not to be assumed that employers have necessarily met with success in efforts to counteract gender, race and ethnicity discrimination in the employment of attorneys. Rather, the purpose of phrasing the relevant Employer Survey questions in this manner was to determine the extent to which employers, by their own reports, had begun to take steps to counteract sexual orientation discrimination in attorney employment comparable to steps taken to counteract gender, race and ethnicity discrimination.

1. The Prevalence of Non-discrimination Policies.

Approximately 67% of Employer Survey respondents reported that they have a written non-discrimination policy that expressly covers sexual orientation discrimination to the same extent as discrimination based upon gender, race or ethnicity.²⁴⁰ The non-discrimination policy most Employer Survey respondents have adopted covers three areas most critical to a lawyer's career: hiring, retention and promotion. An additional 22% of employer respondents reported that their non-discrimination policy expressly prohibited discrimination based on gender, race or ethnicity, but did not expressly prohibit sexual orientation discrimination; 10% of Employer Survey respondents reported that, while their non-discrimination policy did not make express reference to sexual orientation discrimination, it also did not make express reference to gender, race or ethnicity discrimination.²⁴¹

Regarding the form of non-discrimination policy, Employer Survey responses were generally consistent across legal employers of different size and type -- law firms, businesses with law departments and other types of employers.²⁴² In-house law offices were somewhat more likely to have written non-discrimination policies that expressly cover sexual orientation discrimination (75%).²⁴³ Similarly, a substantial majority of both large (21 or more attorneys) and small (1-10 attorneys) law offices reported adopting written non-discrimination policies that expressly cover sexual orientation discrimination: 70% and 83%, respectively.²⁴⁴ The only category of Employer Survey respondents that had a substantially different response was medium-sized law offices (11-20 attorneys); only 25% of such respondents reported that they had adopted an explicit policy against sexual orientation discrimination.²⁴⁵

2. The Implementation of Non-discrimination Policies.

Both the Employer and Attorney Survey responses suggest generally that most employer non-discrimination policies have not effectively eliminated sexual orientation discrimination in their workplaces. Several attorneys underscored the need to strengthen the enforcement of nondiscrimination policies with respect to gay attorneys:

²⁴⁰ Appendix C-2, Table 1.

²⁴¹ Id.

²⁴² Appendix C-2, Table 2.

²⁴³ Id.

²⁴⁴ Appendix C-2, Table 1.

²⁴⁵ Id. Many of the employer responses from small offices pointed out that -- as a result of their size -- formal and written policies did not exist. "We do not care what sexual orientation [an attorney] is. We have gay attorney[s] on staff (we're [a] small firm)." Appendix B-2, Comment 1. See also Appendix B-1, Comments 405, 439 and 440.

In the environment and at the firm that I'm with, I'm not sure if we have an antidiscrimination policy. But even if we did, it wouldn't guarantee that all of us complied.²⁴⁶

Whatever [policies employers adopt], there would have to be reinforcement ... whether it be through the threat of litigation or internal enforcement. It can be very tricky when you have people like lawyers who are not stupid and are adept at evading rules. ... [T]hey have learned, on the racial and gender issues, how not to speak their prejudices but to still act on them.²⁴⁷

The only problems with paper policies is that many people who will sign on because it seems right don't really know how much work is needed, because they don't see in themselves some of the problems.²⁴⁸

Several gay attorneys spoke particularly of the need for management support to overcome the problem of disparate standards in attorney evaluations:

I think the subtle double standard [in workplace evaluations] is far harder to address except from the inside. ... I am a fairly senior partner [and] whenever a gay or lesbian lawyer is being reviewed by a particular work group in my firm, I'll sit in on the partners' lunch meeting in that work group. I will be there to try to make my own judgments about whether it is fair. ... It doesn't eliminate [all bias], but when people know ... that I'm there and watching, it keeps the process more honest.²⁴⁹

What is really needed is for the straight, white male partners and managers ... to pay special attention to evaluations of gay -- and other minority -- attorneys to make sure that the subtle double standard does not work to weed them out.²⁵⁰

a. Recruitment and Hiring.

Almost 29% of Attorney Survey respondents believe that their employers have not taken the steps necessary to ensure the absence of sexual orientation discrimination in recruitment and hiring.²⁵¹ In addition, almost 32% of Attorney Survey respondents believe that their employers have not taken the steps necessary to ensure that gay attorneys are not discouraged from seeking employment in their offices.²⁵² And while several Employer Survey respondents were enthusiastic about their hiring policies and practices,²⁵³ Employer Survey responses generally indicate that policies against sexual

²⁴⁶ Appendix B-1, Comment 344.

²⁴⁷ *Id.*, Comment 343.

²⁴⁸ *Id.*, Comment 345.

²⁴⁹ *Id.*, Comment 192.

²⁵⁰ *Id.*, Comment 193.

²⁵¹ Appendix C-1, Table 3. Breaking this down by gender and sexual orientation, 40% of lesbians, 34.5% of gay men, 21.7% of heterosexual women and 21.6% of heterosexual men believe that their employers have not taken such steps. *Id.*

²⁵² *Id.* Breaking this down by gender and sexual orientation, 62.2% of lesbians, 62.9% of gay men, 22.1% of heterosexual women and 26.8% of heterosexual men believe that their employers have not taken such steps. *Id.*

²⁵³ See Appendix B-2, Comments 8 ("If they are talented, we want them")(Large Law Firm), 7 ("We strive [to hire] the best qualified candidate without regard to gender, color, sexual orientation, etc.")(Medium-sized Law Firm) and 19 ("One's sexual preference has no business being considering in the hiring process")(Large Law Firm).

Survey responses generally indicate that policies against sexual orientation discrimination have been implemented only in a limited manner as regards recruitment and hiring.

In particular, the Employer Survey responses suggest that most Los Angeles County legal employers do not treat gay attorneys as entitled to the same type of non-discrimination protections as women attorneys and attorneys of color. When asked whether they provided training for interviewers about appropriate (and inappropriate) areas of inquiry, approximately 61% of the employers responded that they provided training that covered issues related to sexual orientation to the same extent that training is provided for issues related to gender, race and ethnicity.²⁵⁴ Overall, this response is only slightly less than the reports of employers adopting a non-discrimination policy that explicitly covers sexual orientation.²⁵⁵

Nonetheless, only about 13% of the employers reported that they inform search firms of their non-discrimination policy for gay attorneys when such information was provided for women attorneys and attorneys of color.²⁵⁶ Only about 9% of the employers responded that they identify attorneys who volunteer to be contacts for applicants with questions about the employer's treatment of gay employees, even though such identification is commonplace for similar questions from women and people of color.²⁵⁷ Only 6% of the employers reported that they actively recruit gay attorneys to the same extent as they recruit women attorneys and attorneys of color; over 76% of the employers reported that they do not actively recruit gay attorneys to the same extent as women attorneys and attorneys of color.²⁵⁸

Moreover, those employers who involve their gay attorneys in the interviewing process appear to do so somewhat selectively. While 39% of the Employer Survey respondents reported that they include gay attorneys as members of their hiring committees²⁵⁹ and 41% reported that they include gay attorneys in the in-office interviewing process,²⁶⁰ only 29% reported that they include gay attorneys when interviewing law students on campus -- even though the employers do include women attorneys and attorneys of color in on-campus interviewing.²⁶¹

²⁵⁴ Appendix C-2, Tables 3 and 4.

²⁵⁵ The slight decrease is accounted for by law firms, which appear to be less likely to provide such training compared to corporate employers with legal departments. Almost 60% of the law firms provide training, whereas 75% of the corporate employers provide training. *Id.*

²⁵⁶ Appendix C-2, Tables 5 and 6.

²⁵⁷ Appendix C-2, Table 20.

²⁵⁸ *Id.*

²⁵⁹ *Id.*

²⁶⁰ *Id.*

²⁶¹ Appendix C-2, Table 7.

b. Work Assignment, Evaluation, Retention and Promotion.

The Employer Survey responses indicate that most employers have taken important steps to implement non-discrimination policies with respect to gay attorneys in work assignment, evaluation, retention and promotion. Nevertheless, the Attorney Survey responses suggest that this progress is not perceived to be sufficient. A third of Attorney Survey respondents believe that their employers have not taken the steps necessary to ensure that performance reviews and work assignments are not affected by the actual or perceived sexual orientation of lawyers.²⁶² Moreover, 36.4% of Attorney Survey respondents believe that their employers have not taken the steps necessary to ensure that advancement and promotion decisions do not discriminate on the basis of sexual orientation.²⁶³ Finally, 56% of Attorney Survey respondents believe that their employers have not taken steps necessary to ensure that their attorney workforce reflects the diversity of attorneys in Los Angeles County, including gay attorneys.²⁶⁴

Consistent with the Attorney Survey responses, the Employer Survey responses were mixed as to whether employers make efforts to train and retain gay attorneys comparable to efforts they report making with respect to women attorneys and attorneys of color. Nearly 60% of Employer Survey respondents reported that they have policies and procedures to ensure that performance reviews and work assignments are not affected by the actual or perceived sexual orientation of attorneys to the same extent that they have such review policies in place to counteract gender, race or ethnicity bias.²⁶⁵ An additional 30% reported that they have no written policies concerning performance reviews or work assignments for women, people of color or gay people.²⁶⁶ Only 8.7% of the employers reported that they have such written policies for women and people of color which do not cover gay people.²⁶⁷ In this regard, while medium-sized employers appear less likely to have review and work assignment policies with respect to gay people comparable to their policies for women and people of color, essentially no difference exists between large and small employers.²⁶⁸

Employer Survey responses also indicate that employers have not implemented their non-discrimination policies regarding the promotion of gay attorneys to

²⁶² Appendix C-1, Table 3. Breaking this down by gender and sexual orientation, 40.9% of lesbians, 42.1% of gay men, 25.8% of heterosexual women and 28.8% of heterosexual men believe that their employers have not taken such steps. *Id.*

²⁶³ *Id.* Breaking this down by gender and sexual orientation, 47.7% of lesbians, 44.6% of gay men, 29.7% of heterosexual women and 26.3% of heterosexual men believe that their employers have not taken such steps. *Id.*

²⁶⁴ *Id.* Breaking this down by gender and sexual orientation, 65.1% of lesbians, 59.9% of gay men, 43.9% of heterosexual women and 54.9% of heterosexual men believe that their employers have not taken such steps. *Id.*

²⁶⁵ Appendix C-2, Tables 8 and 9.

²⁶⁶ *Id.*

²⁶⁷ *Id.*

²⁶⁸ *Id.* For example, one small law firm employer responded, "There are two openly gay/lesbian attorneys in this firm of 15, one of whom is responding to this survey on behalf of the firm. Sexual preference simply has not been an issue in terms of work assignments, partnership, committee assignments, social events or interaction with clients." Appendix B-2, Comment 6.

the same extent as comparable policies for women attorneys and attorneys of color. Well over half of the Employer Survey respondents -- approximately 57% -- do not have stated goals for promoting gay attorneys even though they have such goals for women and people of color.²⁶⁹ Only about 6% report that they have stated goals for the promotion of gay attorneys.²⁷⁰ A substantial portion of the respondents, however -- approximately 36% -- reported that they do not have stated goals for the promotion of women attorneys, attorneys of color or gay attorneys.²⁷¹

Similarly, a large portion of Employer Survey respondents reported that they did not provide gay attorneys with institutional support and recognition to the same extent as women attorneys or attorneys of color: 47% reported that they provide peer group or mentoring for women attorneys and attorneys of color but not for gay attorneys; 52% reported that their office newsletter reports on office activities relating to women and people of color but not gay people; and 43% reported that their employee meetings or luncheons included programs on current issues relating to women and people of color but not gay people.²⁷²

3. The Awareness of Bias and Response to Complaints.

Employers have taken some notable steps to implement their non-discrimination policies with respect to gay attorneys. Significantly, however, it also appears that employers may only rarely hear of incidents of sexual orientation bias in their workplaces. For example, only 26% of the Employer Survey respondents reported that they were aware of derogatory statements or jokes about gay people,²⁷³ even though almost two-thirds of the Attorney Survey respondents reported hearing such statements or jokes.²⁷⁴ Similarly, only about 8% of Employer Survey respondents reported that they were aware of derogatory remarks by an attorney in their offices about another employee based upon the other employee's actual or perceived sexual orientation,²⁷⁵ even though over a third of the Attorney Survey respondents reported hearing such specifically-targeted

²⁶⁹ Appendix C-2, Table 11. This may be explained in part by the fact that some employers have adopted stated goals for the hiring and promotion of women and people of color in response to federal procurement law or specific court orders that do not address sexual orientation discrimination.

²⁷⁰ Id.

²⁷¹ Id.

²⁷² Appendix C-2, Table 21. Employer Survey respondents reporting that they took no such actions for any of women, people of color or gay people were, respectively, 48.4% (no peer group or mentoring), 53.8% (no newsletter coverage) and 44.4% (no meeting or luncheon discussions). Id.

²⁷³ Appendix C-2, Table 12.

²⁷⁴ Appendix C-1, Table 5.

²⁷⁵ Appendix C-2, Table 13.

anti-gay remarks.²⁷⁶ This difference in the Employer and Attorney Survey reports could reflect either severe problems at a small number of employers or, more likely in the Committee's judgment, a widespread problem that is not being reported to employers.

Even more troubling, it appears that, even when employers hear allegations of anti-gay bias, few take action. Most do not even make inquiries about the alleged incident. For example, of the Employer Survey respondents that were aware of general anti-gay remarks or jokes, only 25% of them treated them seriously, 25% worked to determine the truth of the allegations or learn of the relevant facts and 44% of those identifying a problem developed a plan to correct it.²⁷⁷ Of Employer Survey respondents that were aware of anti-gay remarks targeted at a specific employee, only 50% took the allegations seriously; only 50% of those identifying a problem developed a plan to correct it.²⁷⁸

The apparent rarity of reports to and intervention by employers regarding incidents of anti-gay bias may be explained in part by employee fears of retaliation for raising a complaint. As one gay attorney observed,

Most people are willing to go on leading lives of silent desperation, rather than take the risks involved in a serious confrontation with an employer. Who wouldn't rather have a career than a lawsuit? For whatever [the wrong done] is, the lives of these people are easy to disrupt, ... very vulnerable ... because they're gay.²⁷⁹

Similarly, another stated,

[My former employer] purports to have an anti-discrimination policy ... [and] any attempt to call [discrimination] to the attention of the higher executives would have resulted in some dutiful lip service. However, it would have been difficult to obtain another job in the industry after having been labeled a "troublemaker."²⁸⁰

4. The Communication of Non-discrimination Policies.

While a few heterosexual Attorney Survey respondents questioned the need to publicize their non-discrimination policies,²⁸¹ several gay Attorney Survey responses suggested the importance of clear communication of non-discrimination policies to applicants and employees:

²⁷⁶ Appendix C-1, Table 5.

²⁷⁷ Appendix C-2, Table 12.

²⁷⁸ *Id.* Only one employer reported that it had heard of a person in its office accusing a lawyer of using "bad judgment" by openly identifying as gay, but did not elaborate as to how it responded to the incident.

²⁷⁹ Appendix B-1, Comment 342.

²⁸⁰ *Id.*, Comment 339. See also *id.*, Comment 341.

²⁸¹ See *id.*, Comments 416 ("we do not affirmatively publicize our policy of non-discrimination ... our actions speak for themselves") and 417 ("since the firm ... has no criteria concerning sexual orientation ... , there is no reason to make its policies regarding gay/lesbians known to applicants").

My firm appears to have no consciousness of the issue of sexual orientation bias. The silence is deafening.²⁸²

A formal non-discrimination policy should be adopted and announced to all employees.²⁸³

[I]t's really, really crucial to have a written policy. ... I've seen them from the receiving end and know the message they send out. ... If you're a new employee someplace ... and you see "sexual orientation" in there in type, it means that someone has thought enough about this to put it on a parallel with all the other prohibited discrimination categories. ... [T]hat, in itself, is a very powerful message.²⁸⁴

Employer and Attorney Survey responses both indicate that most employers do not effectively communicate their non-discrimination policies regarding gay employees. Approximately 53% of Attorney Survey respondents believe that their employers have not taken the steps necessary to make their policies and practices with respect to gay attorneys known to their employees²⁸⁵ and 56% believe that their employers have not taken steps sufficient to make those policies and practices known to job applicants.²⁸⁶ These responses were fairly consistent across gay and heterosexual, male and female respondents.²⁸⁷

Employer Survey responses support the Attorney Survey indications of a problem with the communication of policies against sexual orientation discrimination. The Employer Survey asked whether the respondents publish their non-discrimination policies regarding gay employees in "welcome packets" for incoming attorneys to the same extent as non-discrimination policies for women and people of color are published; 44% responded that they did, 22% responded that they did not and 32% responded that no such actions were taken for women employees or for employees of color.²⁸⁸ Larger employers and businesses were better at publishing their policies than others: 63% of the larger firms (and 69% of corporate law offices) reported that they publish their policies in a welcome packet; only 36% of smaller law firms and 40.5% of all law firms did so.²⁸⁹

About 9% of Employer Survey respondents reported that they have employee education programs that address bias issues related to gay people to the same extent as bias

²⁸² Id., Comment 422.

²⁸³ Id., Comment 418.

²⁸⁴ Id., Comment 423.

²⁸⁵ Appendix C-1, Table 3. Breaking this down by gender and sexual orientation, 53.5% of lesbians, 61.7% of gay men, 50% of heterosexual women and 44.7% of heterosexual men believe that their employers have not taken such steps to communicate their policies to employees. Id.

²⁸⁶ Id. Breaking this down by gender and sexual orientation, 62.2% of lesbians, 62.9% of gay men, 56.7% of heterosexual women and 54.9% of heterosexual men believe that their employers have not taken such steps. Id.

²⁸⁷ See footnotes 285 and 286, above.

²⁸⁸ Appendix C-2, Table 13.

²⁸⁹ Id. One explanation for this difference in responses is that larger firms are more likely to have welcome packets.

issues relating to women and people of color are addressed.²⁹⁰ Over 55%, however, reported that they have education programs that address issues relating to gender bias, race bias and ethnicity bias but do not address issues relating to sexual orientation bias; approximately 35% reported that they have no education programs relating to bias issues.²⁹¹

D. The Reaction to the Study and the Committee Itself.

Beyond the evidence of anti-gay bias in the data obtained for this study, the Committee's own experience in performing this study suggests apathy, even hostility, concerning the subject of sexual orientation bias. For example, the rates of response to the Attorney and Employer Surveys are somewhat troubling. The typical response rate for mail questionnaires such as the Attorney and Employer Surveys is between 20 and 30%.²⁹² While the overall response rate for the Attorney Survey was 20%, a striking difference is evident in the Attorney Survey response rates for the predominantly gay attorney sample, 31%, and for the predominantly heterosexual attorneys in the random sample of Association members, 16%.²⁹³ Also, the response rate for heterosexual attorneys was below the norm. The 17% response rate for the Employer Survey was similarly low. While the low response rates from heterosexuals and employers could reflect some trouble with the survey instruments, they may also reflect, at least in part, apathy concerning the problem of sexual orientation bias.

In addition, while some attorneys expressed gratitude to the Association for addressing the issue of sexual orientation bias,²⁹⁴ the study itself and the Committee were also the targets of sharp criticism. Some heterosexual attorneys expressed fundamental objections to the Association addressing the matter of sexual orientation bias at all. A few suggested that the effort was unnecessary:

I believe this survey is indicative of over-sensitivity to large and recognized minority groups. We all need more tolerance toward others, and that includes more tolerance by "traditional" minorities of "minor" acts of perceived discrimination. ... For the record, this respondent is absolutely opposed to limiting an individual's advancement because of any ethnic, race, sexual or similar characteristics.²⁹⁵

To spend this amount of time on what should be a non-issue is approaching the absurd.²⁹⁶

²⁹⁰ Appendix C-2, Table 10.

²⁹¹ Id.

²⁹² Conversation between Dr. Shepard and Dr. Maryann Jacoby, Associate Behavioral Scientist, Rand Corporation (May 31, 1994). See also CWL Glass Ceiling Study, above, at 2 (25-30% is a "typical" response rate for mail surveys). See generally Donald P. Warwick and Charles A. Lininger, "The Sample Survey: Theory and Practice" at 129 (McGraw Hill, New York, 1975).

²⁹³ Appendix A-1, Part (2).

²⁹⁴ See, e.g., Appendix B-1, Comments 436, 437 and 442.

²⁹⁵ Id., Comment 425.

²⁹⁶ Id., Comment 429.

Moreover, other heterosexual attorneys indicated that sexual orientation discrimination, even if severe, should not be a concern of the Association.²⁹⁷

My firm's recruitment and hiring of homosexual attorneys is no business of the L.A. County Bar.²⁹⁸

Doesn't the County Bar have better things to do with our dues besides establishing a Committee on Sexual Orientation Bias to "examine the quality of work life for lesbian and gay attorneys in Los Angeles County?" What next? "Pay Discrimination Against Marginally Competent Attorneys"?²⁹⁹

I am unwilling to participate in the survey and strongly believe it is not an activity the Los Angeles County Bar Association should be carrying on. ... All the survey is going to do is to upset many people and create unnecessary problems among attorneys and firms. ... I am sure you are aware of the many complex legal, moral, religious and political problems and questions which exist in this field.³⁰⁰

Frankly, I can find no justification for the Los Angeles County Bar Association to be expending its funds (and my dues) on investigating policies regarding lesbians, gay men and bisexuals. I have practiced law for 20 years in Los Angeles County, and I know many, many attorneys. To date, not a single attorney has ever expressed an interest to me in this subject nor has it ever been discussed. The most probable reason for that lack of interest is that there are some subjects which may better be left unevaluated.³⁰¹

There are plenty of important issues that the Bar should be addressing, this certainly is not one of them. Find someone else to spend his/her valuable time responding to this garbage.³⁰²

I object to the intrusion of sexual questions such as those contained in the attached questionnaire. I object to a committee on the purported subject of "bias" in sexual orientation. Please discontinue this obnoxious intrusion. Why are the sexual practices of lawyers of interest to my bar association?³⁰³

These comments and the survey response rates both suggest a need for greater awareness and further education concerning the problem of sexual orientation discrimination. Viewed in the light of the laws and ethical rules against sexual orientation discrimination, as well as the severity of the problem of such discrimination identified in this report, the matter is one which should concern both the Association and the Los Angeles County legal profession greatly.

²⁹⁷ See also, e.g., *id.*, Comments 426, 427 and 435 (questioning the study's objectivity).

²⁹⁸ *Id.*, Comment 428.

²⁹⁹ *Id.*, Comment 430.

³⁰⁰ *Id.*, Comment 431.

³⁰¹ *Id.*, Comment 432.

³⁰² *Id.*, Comment 433.

³⁰³ *Id.*, Comment 434.

III. RECOMMENDATIONS FOR EMPLOYERS.

The data collected and reviewed for this report suggest not just a problem of sexual orientation discrimination in the legal profession in Los Angeles County, but also steps to be taken to begin to address that problem. Because a large portion of gay attorneys in Los Angeles County feel constrained to remain "in the closet," many Los Angeles legal employers do not realize that they may have substantial numbers of gay attorney applicants and employees. In part as a result, many Los Angeles legal employers have failed to address discrimination against gay attorneys adequately. This failure not only causes strain between gay attorneys and employers or potential employers -- often unseen by employers -- but needlessly exposes employers to risks of violating laws and ethical rules prohibiting sexual orientation discrimination.

The recommendations in this section are designed to mitigate the risk of violations of relevant laws and ethical rules, as well as to improve professional relations between employers and gay attorneys. Adoption of these recommendations by an employer should also enhance the productivity of a now generally invisible number of gay attorney employees. These recommendations follow from the findings set forth above and, in many respects, parallel similar steps already endorsed by the Association and adopted by many Los Angeles County legal employers to remedy the problems of gender bias, race bias and ethnicity bias.³⁰⁴

A. Adopt, Implement and Publicize a Non-discrimination Policy Relating to Gay Attorneys.

Employers should adopt formal policies and procedures to prohibit sexual orientation discrimination, and should take actions to implement those policies and procedures, just as they have adopted formal policies and procedures and taken actions to prohibit discrimination based on gender, race and ethnicity. In particular, employers should adopt and implement a non-discrimination policy which expressly prohibits sexual orientation discrimination and promotes equal opportunity in employment for gay attorneys. This policy should prohibit discrimination and harassment on the basis of sexual orientation, and should be enforced by clearly-established grievance and complaint follow-up procedures. The grievance procedure should provide a neutral forum for the resolution of complaints of bias based upon sexual orientation; the complaint follow-up procedure should ensure that complaints are taken seriously and investigated promptly and adequately. The non-discrimination policy and grievance and follow-up procedures should be publicized throughout the workplace.

³⁰⁴ The recommendations are also very similar to the recommendations adopted by BASF and the ABCNY in their respective studies of sexual orientation discrimination.

B. Encourage Non-discriminatory Recruitment and Hiring of Qualified Gay Attorneys.

Employers should promote fair and equal recruitment and hiring of qualified gay attorneys. This effort should include not only implementation of procedures and practices for non-discriminatory recruitment of qualified gay attorneys, but training for interviewers to eliminate even subtle bias, such as inquiries about (unvolunteered) sexual orientation and marital status. Employers should involve their gay attorneys in all aspects of the hiring process, not only to create a more sensitive and fair process and to obtain contacts for recruiting, but to demonstrate their non-discrimination policy to potential attorney employees. Employers should also identify a gay-sensitive contact to whom applicants can address questions relating to the treatment of gay employees which might not otherwise be raised. As regards all other aspects of recruitment and hiring, employers should undertake actions with respect to gay attorneys comparable to actions undertaken with respect to women attorneys and attorneys of color.

C. Promote a Workplace Climate That Ensures Equal Employment Opportunities for Gay Attorneys.

The problems of overt and subtle discrimination against gay attorneys, as well as the effects of unconscious and indirect anti-gay bias, can be mitigated by broad institutional support from employers. In addition to adopting, publicizing and implementing an express non-discrimination policy, employers should ensure that their other policies and practices promote equal opportunities for and fair evaluation, monetary compensation, advancement and retention of qualified gay attorneys.

In particular, employers should take steps to ensure that work assignments, performance evaluation, compensation and promotion are unaffected by an attorney's sexual orientation. Any employer mentoring program or support group system should be utilized to create an open and unbiased work environment for gay attorneys. As regards other actions to ensure fairness in work assignment, evaluation, compensation and promotion, or to provide mentoring and support, employers should take actions with respect to gay attorneys comparable to actions taken with respect to women and people of color.

Employers should also demonstrate a commitment in the workplace to fair treatment of their gay attorneys. Employers should take steps to prevent harassment of gay employees and discourage inappropriate anti-gay comments and jokes. These steps should include education and sensitivity training on both legal and social aspects of sexual orientation bias in employee training programs. As regards other employer anti-bias programs, employers should undertake actions with respect to sexual orientation bias comparable to actions undertaken with respect to gender, race and ethnicity bias.

Employers should support, acknowledge and promote the interests and activities of gay attorneys to the same extent as the interests and activities of other attorney employees are supported, acknowledged and promoted. For example, employers should

pay membership dues and expenses for gay professional associations to the same extent as membership dues and expenses are paid for professional associations for women or people of color. Employer-sponsored newsletters, employee luncheons, office meetings and other programs should include activities and topics relating to the gay community to the same extent that activities and topics relating to people of color or women are included. Similarly, such newsletters, luncheons and programs should acknowledge and include the activities of gay attorneys to the same extent that the activities of women attorneys and attorneys of color are acknowledged and included.

D. Provide Gay Attorneys and Their Same-Sex Domestic Partners with Employee Benefits Comparable to Those Provided to Heterosexual Attorneys and Their Opposite-Sex Spouses.

Although the question remains open whether it is required by law, employers should take steps to provide employee benefits to gay attorneys and their same-sex domestic partners comparable to those provided to heterosexual attorneys and their opposite-sex spouses.

In particular, employers should provide health and other insurance benefits to the same-sex domestic partners of attorneys on the same terms as such benefits are provided to opposite-sex spouses of attorneys; children of gay attorneys or their same-sex domestic partners should be covered to the same extent as children of heterosexual attorneys or their opposite-sex spouses.³⁰⁵ If an employer cannot obtain group coverage for same-sex domestic partners or their children, it should assist gay attorney employees in obtaining individual coverage for their same-sex domestic partners and their children and should -- at least to the extent the employer would have contributed to group coverage for an opposite-sex spouse or children of an opposite-sex spouse -- contribute toward the premium for such individual coverage.

Similarly, other employee benefits should cover the families of gay employees in the same manner as the families of heterosexual employees. Employer parenting leave policies and part-time policies should be gender neutral, marital status neutral and not dependent upon the biological relationship between the parent and the child. Employers should provide sick leave, caretaking leave, bereavement leave and other family leave benefits to gay employees with needs relating to their children, same-sex domestic partners and the children or family of their same-sex domestic partners on the same terms as such leave is provided to heterosexual employees with needs relating to their children, opposite-sex spouses and the children or family of their opposite-sex spouses. Similarly, employers should provide relocation benefits and employee assistance programs (such as substance abuse treatment or crisis counseling) to gay employees, their children, same-sex domestic partners and the children or family of their same-sex domestic partners to the same extent

³⁰⁵ Model documents for extending health coverage to employees' domestic partners are included in Appendix E. In addition, assistance and other model documents are available through Lambda Legal Defense and Education Fund (Los Angeles), the National Center for Lesbian Rights (San Francisco), the National Gay and Lesbian Task Force, and Hollywood Supports (Los Angeles).

as such benefits are provided to heterosexual employees, their children, opposite-sex spouses and the children or family of their opposite-sex spouses.

E. Provide Gay Couples the Same Opportunities to Socialize with Colleagues as Heterosexual Couples.

Employers should provide same-sex couples the same opportunities to socialize with colleagues as they provide heterosexual couples, both at office-sponsored social events and in other employer efforts to facilitate socializing among colleagues. In the same manner that an employer invites its attorneys to identify their opposite-sex spouses -- for example, in soliciting information for employee rosters and announcements of office-sponsored events -- the employer should also invite its attorneys to identify their same-sex domestic partners. Similarly, employers should acknowledge and include a same-sex domestic partner identified by an attorney in the same manner that it acknowledges and includes an opposite-sex spouse identified by an attorney -- for example, in employee rosters, invitations to office-sponsored events and attendance lists for work-related activities. In such invitations and listings, employers should use inclusive terms such as "guest," "partner" or "significant other," instead of or in addition to terms such as "husband," "wife" or "spouse."

F. Do Not Encourage Gay Attorneys to be "Closeted" at Work or in Their Professional Activities.

Employers should ensure that gay attorneys have the same freedom as heterosexual attorneys to determine whether, when and the extent to which their personal relationships are revealed at work or in their professional activities. Practices that encourage gay attorneys to conceal their sexual orientation perpetuate a fundamental dysfunction in professional relations between gay attorneys and heterosexuals. Employers should allow gay attorneys to be open about their sexual orientation and should support "out" gay attorneys who encounter difficulties on account of their sexual orientation from clients, coworkers and superiors.

Although employers should allow gay attorneys to be open about their sexual orientation, employers should not pressure a gay attorney to be more "out" than he or she wishes to be. The question of whether and when to disclose one's own sexual orientation and personal life should remain a personal matter for gay attorneys -- just as it is for heterosexual attorneys.³⁰⁶ The appropriate goal for legal employers should be to create a workplace that is as unbiased and supportive for gay people as it is for heterosexuals. In such a workplace, gay attorneys may choose freely whether to be open about their sexual orientation without fear of discriminatory reprisal.

³⁰⁶ Moreover, gay attorneys may have particular reasons for remaining "in the closet." For example, some may rightly fear problems in connection with the military, child custody arrangements, family relationships and discriminatory employers, colleagues or clients. As they would a heterosexual attorney, however, employers may require that a gay attorney disclose the gender of his or her domestic partner when the attorney enrolls that domestic partner in employer-sponsored benefits programs.

IV. RECOMMENDATIONS FOR THE ASSOCIATION

As it has with respect to gender, race and ethnicity bias, the Association should lead the Los Angeles legal community in the elimination of sexual orientation bias. Accordingly, this report recommends that the Association take certain steps to that end. The Association should establish an ongoing committee on Sexual Orientation Bias in the Legal Profession, comparable to the Association's existing committee on Minority Representation in the Legal Profession, charged with responsibility for the implementation of these recommendations.

A. Publish this Report.

Many of the findings in this report identify a basic lack of knowledge about gay people and sexual orientation discrimination. Through widespread distribution, this report can provide some of the needed education. The Association should disseminate this study throughout its organization and the legal profession, using news media, seminars and continuing legal education programs.

B. Encourage Employers to Implement the Recommendations.

The Association should encourage employers to implement the recommendations in this report. The Association, as a member benefit, should provide model policies and other assistance to employers wishing to implement these recommendations. In addition, the Association should consider the most appropriate way to measure the effect of these recommendations and the Association's efforts to implement them.

C. Provide Information on Domestic Partner Benefits.

The Association, as a member benefit, should act as a clearinghouse for information on insurance alternatives and benefit options relating to same-sex domestic partners and gay families.

D. Sponsor and Promote Relevant CLE Programs.

The Association should ensure that its continuing legal education program offerings include programs on the subject of sexual orientation bias.

E. Sponsor Programs to Counteract Sexual Orientation Discrimination.

The Association should sponsor support group, mentoring or other programs for gay attorneys aimed at counteracting the effects of sexual orientation discrimination in legal employment.

V. CONCLUSION.

Widespread adoption and implementation of the Committee's recommendations for employers will trigger substantial benefits for legal employers and for the gay attorneys -- whether "out" or "closeted" -- whom employers now or may in the future employ. The elimination of practices that are illegal and violate professional ethics is in itself a laudable end. The elimination of such practices will begin to restore the dignity and professional standing of attorneys now adversely affected by sexual orientation discrimination. Moreover, in the highly competitive environment of law practice in the 1990's, the creation of a professional environment free of sexual orientation discrimination will have a salutary effect on the productivity of previously encumbered gay attorneys and, in turn, a positive influence on the economic competitiveness of those attorneys and their employers. The Committee urges all Los Angeles County lawyers and legal employers to consider with deep commitment how best to implement the recommendations contained in this report with the greatest possible dispatch.

June 9, 1994

Committee on Sexual Orientation Bias³⁰⁷

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³⁰⁷ The Committee wishes to thank Richard Walch, Executive Director of the Association, and the Association staff for their support of and assistance with this study. The Committee also wishes to thank the law firm of Munger, Tolles & Olson, and its secretarial, word processing and duplicating staff in particular, for their assistance with the preparation of this report. All errors and omissions are those of the Committee.

LOS ANGELES COUNTY BAR ASSOCIATION COMMITTEE ON SEXUAL ORIENTATION BIAS

APPENDICES TO REPORT

June 1994

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APPENDIX A-1
METHODS

DESCRIPTION OF METHODS AND DATA

(1) The Attorney and Employer Survey Instruments.

With the assistance of Dr. Shepard, the subcommittee on employers and the subcommittee on attorneys each developed a proposed form of survey that thereafter was reviewed, refined and approved by the Committee as a whole. The Attorney Survey was designed to be completed by individual attorneys for purposes of assessing their views of the quality of work life for lesbian, gay and bisexual attorneys in their current and/or previous work settings. The Employer Survey was directed at managing partners (or equivalent) at a variety of law firms and other settings in which lawyers are employed. Copies of the final forms of the Attorney and Employer Surveys are attached as Appendices A-2 and A-4, respectively.

Development of the subject matter for both survey instruments was guided by the surveys prepared in connection with the ABCNY and BASF studies as well as the personal experiences and anecdotal information collected by various Committee members. The process was also facilitated by a focus group meeting among Dr. Shepard, two Committee members and ten volunteer gay attorneys, who discussed what areas should be addressed by the surveys. In addition, both survey instruments were pilot-tested with gay and heterosexual attorneys and revised before final versions were produced and distributed.

The Attorney Survey is divided into five major sections:

- **Recruitment and Hiring**, with questions designed to determine attorney views of what steps, if any, have been taken by their firms or offices to ensure that recruitment and hiring practices do not discriminate on the basis of sexual orientation;
- **Social Events and Activities**, serving as an index of workplace climate, with questions exploring attorney views of the importance of social activities to professional advancement as well as the receptivity of their workplaces to including same-sex guests in the social activities of the firm or office;
- **Retention and Promotion**, with questions aimed at determining attorney views of what steps, if any, have been taken by their firms or offices to ensure that retention and promotion decisions are made in a

manner that does not discriminate against lesbians, gay men and bisexuals;

- **Attitudes, Beliefs and Experience**, with questions exploring attorney satisfaction with various aspects of their work lives, their assessment of how lesbian, gay and bisexual attorneys fare with regard to a variety of job-related factors when compared to heterosexual attorneys, as well as workplace bias against gay attorneys; and
- **Personal Information**, for purposes of constructing a demographic profile of survey respondents.

The Employer Survey contains questions about the employment of lesbian, gay and bisexual attorneys designed to parallel the questions in the Attorney Survey, and also includes questions concerning particular employment policies and practices. The Employer Survey is divided into the following six areas: **Recruitment and Hiring, Social Events and Activities, General Policies and Practices, Personnel Policies and Benefits, Retention and Promotion and Firm/Office Information.**

Most questions on both the Attorney and Employer Surveys employed a "forced answer" format, requiring the respondents to select from among several alternative responses provided on the survey form. In addition, however, both the Employer and Attorney survey included several "open-ended" questions, permitting but not requiring the respondent to include extemporaneous written comments on the subjects addressed.

(2) The Distribution of and Response to the Attorney and Employer Surveys.

On September 13, 1993, the Attorney Survey was mailed to a sample of 2,184 attorneys in Los Angeles County. The sample included a random sample of 1,634 Association member attorneys. In addition, a total of 550 surveys were mailed to members of Lawyers for Human Rights, the Lesbian and Gay Bar Association of Los Angeles ("LHR") and non-LHR member Los Angeles attorneys who belong to the cooperating attorney network of Lambda Legal Defense and Education Fund, Inc. ("LLDEF"), a national lesbian and gay rights organization. The Committee over-sampled gay attorneys for two reasons. First, the Committee wanted to ensure adequate responses from gay attorneys, who may be more attuned to issues of sexual orientation bias than heterosexual attorneys. Second, the Committee wanted to have a sample of gay attorneys sufficiently large to permit meaningful comparisons of the Attorney Survey responses of gay and heterosexual attorneys.

Of the 2,184 Attorney Surveys mailed, 427 were completed and returned for a 20% overall response rate. Of the randomly-sampled group of Association members, 255 (16%) returned a completed Attorney Survey and, of the LHR/LLDEF sample, 172 (31%)

returned a completed Attorney Survey. The demographic characteristics of the Attorney Survey respondents are summarized in Appendix A-3.

On September 24, 1993, the Employer Survey was sent to a sample of 400 employers in Los Angeles County, selected at random from entities with at least 20 employees according to information from the National Association for Legal Placement ("NALP") on file with the University of Southern California Law Center Placement Office. Surveys were directed to managing partners, department supervisors or their equivalent. Of the 400 Employer Surveys mailed, 70 were completed and returned for a 17% rate of response. The characteristics of the Employer Survey respondents are summarized in Appendix A-5.

(3) Research Procedures and Survey Data Compilation.

The mailing of the Employer Surveys was preceded by a letter from Gerald L. Chaleff, President of the Association, and Joseph D. Mandel, chair of the Committee, telling the recipients that they would be sent an Employer Survey and urging participation in the Employer Survey project. The mailing of both the Attorney Survey and the Employer Survey was accompanied by a cover letter from Messrs. Chaleff and Mandel urging the recipient to complete and return the survey. As further encouragement, reminder postcards were mailed to the entire sample for both the Attorney and Employer Surveys approximately two weeks after the original survey mailing. In addition, follow-up telephone calls were made to each employer in the Employer Survey sample. The forms of the Employer Survey pre-letter, the Employer and Attorney Survey cover letters and the reminder postcards, as well as the instructions for the Employer Survey telephone calls, appear in Appendix A-6.

Because some survey questions are of a personal nature and thus may be highly sensitive, all responses to both the Attorney and Employer Surveys were anonymous, with no identifying information appearing on the survey forms.

The sensitive (and, to some, controversial) nature of the questions in the Attorney and Employer Surveys likely had a negative impact on the rates of response. As indicated elsewhere in this report, some survey recipients directly expressed their displeasure that the Association was addressing issues of sexual orientation, believing that one's sexuality is a private matter with no relevance to the workplace. Those who share this view, or harbor some other objection to answering survey questions related to sexual orientation, are probably among those who simply chose to ignore the survey.

(4) The Focus Groups.

To augment data gathered from the Attorney and Employer Surveys, the Committee conducted four focus group discussions with lesbian, gay and bisexual attorneys who returned a form attached to the Attorney Survey indicating their willingness to participate in such a session. The Focus Groups took place in late October and early November 1993; each took place on a weekday after regular business hours. Each of the discussions was held in a different location: one at the Century City offices of Gibson, Dunn & Crutcher, one at the downtown Los Angeles corporate offices of Bank of America, one at the downtown Los Angeles offices of Fried, Frank, Harris, Schriever & Jacobson and one at the University of Southern California Law Center.

Each Focus Group was comprised of eight to 12 gay attorney volunteers, three or four Committee members and Dr. Shepard. In all, 38 gay attorney volunteers participated; there was no overlap of attorney participants in the four different discussions. All but one member of the Committee attended at least one of the four Focus Groups. All but three of the gay attorney volunteers who participated had reportedly disclosed their status as a gay attorney to at least some people within their workplace. Thus, "closeted" attorneys were, for the most part, not represented in the Focus Groups.

The Focus Groups were designed to elicit information from the participants that might help to clarify the information obtained by the surveys. While non-Committee participants were encouraged to contribute freely to each Focus Group, the discussion was led by a Committee member following a pre-scripted set of discussion questions. The discussion questions appear in Appendix A-7. Excerpts from the Focus Group discussions compiled by the Committee appear together with the Attorney Survey Comments in Appendix B-1.

(5) The State Bar Data.

The State Bar Data derive from data gathered in mid-1991 as part of the State Bar Demographic Survey, a survey of 14,300 randomly-selected active California bar members. This survey was planned and conducted by SRI International ("SRI"), a professional social science research organization headquartered in Menlo Park, California. The questionnaire used in the State Bar Demographic Survey asked respondents for a variety of professional and demographic information, including whether they identified as "a member of the lesbian, gay and bisexual community." Accordingly, the data from the State Bar Demographic Survey permit comparison of the demographic and professional characteristics of self-identified gay and heterosexual attorneys in California.

The comparison of gay and heterosexual attorneys reflected in the State Bar Data was prepared by SRI in January 1994 at the request of the State Bar of California's Standing Committee on Sexual Orientation Discrimination (the "State Bar Committee"). The State Bar Data compare gay and heterosexual California attorneys of similar age and

with similar levels of experience. These comparisons are summarized in five tables and eight charts reproduced in Appendix C-3.

In February 1994, the State Bar Committee provided the State Bar Data to the Committee as a courtesy and, in March 1994, formally authorized the Committee to use the State Bar Data in its study and for publication in this report. The State Bar Committee and the State Bar have expressly reserved all of their rights to the use and publication of the State Bar Data for their own purposes.

(6) Scope And Limitations of Analysis.

This report presents findings from the Attorney and Employer Surveys, the Focus Groups and the State Bar Data. The material covered by the Attorney and Employer Surveys and Focus Groups requires some caution in interpreting the findings.

First, while the heterosexual attorneys in the Attorney Survey sample were drawn from a random sample of Association members, the gay attorneys in the Attorney Survey sample are not a random sample of all the lesbians, gay men and bisexuals in the Association. Rather, most are self-identified lesbians and gay men who have joined a gay legal organization or at least been open with friends. As was observed in the ABCNY Study:

This bias might be assumed to make the survey results more typical of individuals who openly acknowledge their sexual orientation. Thus, it seems likely that fears of adverse consequences flowing from being openly lesbian or gay could be greater than those indicated in this survey among those who could not be reached through this survey methodology.¹

Second, these results are based on respondents' self reports, which are inherently subjective. Thus, the incidence of bias or discrimination in the workplace may be over reported or under reported due to psychological denial (of either discrimination or the real merits of an adverse employment action), fear of reprisal or a desire to provide socially acceptable answers. In any case, bias and discrimination can be subtle; something that one person may not notice may be highly objectionable or offensive to someone else.

Third, in reporting its findings, the Committee considered whether to report the findings from either a positive or negative perspective -- focusing either on levels of satisfaction or levels of dissatisfaction. Because sexual orientation bias in the legal workplace is prohibited by law and professional ethics, this report contains findings regarding the incidence of bias (negative) rather than the absence of bias (positive). Put another way, rather than report how satisfied Association members are with aspects of their profession with regard to gay concerns, this study focuses on levels of dissatisfaction.

¹ ABCNY Study at 851.

Fourth, in interpreting responses to the Employer and Attorney Surveys, the data cannot be read in the same manner as election results. That is, "majority rule" is not dispositive of whether a significant problem exists. To illustrate, 9.4% of Attorney Survey respondents believe that an attorney applying for employment in their workplace has been declined employment as a result of being (or being perceived to be) gay.² It follows that 90.6% of the Attorney Survey respondents either are uncertain or do *not* believe that such hiring discrimination has occurred. These results should not be read to suggest that discrimination against gay attorneys in hiring is not a problem.

In this regard, it may be useful to compare the Attorney Survey data on the perception of sexual orientation bias in hiring with the Attorney Survey data on the perception of race/ethnicity or gender bias in hiring. Attorney Survey respondents were asked if their employer applies its hiring criteria more severely depending on the sexual orientation, race/ethnicity or gender of the attorney applicant; 14.7% said their employer is more severe when the candidate is gay, 11.9% said their employer is more severe when the candidate is a member of a racial or ethnic minority group, and 10.3% said their employer is more severe when the candidate is a woman.³ Probably very few observers would conclude from these figures that race/ethnicity or gender bias in attorney hiring does not remain a significant problem. Nor should they conclude that sexual orientation bias is not a significant problem. Invidious bias in the legal profession, even if experienced by a minority of its members, is unlawful and unethical. Taken together with other survey results, moreover, each finding is part of a pattern of discrimination and bias described throughout this report.

Fifth, there may be some reluctance on the part of respondents to admit, even anonymously, that they or their employers are in violation of statutes, rules of professional conduct, other laws or workplace policies that prohibit sexual orientation discrimination. This may suppress the reported incidence of bias experienced or witnessed by survey respondents.

Sixth, this analysis presents descriptive and correlational data and cannot be used to determine causal relations among the variables. In other words, the data do not reveal the underlying causes of the differences reported. Further, due to the limited sample size, tests of statistical significance do not apply to the data from the Attorney and Employer Surveys. Tests of statistical significance also do not apply to the anecdotal data from the Focus Groups or extemporaneous comments from the Attorney or Employer Surveys. Tests of statistical significance do, however, apply to the State Bar Data.

² Appendix C-1, Table 1.

³ Id.

APPENDIX A-2
METHODS

FORM OF ATTORNEY SURVEY

LOS ANGELES COUNTY BAR ASSOCIATION

**SURVEY OF LOS ANGELES COUNTY, CALIFORNIA ATTORNEYS
CONCERNING SEXUAL ORIENTATION BIAS IN THE WORKPLACE**

The Los Angeles County Bar Association asks that you complete this survey so that it can better understand the perceptions and experiences of Los Angeles County attorneys concerning sexual orientation discrimination. Based upon pilot tests, we estimate that the survey will take only 15-20 minutes to complete, excluding any extemporaneous material you wish to add. Your responses will help the Association to evaluate certain policies and practices representing ways in which employers may attempt to provide for fair and equal treatment of lesbian, gay or bisexual attorneys in recruitment, hiring, retention, advancement and compensation.

BY OCTOBER 22, 1993, PLEASE COMPLETE AND RETURN THIS SURVEY TO:

**Los Angeles County Bar Association
617 South Olive Street
P.O. Box 55020
Los Angeles, CA 90055-2020
ATTN: Sexual Orientation Bias Survey**

AS YOU COMPLETE THIS SURVEY, PLEASE NOTE THE FOLLOWING:

- Only present or former lawyers or law students should complete this survey and only one copy of this survey should be submitted for each person completing it.
- This survey is anonymous; you need not identify yourself.
- This survey is also confidential; data collected will be released only in disguised or aggregated form so as not to identify individual respondents or their employers.
- We ask that you respond as fully as possible; to the extent a particular question is not entirely inapplicable to your work or personal situation, pick the best answer you can.
- If you are not now employed as an attorney, or if you have insufficient experience on your current job to respond to the questions in this survey, please answer with respect to your most recent prior employment as an attorney.
- In this survey, we use phrases such as "gay and/or lesbian" and "lesbian and/or gay" to describe both bisexuals and homosexuals of either sex.
- Please ignore the coding in the right margin (e.g., "[V34-36]"), which is for tabulation purposes only.

RECRUITMENT & HIRING

(_ _ _ V10) (researcher use only)

1. To your best knowledge:

- Has any attorney applying for employment in your firm/office ever been declined employment as a result, in whole or part, of being or being perceived to be lesbian or gay? More Than Once Once Never [V2]
- If your answer to the foregoing is "once" or "more than once", did management in your firm/office learn of such incident(s)? (check all that apply; skip if inapplicable) [V3-11]

<input type="checkbox"/> Don't know	<input type="checkbox"/> Incident(s) not reported due to fear of reprisal or disapproval by perpetrator(s)
<input type="checkbox"/> Incident(s) reported formally	<input type="checkbox"/> Incident(s) not reported due to fear of reprisal or disapproval by person(s) other than perpetrator(s)
<input type="checkbox"/> Incident(s) not reported formally, but management learned of it informally	<input type="checkbox"/> Incident(s) not reported because perceived to be unimportant or insignificant
<input type="checkbox"/> Incident(s) not reported because the matter was dealt with privately	<input type="checkbox"/> Incident(s) not reported because complaint perceived to be futile or not worth the trouble
<input type="checkbox"/> Incident(s) not reported due to absence of clear complaint procedures	
- How did management respond if it learned of such incident(s)? (check all that apply; skip if inapplicable) [V12-21]

<input type="checkbox"/> Don't know	<input type="checkbox"/> Developed a plan/program to correct the problem
<input type="checkbox"/> Treated allegations seriously	<input type="checkbox"/> Was indifferent to the charges
<input type="checkbox"/> Worked to determine truth of allegations	<input type="checkbox"/> Tried to explain allegations away
<input type="checkbox"/> Followed up to learn relevant facts	<input type="checkbox"/> Was embarrassed
<input type="checkbox"/> Showed initial concern but no follow-up	<input type="checkbox"/> Other: _____

2. Please indicate how your firm's/office's criteria for hiring are applied if an attorney is:

[V22-26]

Female	Racial/Ethnic Minority	Religious Minority	Lesbian/Gay	Disabled
<input type="checkbox"/> more severely	<input type="checkbox"/> more severely	<input type="checkbox"/> more severely	<input type="checkbox"/> more severely	<input type="checkbox"/> more severely
<input type="checkbox"/> more leniently	<input type="checkbox"/> more leniently	<input type="checkbox"/> more leniently	<input type="checkbox"/> more leniently	<input type="checkbox"/> more leniently
<input type="checkbox"/> no effect	<input type="checkbox"/> no effect	<input type="checkbox"/> no effect	<input type="checkbox"/> no effect	<input type="checkbox"/> no effect
<input type="checkbox"/> do not know	<input type="checkbox"/> do not know	<input type="checkbox"/> do not know	<input type="checkbox"/> do not know	<input type="checkbox"/> do not know

3. Do you agree or disagree that your firm/office has taken steps necessary to do the following (circle one response for each):

[V27-30]

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
to ensure that its recruitment and hiring do not discriminate on the basis of sexual orientation	4	3	2	1
to ensure that lesbian and gay attorneys are not discouraged from seeking employment here	4	3	2	1
to make its policies and practices with respect to lesbian and gay attorneys known to job applicants	4	3	2	1
to ensure that its attorney workforce reflects the diversity of the attorneys in Los Angeles County, including lesbian and gay attorneys	4	3	2	1

4. Do you have any comments about recruitment and hiring by your firm/office as they pertain to gay or lesbian attorneys? (attach additional sheets, if necessary)

[V31]

SOCIAL EVENTS & ACTIVITIES

5. How important are social activities to the advancement of attorneys in your firm/office? (circle one response) Very Important. . . Somewhat Important. . . Not Important. . . N/A [V32-34]
6. If your firm/office has social events to which attorneys may bring spouses, significant others or guests, are lesbian or gay attorneys welcome to bring same-sex domestic partners, significant others or guests? (circle one response) Always. . . Sometimes. . . Never. . . N/A
7. How often would you estimate that same-sex domestic partners, significant others or guests of lesbian or gay attorneys in your firm/office attend social activities? (circle one response) Always. . . Sometimes. . . Never. . . N/A
8. To the extent your firm/office sponsors social and other events, does it do the following (circle one response for each): [V35-36]
- | | No Such Events | Yes | No | Don't Know |
|---|----------------|-----|----|------------|
| Welcome same-sex spouses, significant others or guests at all employer-sponsored events at which heterosexual spouses, significant others or guests are welcomed? | 4 | 3 | 2 | 1 |
| In invitations to office functions or other employer-sponsored events (at which spouses, significant others or guests are welcome), use neutral designations such as "guest" or "significant other" rather than "spouse" or "husband/wife"? | 4 | 3 | 2 | 1 |
9. Do you have any comments about social events and activities within your firm/office as they pertain to lesbian or gay attorneys? (attach additional sheets, if necessary) [V37]

RETENTION & PROMOTION

10. Please rank, in order of importance in your firm/office, the top 4 measures of attorney productivity or value for purposes of advancement or compensation (the number 1 indicates the most important measure): [V38-41]
- | | |
|---|---|
| <input type="checkbox"/> Total hours reported | <input type="checkbox"/> Management activities |
| <input type="checkbox"/> Billable hours reported | <input type="checkbox"/> Leadership activities |
| <input type="checkbox"/> Value of hours actually billed to clients | <input type="checkbox"/> Training/mentoring activities |
| <input type="checkbox"/> Client production or development | <input type="checkbox"/> Ability to work well or fit in with people |
| <input type="checkbox"/> Quality or results of legal work performed | <input type="checkbox"/> Other: _____ |
11. Please indicate how your firm's/office's criteria for advancement are applied if an attorney is: [V42-5]
- | <u>Female</u> | <u>Racial/Ethnic Minority</u> | <u>Religious Minority</u> | <u>Lesbian/Gay</u> | <u>Disabled</u> |
|---|---|---|---|---|
| <input type="checkbox"/> more severely | <input type="checkbox"/> more severely | <input type="checkbox"/> more severely | <input type="checkbox"/> more severely | <input type="checkbox"/> more severely |
| <input type="checkbox"/> more leniently | <input type="checkbox"/> more leniently | <input type="checkbox"/> more leniently | <input type="checkbox"/> more leniently | <input type="checkbox"/> more leniently |
| <input type="checkbox"/> no effect | <input type="checkbox"/> no effect | <input type="checkbox"/> no effect | <input type="checkbox"/> no effect | <input type="checkbox"/> no effect |
| <input type="checkbox"/> do not know | <input type="checkbox"/> do not know | <input type="checkbox"/> do not know | <input type="checkbox"/> do not know | <input type="checkbox"/> do not know |

12. Have you ever heard:

- A lawyer in your firm/office make a derogatory statement or joke about homosexuals or bisexuals? More Than OnceOnce.Never
- A lawyer in your firm/office make a derogatory remark about someone in your firm/office that was based on that person being or being perceived to be lesbian or gay? More Than OnceOnce.Never
- If your answer to either of the foregoing is "once" or "more than once", did management in your firm/office learn of such incident(s)? (check all that apply; skip if inapplicable)

<input type="checkbox"/> Don't know <input type="checkbox"/> Incident(s) reported formally <input type="checkbox"/> Incident(s) not reported formally, but management learned of it informally <input type="checkbox"/> Incident(s) not reported because the matter was dealt with privately <input type="checkbox"/> Incident(s) not reported due to absence of clear complaint procedures	<input type="checkbox"/> Incident(s) not reported due to fear of reprisal or disapproval by perpetrator(s) <input type="checkbox"/> Incident(s) not reported due to fear of reprisal or disapproval by person(s) other than perpetrator(s) <input type="checkbox"/> Incident(s) not reported because perceived to be unimportant or insignificant <input type="checkbox"/> Incident(s) not reported because complaint perceived to be futile or not worth the trouble
---	--
- How did management respond if it learned of such incident(s)? (check all that apply; skip if inapplicable)

<input type="checkbox"/> Don't know <input type="checkbox"/> Treated allegations seriously <input type="checkbox"/> Worked to determine truth of allegations <input type="checkbox"/> Followed up to learn relevant facts <input type="checkbox"/> Showed initial concern but no follow-up	<input type="checkbox"/> Developed a plan/program to correct the problem <input type="checkbox"/> Was indifferent to the charges <input type="checkbox"/> Tried to explain allegations away <input type="checkbox"/> Was embarrassed <input type="checkbox"/> Other: _____
--	--

[V53-54]

[V55-62]

[V64-7]

13. To your best knowledge:

- Has the concern been expressed in your firm/office that some or all of the clients of your firm/ office would prefer not to work with a lawyer due to that lawyer being or being perceived to be lesbian or gay? More Than OnceOnce.Never
- Has any partner or supervisor in your firm/office expressed a preference not to work with a lawyer due to that lawyer being or being perceived to be lesbian or gay? More Than OnceOnce.Never
- Has any attorney in your firm/office been denied assignments, or not received assignments, as a result, in whole or part, of being or being perceived to be lesbian or gay? More Than OnceOnce.Never
- If your answer to any of the foregoing is "once" or "more than once", did management in your firm/office learn of such incident(s)? (check all that apply; skip if inapplicable)

<input type="checkbox"/> Don't know <input type="checkbox"/> Incident(s) reported formally <input type="checkbox"/> Incident(s) not reported formally, but management learned of it informally <input type="checkbox"/> Incident(s) not reported because the matter was dealt with privately <input type="checkbox"/> Incident(s) not reported due to absence of clear complaint procedures	<input type="checkbox"/> Incident(s) not reported due to fear of reprisal or disapproval by perpetrator(s) <input type="checkbox"/> Incident(s) not reported due to fear of reprisal or disapproval by person(s) other than perpetrator(s) <input type="checkbox"/> Incident(s) not reported because perceived to be unimportant or insignificant <input type="checkbox"/> Incident(s) not reported because complaint perceived to be futile or not worth the trouble
---	--
- How did management respond if it learned of such incident(s)? (check all that apply; skip if inapplicable)

<input type="checkbox"/> Don't know <input type="checkbox"/> Treated allegations seriously <input type="checkbox"/> Worked to determine truth of allegations <input type="checkbox"/> Followed up to learn relevant facts <input type="checkbox"/> Showed initial concern but no follow-up	<input type="checkbox"/> Developed a plan/program to correct the problem <input type="checkbox"/> Was indifferent to the charges <input type="checkbox"/> Tried to explain allegations away <input type="checkbox"/> Was embarrassed <input type="checkbox"/> Other: _____
--	--

[V74-7]

[V77-4]

[V86-]

14. To your best knowledge:

- Has any lawyer in your firm/office ever made a statement to the effect that an applicant or lawyer showed poor judgment by openly identifying her/himself as lesbian or gay? More Than Once Once Never
- Has any lawyer in your firm/office ever been asked or advised by someone in your firm/office to conceal his/her sexual orientation? More Than Once Once Never
- If your answer to either of the foregoing is "once" or "more than once", did management in your firm/office learn of such incident(s)? (check all that apply; skip if inapplicable)

<input type="checkbox"/> Don't know <input type="checkbox"/> Incident(s) reported formally <input type="checkbox"/> Incident(s) not reported formally, but management learned of it informally <input type="checkbox"/> Incident(s) not reported because the matter was dealt with privately <input type="checkbox"/> Incident(s) not reported due to absence of clear complaint procedures	<input type="checkbox"/> Incident(s) not reported due to fear of reprisal or disapproval by perpetrator(s) <input type="checkbox"/> Incident(s) not reported due to fear of reprisal or disapproval by person(s) other than perpetrator(s) <input type="checkbox"/> Incident(s) not reported because perceived to be unimportant or insignificant <input type="checkbox"/> Incident(s) not reported because complaint perceived to be futile or not worth the trouble
---	--
- How did management respond if it learned of such incident(s)? (check all that apply; skip if inapplicable)

<input type="checkbox"/> Don't know <input type="checkbox"/> Treated allegations seriously <input type="checkbox"/> Worked to determine truth of allegations <input type="checkbox"/> Followed up to learn relevant facts <input type="checkbox"/> Showed initial concern but no follow-up	<input type="checkbox"/> Developed a plan/program to correct the problem <input type="checkbox"/> Was indifferent to the charges <input type="checkbox"/> Tried to explain allegations away <input type="checkbox"/> Was embarrassed <input type="checkbox"/> Other: _____
--	--

15. How much would an attorney in your firm/office harm or help his or her career prospects by the following actions (circle one choice on each line):

Very Somewhat No Somewhat Very
Helpful Helpful Effect Harmful Harmful

- | | | | | | |
|---|---|---|---|---|---|
| Letting peers know that he/she is gay/lesbian? | 4 | 3 | 2 | 1 | 0 |
| Letting subordinates know that he/she is gay/lesbian? | 4 | 3 | 2 | 1 | 0 |
| Letting supervisors/superiors know that he/she is gay/lesbian? | 4 | 3 | 2 | 1 | 0 |
| Letting selected clients know that he/she is gay/lesbian? | 4 | 3 | 2 | 1 | 0 |
| Letting all clients know that he/she is gay/lesbian? | 4 | 3 | 2 | 1 | 0 |
| Taking on lesbian or gay-related pro bono work? | 4 | 3 | 2 | 1 | 0 |
| Becoming active in gay or lesbian community organizations? | 4 | 3 | 2 | 1 | 0 |
| Discussing gay or lesbian issues or community activities in the office? | 4 | 3 | 2 | 1 | 0 |
| Discussing his/her personal or family life involving a same-sex partner? | 4 | 3 | 2 | 1 | 0 |
| Displaying a picture of a same-sex partner in his/her office? | 4 | 3 | 2 | 1 | 0 |
| Displaying indicators of gay or lesbian community involvement in his/her office? | 4 | 3 | 2 | 1 | 0 |
| Bringing a same-sex date to an internal office event (without clients/outside) where dates are appropriate? | 4 | 3 | 2 | 1 | 0 |
| Bringing a same-sex date to an outside social or professional event where dates are appropriate? | 4 | 3 | 2 | 1 | 0 |

16. Please estimate the number and level of lawyers in your office (i) who have identified themselves as lesbian or gay in the office, (ii) whom you believe to be gay or lesbian, whether or not they have identified themselves as lesbian or gay in the office, and (iii) the total number of lawyers on each level:

[V130-131(a)]

	Self-identified gay or lesbian lawyers	Total gay or lesbian lawyers	Total lawyers
Partner/partner equivalents	_____	_____	_____
Other lawyers	_____	_____	_____

17. On the basis of your own estimate, over the last year or two, would you say that (circle one on each line):

[V132-134]

	More	Same	Less	Don't know	N/A
The percent of the ethnic and racial minority lawyers who have left your firm/office compared to the percent of the white lawyers who have left is	4	3	2	1	0
The percent of the female attorneys who have left your firm/office compared to the percent of the male attorneys who have left is	4	3	2	1	0
The percent of the lesbian and gay attorneys who have left your firm/office compared to the percent of the heterosexual attorneys who have left is	4	3	2	1	0

18. Do you agree or disagree that your firm/office has taken steps necessary to do the following (circle one response for each):

[V135-14]

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
to ensure that its work environment is as hospitable to lesbian and gay lawyers as it is to heterosexual lawyers	4	3	2	1
to ensure that performance reviews and work assignments are not affected by the actual or perceived sexual orientation of attorneys	4	3	2	1
to ensure that its advancement and promotion decisions do not discriminate on the basis of sexual orientation	4	3	2	1
to ensure that its employee benefits treat lesbian and gay lawyers comparably to heterosexual lawyers	4	3	2	1
to ensure that the interests and activities of lesbian and gay lawyers here are acknowledged, addressed and supported to the same extent as those of heterosexual lawyers	4	3	2	1
to make its policies and practices with respect to lesbian and gay attorneys known to its employees	4	3	2	1

19. Do you have any comments about advancement and promotion within your firm/office as they pertain to gay or lesbian attorneys? (attach additional sheets, if necessary)

[VI]

20. Do you have any comments about the employee benefits, work environment or general policies and practices in your firm/office as they pertain to lesbian and gay lawyers? (attach additional sheets, if necessary)

[V]

ATTITUDES, BELIEFS & EXPERIENCE

21. Indicate your level of agreement with the following statements about your current job
(circle one response for each):

Agree Strongly Agree Somewhat Disagree Somewhat Disagree Strongly N/A

[V143-153]

The opportunity for me to advance is very good	4	3	2	1	0
I am respected and treated as a professional by colleagues at my firm/office	4	3	2	1	0
I am respected and treated as a valuable advisor by my client(s)	4	3	2	1	0
In the profession generally, the status/prestige of my work or my firm/office is high	4	3	2	1	0
My work is intellectually challenging	4	3	2	1	0
Colleagues at my firm/office perceive me as fitting in with them socially and personally	4	3	2	1	0
My superiors/colleagues provide me with adequate feedback on my work	4	3	2	1	0
My superiors/colleagues are willing to provide advice and assistance when I need it	4	3	2	1	0
I have been able to find a mentor or mentors among my superiors/colleagues	4	3	2	1	0
My interest in the activities and management of my firm/office has been encouraged	4	3	2	1	0
My participation in community activities that are of particular interest to me has been encouraged	4	3	2	1	0

22. Indicate how satisfied you are with the following aspects of your job
(circle one response for each):

Very Satisfied Somewhat Satisfied Neutral Somewhat Dissatisfied Very Dissatisfied N/A

[V154-16]

Pay and fringe benefits	5	4	3	2	1	0
Number of hours you work	5	4	3	2	1	0
Relations with male co-workers	5	4	3	2	1	0
Relations with female co-workers	5	4	3	2	1	0
Help you receive from support staff	5	4	3	2	1	0
Opportunity for advancement	5	4	3	2	1	0
Challenging opportunities	5	4	3	2	1	0
Respect and prestige	5	4	3	2	1	0
Job security	5	4	3	2	1	0
General working conditions	5	4	3	2	1	0
Pro bono opportunities	5	4	3	2	1	0
Overall job satisfaction	5	4	3	2	1	0

23. Comparing yourself to heterosexual white male attorneys of similar seniority in your firm/office,¹ indicate your perception of the following (please do so even if you are yourself a heterosexual white male attorney): (V166-182)

	More	Same	Less	Don't know	N/A
My compensation is	4	3	2	1	0
My opportunity for advancement is	4	3	2	1	0
My opportunity to work on matters considered by the firm/office as important and challenging is	4	3	2	1	0
The amount of encouragement and appreciation I receive from my superiors/colleagues is	4	3	2	1	0
The amount of mentoring and other assistance I receive from my superiors/colleagues is	4	3	2	1	0
The expectations of my performance by my superiors/colleagues is	4	3	2	1	0
The extent of my participation in management is	4	3	2	1	0
The extent of my out-of-office socializing with my superiors/colleagues is	4	3	2	1	0
My opportunity for contact with persons who are in a position to refer lucrative legal matters to me is	4	3	2	1	0
The amount of professional regard/respect I receive:					
From superiors/supervisors in my firm/office	4	3	2	1	0
From clients	4	3	2	1	0
From judges/hearing officers	4	3	2	1	0
From attorney peers/colleagues	4	3	2	1	0
From opposing attorneys	4	3	2	1	0
From courtroom personnel	4	3	2	1	0
From the public	4	3	2	1	0
From my firm/office staff	4	3	2	1	0

24. In general, as compared with similarly-situated heterosexual attorneys in Los Angeles County, how do you believe that gay and lesbian attorneys have fared in terms of the following: (V183-1)

	Better	Same	Worse	Don't know
Annual income	4	3	2	1
Working relationship with clients	4	3	2	1
Contacts with potential clients	4	3	2	1
Success in attracting lucrative legal work	4	3	2	1
Working relationships with office colleagues	4	3	2	1
Social relationships with office colleagues	4	3	2	1
Contacts with lawyers outside the firm/office	4	3	2	1
Achieving visibility within professional associations	4	3	2	1

¹ Or, if there are none of similar seniority, check "N/A."

25. As an attorney, have you ever experienced or witnessed discrimination based on you or another attorney being or being perceived to be lesbian or gay?

☐ No, I have neither experienced or witnessed such discrimination

☐ Yes, I have experienced or witnessed discrimination in the following areas (circle all that apply):

	Experienced	Witnessed
Discrimination in hiring	2	1
Discrimination in pay	2	1
Discrimination in work assignments	2	1
Discrimination in work evaluations	2	1
Discrimination in promotion/advancement at work	2	1
Discrimination in/by professional organizations	2	1
Discrimination by clients in attorney selection	2	1
Adverse rulings/treatment by judges or other officials	2	1
Discrimination in academic evaluations	2	1
Verbal abuse or harassment	2	1
Exclusion from social functions or groups	2	1
Other (please describe): _____	2	1

26. How recently have you experienced or witnessed any of the following involved in or responsible for acts of discrimination against someone based on that person's being or being perceived to be lesbian or gay?

	0-2 years ago	3-5 years ago	6-10 years ago	More than 10 years ago	Never
A supervisor/superior in your office	4	3	2	1	0
An attorney co-worker in your office	4	3	2	1	0
A non-attorney employee in your office	4	3	2	1	0
A client.	4	3	2	1	0
An attorney outside your office	4	3	2	1	0
A judge/hearing officer	4	3	2	1	0
Other court personnel or government official	4	3	2	1	0
A potential employer	4	3	2	1	0
A law school professor, teacher or official	4	3	2	1	0
A law student	4	3	2	1	0
Other (Please describe): _____	4	3	2	1	0

27. If you have ever been the victim of discrimination or different treatment in any aspect of employment or opportunity for employment as an attorney based on you being or being perceived to be lesbian or gay, please explain (attach extra sheets if necessary):

28. In the legal profession in general, would you say that over the past 5 years discriminatory practices against attorneys based on the following characteristics have increased, decreased, or stayed about the same?

(V228-232)

	Increased	Decreased	Stayed the Same
Gender	3	2	1
Race	3	2	1
Religion	3	2	1
Disability	3	2	1
Sexual Orientation	3	2	1

PERSONAL INFORMATION

29. Which best describes your race or ethnicity? (check one)

☐ Black/African American
 ☐ Asian American/Pacific Islander
☐ Native American/American Indian
 ☐ Caucasian
☐ Chicano/a or Latino/a
 ☐ Other: _____

(V21)

30. What is your sex? (check one)

☐ Female ☐ Male

(V23)

31. What is your sexual orientation? (check one) ☐ Homosexual ☐ Bisexual ☐ Heterosexual

(V23)

- If you are homosexual or bisexual, who among your professional colleagues/coworkers is aware of your sexual orientation? (circle one response on each line)

(V236-24)

	Most/All	Some	Unsure	None	N/A
Superiors/supervisors in my firm/office	4	3	2	1	0
Clients	4	3	2	1	0
Judges/hearing officers	4	3	2	1	0
Attorney peers/colleagues	4	3	2	1	0
Opposing attorneys	4	3	2	1	0
Courtroom personnel	4	3	2	1	0
Non-attorney office staff	4	3	2	1	0

32. What is your age group? (check one)

☐ under 25
 ☐ 45-55
☐ 25-35
 ☐ 55-65
☐ 35-45
 ☐ over 65

(V2)

33. What is your current relationship/marital status? (check all that apply)

☐ Married and living with spouse
☐ Divorced/separated
☐ Widowed
☐ Single/Never Married
☐ Living with a domestic partner of the opposite sex
☐ Living with a domestic partner of the same sex
☐ In a committed relationship with someone of the opposite sex but not living together
☐ In a committed relationship with someone of the same sex but not living together

(V)

34. How many children or stepchildren do you have? (check one)

☐ 0 ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 or more

(V)

35. What is your present employment situation? (Check one)
- ☐ Not presently employed but planning to obtain employment
- ☐ Not presently employed with no plans to obtain employment
- ☐ Employed part time
- ☐ Employed full time
- ☐ Volunteer
- ☐ Student
- ☐ Retired
- ☐ Other: _____
36. What is your position with your employer? (check one)
- ☐ Senior or managing partner/general counsel
- ☐ Equity partner or equivalent/senior supervisory attorney
- ☐ Non-equity partner/permanent associate/junior supervisory attorney
- ☐ Associate or non-supervisory attorney
- ☐ Of counsel or consulting attorney
- ☐ Judge/commissioner/hearing officer
- ☐ Other governmental official
- ☐ Professor/teacher/instructor
- ☐ Non-law employment
- ☐ Other: _____
37. What is your employment setting? (check one)
- ☐ Self-employed
- ☐ Single-office law firm
- ☐ Head office of multi-office law firm
- ☐ Branch office of multi-office law firm
- ☐ In-house at head office of for-profit business
- ☐ In-house at branch office of for-profit business
- ☐ Other: _____
- ☐ Educational institution (public or private)
- ☐ Court system (federal, state or municipal)
- ☐ Other government (federal, state or municipal)
- ☐ Lobbyist/advocacy organization
- ☐ Legal aid provider
- ☐ Charity/other non-profit
38. How many lawyers are in your workplace? (check one in each column)
- | <u>Lawyers in your office</u> | <u>If multi-office, lawyers in entire organization</u> |
|--------------------------------------|---|
| <input type="checkbox"/> 200 or more | <input type="checkbox"/> 200 or more |
| <input type="checkbox"/> 100-199 | <input type="checkbox"/> 100-199 |
| <input type="checkbox"/> 50-99 | <input type="checkbox"/> 50-99 |
| <input type="checkbox"/> 20-49 | <input type="checkbox"/> 20-49 |
| <input type="checkbox"/> 10-19 | <input type="checkbox"/> 10-19 |
| <input type="checkbox"/> 2- 9 | <input type="checkbox"/> 2- 9 |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 |
| <input type="checkbox"/> No lawyers | <input type="checkbox"/> No lawyers |
| | <input type="checkbox"/> Not applicable -- single office only |
39. How many years have you practiced law (in California or elsewhere)? (check one)
- ☐ Never practiced law
- ☐ Less than 2 years
- ☐ 2-5 years
- ☐ 6-10 years
- ☐ 11-15 years
- ☐ 16-20 years
- ☐ 21-30 years
- ☐ More than 30 years
40. How many years have you been with your current employer? (check one)
- ☐ Less than 2 years
- ☐ 2-5 years
- ☐ 6-10 years
- ☐ 11-15 years
- ☐ 16-20 years
- ☐ 21-30 years
- ☐ More than 30 years

41. What is your net annual income level from the practice of law? (check one)

- ☐ No income from practice of law
- ☐ Below \$50,000
- ☐ \$50,000-100,000
- ☐ \$100,000-150,000
- ☐ \$150,000-200,000
- ☐ Over \$200,000

[V253]

42. What were your major reasons for changing jobs, or seeking to change jobs, during the last five years? (check up to 5)

- ☐ Does not apply
- ☐ Actual or prospective closing or dissolution of firm/office
- ☐ Actual or prospective layoff due to financial difficulties of firm/office
- ☐ Asked to leave or terminated by employer
- ☐ Higher paying or more prestigious position elsewhere
- ☐ Work not sufficiently challenging
- ☐ Opportunities for advancement were limited
- ☐ Insufficient responsibility or courtroom/client exposure
- ☐ Insufficient or ineffective training or mentoring
- ☐ Level of pressure/tension on the job was too great
- ☐ Lack of personal compatibility with colleagues
- ☐ Disagreement with management policies/practices
- ☐ Amount of time required was excessive
- ☐ Wanted more time for family/personal life
- ☐ Wanted more time for community/pro bono/political activities
- ☐ Wanted to own and manage my own practice
- ☐ Insufficient number of minority attorneys in work setting
- ☐ Insufficient number of women attorneys in work setting
- ☐ General atmosphere of intolerance and discrimination
- ☐ Observed discrimination against others on the basis of (check all that apply):
 - ☐ gender ☐ race or ethnicity ☐ disability ☐ sexual orientation
- ☐ Personal experience of discrimination on the basis of (check all that apply):
 - ☐ gender ☐ race or ethnicity ☐ disability ☐ sexual orientation
- ☐ Moved out of city or state
- ☐ Facilitated spouse/partner's employment/professional opportunities
- ☐ Other: _____

[V254]

[V255-27]

[V273-2]

[V278-2]

[V283-2]

THANK YOU FOR YOUR TIME

BY OCTOBER 22, 1993, PLEASE COMPLETE AND RETURN THIS SURVEY TO:

**Los Angeles County Bar Association
617 South Olive Street
P.O. Box 55020
Los Angeles, CA 90055-2020
ATTN: Sexual Orientation Bias Survey**

LOS ANGELES COUNTY BAR ASSOCIATION

FOCUS GROUP DISCUSSIONS AMONG SOUTHERN CALIFORNIA ATTORNEYS
CONCERNING SEXUAL ORIENTATION BIAS IN THE WORKPLACE

Thank you for completing the attached survey. In addition to tabulating and reviewing survey responses, the Los Angeles County Bar Association Committee on Sexual Orientation Bias (the "Committee") will be conducting focus group discussions during late October and early November 1993. The purpose of these discussions is to enable the Committee to gather anecdotal information concerning sexual orientation bias. Each of these discussion groups will include several attorneys who believe that they have experienced or witnessed sexual orientation bias as well as members of the Committee (some but not all of whom will be lesbian, gay or bisexual). The Committee and the County Bar hope that these discussions are frank and open.

The Committee and the County Bar hope that all information presented in these discussions will remain strictly confidential. Nevertheless, participants should be aware that the Committee intends to use some anecdotes and other information from these discussions in its public report. Attempts will be made to disguise or aggregate any anecdotes or information so used so as not to identify the persons and/or organizations involved. The Committee and the County Bar will also ask each discussion group participant to treat all personally-identifiable information presented in these discussions as strictly confidential.

If you believe that you have ever witnessed or been the victim of discriminatory treatment based upon sexual orientation, in any facet of employment as an attorney, and would be willing to participate in a focus group discussion of the issues addressed by this survey, PLEASE FILL IN THE INFORMATION REQUESTED BELOW. TEAR OFF THIS PAGE AND RETURN IT (SEPARATELY FROM YOUR COMPLETED SURVEY) TO THE FOLLOWING ADDRESS BY OCTOBER 22, 1993:

Los Angeles County Bar Association
617 South Olive Street
P.O. Box 55020
Los Angeles, CA 90055-2020
ATTN: Sexual Orientation Bias Focus Group

IF YOU ARE WILLING TO PARTICIPATE IN SUCH DISCUSSIONS, PLEASE ALSO COMPLETE THE FOLLOWING:

1. Name: _____
Address: _____
Telephone: (____) _____ - _____

2. At what times could you be available to participate (please check all that you could make):

Time	Week of				
	10/18	10/25	11/1	11/8	11/15
Monday evening.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tuesday evening.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wednesday evening.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Thursday evening.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Friday evening.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Saturday morning.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Saturday afternoon.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sunday morning.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sunday afternoon.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sunday evening.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. What locations are convenient to you (please check all that are convenient):

☐ Downtown ☐ U.S.C. Campus ☐ Hollywood
☐ Century City ☐ U.C.L.A. Westwood Campus ☐ San Fernando Valley

APPENDIX A-3
METHODS

CHARACTERISTICS OF THE ATTORNEY SURVEY RESPONDENTS

<u>Attorney Characteristics</u>	<u>Percentages</u>
<u>Gender</u>	
Female	30.1%
Male	69.9
<u>Ethnicity</u>	
African American	2.4%
Native American	2.0
Chicano/a or Latino/a	4.9
Asian American/Pacific Islander	4.4
Caucasian	83.7
Other	2.7
<u>Sexual Orientation</u>	
Lesbian or Gay	45.6%
Bisexual	2.7
Heterosexual	51.7
<u>Age</u>	
Under 35	38.4%
35-45	38.3
46-55	14.9
Over 55	7.6
<u>Marital Status</u>	
Married and Living With Spouse	35.2%
Divorced or Separated	6.2
Widowed	.7
Single	26.1
Living with Domestic Partner (opposite sex)	4.2
Living with Domestic Partner (same sex)	20.0
In a Relationship but not Living Together (opposite sex)	2.0
In a Relationship but not Living Together (same sex)	5.7
<u>Present Employment Setting</u>	
Self-employed	12.5%
Single-office Law Firm	33.7
Head Office of Multi-office Firm	13.5
Branch Office of Multi-office firm	15.0
In-house, Head Office, Not-for-profit	6.5
All Other	18.5

Position with Present Employer

Senior Partner (or equivalent)	16.2%
Equity Partner/Senior Supervisory	20.0
Non-equity Partner/Junior Supervisory	9.0
Associate/Non-supervisory Attorney	35.0
Of Counsel or Consulting	2.5
Judge/Commissioner/Hearing Officer	.5
All Other	16.6

Annual Income

No Income From Practice of Law	3.5%
Below \$50,000	13.6
\$50,000-100,000	45.6
\$100,000-150,000	19.1
\$150,000-200,000	8.1
Over \$200,000	10.1

APPENDIX A-4
METHODS

FORM OF EMPLOYER SURVEY

**QUALITY OF WORK LIFE FOR LESBIAN AND GAY ATTORNEYS:
A SURVEY OF LEGAL EMPLOYERS IN SOUTHERN CALIFORNIA**

**Los Angeles County Bar Association
Sexual Orientation Bias Committee**

The following questions represent ways in which employers may provide for the fair and equal recruitment, hiring, retention, advancement, and compensation of women, minority and lesbian and gay job applicants and attorneys. We are interested in your firm or office's employment policies and practices.

BY OCTOBER 22, 1993, PLEASE COMPLETE AND RETURN THIS SURVEY TO:

**Los Angeles County Bar Association
617 South Olive Street
P.O. Box 55020
Los Angeles, CA 90055-2020
ATTN: Sexual Orientation Bias Survey**

AS YOU COMPLETE THIS SURVEY, PLEASE NOTE THE FOLLOWING:

- ***The survey takes less than twenty minutes to complete.***
- ***Each firm or office should submit only one copy of this survey.***
- ***This survey is anonymous; you need not identify yourself or your firm or office.***
- ***This survey is also confidential; data collected will be released only in disguised or aggregated form so as not to identify individual respondents or their employers.***
- ***In this survey, we use the phrases "gay and lesbian" and "lesbian and gay," to describe both homosexuals and bisexuals of either sex.***

THANK YOU FOR YOUR TIME

RECRUITMENT & HIRING

V1

1. To the same extent comparable actions are taken with respect to women or people of color, does your firm/office do the following (circle one response for each):

V2-11

No comparable actions taken Yes No Don't know

Have a written nondiscrimination policy covering hiring, retention and promotion that expressly prohibits discrimination on the basis of sexual orientation?

4 3 2 1

Have stated goals (either general or numerical) for hiring lesbian or gay attorneys?

4 3 2 1

Have marketing or recruiting materials that include any work your firm/office has done for or with gay and lesbian organizations?

4 3 2 1

Provide training for its interviewers that includes identification of appropriate and inappropriate areas of inquiry, including coverage of issues related to sexual orientation?

4 3 2 1

Actively seek out lesbian and gay applicants when recruiting new attorneys (e.g., through sending recruitment letters to lesbian and gay student organizations)?

4 3 2 1

Give guidance to search firm (if a search firm is used) on your firm/office policy regarding gay and lesbian applicants?

4 3 2 1

Identify and publicize the names of attorneys in your firm/office who volunteer to be contacts for applicants with questions about the workplace climate for lesbian and gay attorneys?

4 3 2 1

If your office has openly gay or lesbian attorneys, include them in the hiring process

As members of hiring committees?

4 3 2 1

As on-campus interviewers?

4 3 2 1

In office interviews?

4 3 2 1

2. Do you have any additional comments about the recruitment and hiring of lesbian and gay attorneys within your firm/office?

V12

SOCIAL EVENTS & ACTIVITIES

(Please circle the number corresponding to your response to each of the following questions)

V13

	Very Important	Somewhat Important	Not Important	N/A
3. How important are social activities to the advancement of attorneys in your firm/office?	3	2	1	0

	Always	Sometimes	Never	N/A
4. Are attorneys' spouses welcomed to participate in the social activities of your firm/office?	3	2	1	0
5. Are non-married attorneys welcomed to include significant others or guests in the social activities of your firm/office?	3	2	1	0
If so, do written invitations use neutral designations such as "guest" or "significant other"?	3	2	1	0
6. If your firm/office has social events to which attorneys may bring spouses, significant others or guests, are lesbian and gay attorneys welcomed to bring same-sex domestic partners, significant others or guests?	3	2	1	0
If so, do written invitations use neutral designations such as "guest" or "significant other"?	3	2	1	0
7. If welcomed, either formally or informally, how often would you estimate that domestic partners, significant others or guests of lesbian and gay attorneys in your firm/office attend social activities?	3	2	1	0

8. Do you have any additional comments about the social activities and events of your firm/office as they pertain to gay and lesbian attorneys?

V20

GENERAL POLICIES AND PRACTICES

9. <u>To the same extent comparable actions are taken with respect to women or people of color, does your firm/office do the following (circle one response for each):</u>	No comparable actions taken	Yes	No	V21-31 Don't know
Provide a formal support structure, specifically designed for gay and lesbian attorneys, such as an organized peer group or a mentoring program?	4	3	2	1
Include in its "Welcome Packet" (if it has one) the firm/office policy on non-discrimination on the basis of:				
Sexual orientation?	4	3	2	1
Marital status?	4	3	2	1
HIV status?	4	3	2	1
Include in its newsletter (if it has one) reports on work the firm/office has done for or with organizations active on behalf of:				
Lesbian and gay rights issues?	4	3	2	1
Lesbian and gay social/community services?	4	3	2	1
Include in regular office luncheons or other meetings (if there are such functions) at which current events are addressed discussions of issues that affect gay and lesbian lawyers?	4	3	2	1
Pay employees' membership dues to gay and lesbian bar associations on the same basis as it pays for memberships in other bar associations?	4	3	2	1
Conduct office/firm-wide education programs on:				
Employment issues facing gays and lesbians?	4	3	2	1
HIV or AIDS/ARC issues?	4	3	2	1
Have a standing committee to oversee equal employment opportunity or employee rights issues, including issues of concern to lesbian and gay lawyers?	4	3	2	1

10

Have you ever heard:

V32

A lawyer in your firm/office make derogatory
statements or jokes about gays or lesbians? yes no

If yes, what, if anything, has management within your firm/office done to
respond if it has learned of such incidents? (check all that apply)

V33-41

- | | |
|---|---|
| <input type="checkbox"/> Treated allegations seriously | <input type="checkbox"/> Was indifferent to the charges |
| <input type="checkbox"/> Worked to determine truth of allegations | <input type="checkbox"/> Tried to explain allegations away |
| <input type="checkbox"/> Followed up to learn relevant facts | <input type="checkbox"/> Was embarrassed |
| <input type="checkbox"/> Showed initial concern but no follow-up | <input type="checkbox"/> Developed a plan or program to correct the problem |
| <input type="checkbox"/> Don't know | |
| <input type="checkbox"/> Incident not reported because _____ | |
| <input type="checkbox"/> Other _____ | |

A lawyer in your firm/office make a derogatory
remark about someone in your firm/office that was
based on that person's sexual orientation? yes no V44

If yes, what, if anything, has management within your firm/office done if it has learned of
such incidents? (check all that apply)

V45-55

- | | |
|---|---|
| <input type="checkbox"/> Treated allegations seriously | <input type="checkbox"/> Was indifferent to the charges |
| <input type="checkbox"/> Worked to determine truth of allegations | <input type="checkbox"/> Tried to explain allegations away |
| <input type="checkbox"/> Followed up to learn relevant facts | <input type="checkbox"/> Was embarrassed |
| <input type="checkbox"/> Showed initial concern but no follow-up | <input type="checkbox"/> Developed a plan or program to correct the problem |
| <input type="checkbox"/> Don't know | |
| <input type="checkbox"/> Incident not reported because _____ | |
| <input type="checkbox"/> Other _____ | |

A lawyer in your firm/office state that an applicant
or lawyer has shown "bad judgment" by openly
identifying him/herself as gay or lesbian? yes no V56

If yes, what, if anything, has management within your firm/office done to
respond if it has learned of such incidents? (check all that apply)

V57-67

- | | |
|---|---|
| <input type="checkbox"/> Treated allegations seriously | <input type="checkbox"/> Was indifferent to the charges |
| <input type="checkbox"/> Worked to determine truth of allegations | <input type="checkbox"/> Tried to explain allegations away |
| <input type="checkbox"/> Followed up to learn relevant facts | <input type="checkbox"/> Was embarrassed |
| <input type="checkbox"/> Showed initial concern but no follow-up | <input type="checkbox"/> Developed a plan or program to correct the problem |
| <input type="checkbox"/> Don't know | |
| <input type="checkbox"/> Incident not reported because _____ | |
| <input type="checkbox"/> Other _____ | |

11. Do you have any additional comments about general policies and practices within your firm/office as they pertain to lesbian and gay attorneys?

V68

PERSONNEL POLICIES AND BENEFITS

12. Has your firm/office reviewed personnel and benefit policies to ensure that lesbian and gay attorneys are treated fairly and equitably?

yes no

V69

13. To the same extent comparable actions are taken with respect to heterosexual attorneys, does your firm/office do the following (circle one response for each):

No comparable actions taken Yes No Don't know

Offer health benefits to the domestic partners of gay and lesbian lawyers on the same or similar terms that they are available to the spouses of heterosexual lawyers?

4 3 2 1

Provide child care benefits to the biological and nonbiological children of gay and lesbian attorneys in the same manner that they are provided to heterosexual attorneys?

4 3 2 1

Have parenting leave and part-time policies that are:

Gender neutral?

4 3 2 1

Marital status-neutral?

4 3 2 1

Have parenting leave and part-time policies that are offered irrespective of the biological relationship between parent and child?

4 3 2 1

Reimburse new lesbian and gay attorneys for the cost of moving a domestic partner on the same terms that the costs of moving a heterosexual attorney's spouse are reimbursed?

4 3 2 1

If there is an employee assistance program through which benefits (such as substance abuse or crisis counseling) are offered to attorneys and their families, ensure that benefits cover:

Domestic partners of lesbian and gay lawyers?

4 3 2 1

Non-biological children?

4 3 2 1

Have a bereavement leave policy that gives gay and lesbian attorneys the right to take bereavement leave for the death of a domestic partner?

V78

4 3 2 1

14. Do you have any additional comments about personnel policies and benefits within your firm/office as they pertain to lesbian and gay attorneys?

V79

RETENTION & PROMOTION

15. Please estimate the number and level of lawyers in your office (i) who have identified themselves as lesbian or gay in the office, (ii) whom you believe to be gay or lesbian, whether or not they have identified themselves as gay in the office, and (iii) the total number of lawyers on each level:

V80-81(3)

	<u>Self-identified gay or lesbian lawyers</u>	<u>Total gay or lesbian lawyers</u>	<u>Total lawyers</u>
Partner/partner equivalents	_____	_____	_____
Other lawyers	_____	_____	_____

16. To the same extent comparable actions are taken with respect to women or people of color, does your firm/office do the following (circle one response for each):

No comparable actions taken Yes No Don't know

V82-83

Have policies or procedures designed to ensure that performance reviews and work assignments are not affected by the actual or perceived sexual orientation of attorneys?

4 3 2 1

Have stated goals (either general or numerical) for promoting lesbian and gay attorneys?

4 3 2 1

17. Within your firm/office, have you ever heard the concern expressed that some or all of the clients of your firm would prefer not to work with an openly gay or lesbian lawyer?..... yes

no

V84

If yes, what, if anything, has management within your firm/office done to respond if it has learned of such incidents? (check all that apply)

V85-95

<input type="checkbox"/> Treated allegations seriously	<input type="checkbox"/> Was indifferent to the charges
<input type="checkbox"/> Worked to determine truth of allegations	<input type="checkbox"/> Tried to explain allegations away
<input type="checkbox"/> Followed up to learn relevant facts	<input type="checkbox"/> Was embarrassed
<input type="checkbox"/> Showed initial concern but no follow-up	<input type="checkbox"/> Developed a plan or program to correct the problem
<input type="checkbox"/> Don't know	
<input type="checkbox"/> Incident not reported because _____	
<input type="checkbox"/> Other _____	

18. To the best of your knowledge, has any attorney within your firm/office been denied assignments, as a result of being openly gay or lesbian? yes

no

V86

If yes, what if anything, has management within your firm/office done to respond if it has learned of such incidents? (check all that apply)

V97-107

<input type="checkbox"/> Treated allegations seriously	<input type="checkbox"/> Was indifferent to the charges
<input type="checkbox"/> Worked to determine truth of allegations	<input type="checkbox"/> Tried to explain allegations away
<input type="checkbox"/> Followed up to learn relevant facts	<input type="checkbox"/> Was embarrassed
<input type="checkbox"/> Showed initial concern but no follow-up	<input type="checkbox"/> Developed a plan or program to correct the problem
<input type="checkbox"/> Don't know	
<input type="checkbox"/> Incident not reported because _____	
<input type="checkbox"/> Other _____	

19. In general, do you believe your firm/office has taken steps to ensure a work environment that is hospitable to gays and lesbians? Please use the space below to elaborate.

V108

FIRM/OFFICE INFORMATION

20. Type of Organization (check one)

☐ Law Firm

☐ Business

☐ Government

☐ Education

☐ Public Interest

☐ Other (please specify) _____

V109

21. Number of lawyers in your workplace:

If the organization
has more than one
office, in your
entire organization

In your office

Number of partners
(or equivalents)

Number of other lawyers

V110-111(D)

22. Title of individual completing this
questionnaire: _____

V112

THANK YOU AGAIN FOR YOUR TIME

APPENDIX A-5
METHODS

CHARACTERISTICS OF THE EMPLOYER SURVEY RESPONDENTS

<u>Employer Characteristics</u>	<u>Percentages</u>
<u>Type</u>	
Law Firm	68.1%
Business' Law Office	18.8%
Government Office	4.3%
Law School	1.4%
Public Interest Law Office	7.2%
<u>Size</u>	
1 - 10	19%
11 - 20	29.3%
21 and over	51.7%

APPENDIX A-6
METHODS

EMPLOYER SURVEY PRE-LETTER
EMPLOYER SURVEY COVER LETTER
EMPLOYER SURVEY FOLLOW-UP CALLS
ATTORNEY SURVEY COVER LETTER
ATTORNEY AND EMPLOYER SURVEY REMINDER CARD

LOS ANGELES COUNTY BAR ASSOCIATION

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BARRY E. SHANLEY
KIM McLANE WARDLAW
MICHAEL F. YAMAMOTO
JAN A. YOSS

September 13, 1993

Dear Colleague:

We write to seek your assistance in an important undertaking of the Los Angeles County Bar Association.

In November 1992, then-County Bar President Richard Chernick created the Committee on Sexual Orientation Bias. Since its appointment, the committee, composed of members with widely differing professional and personal backgrounds, has worked diligently, with the able assistance of an independent consultant, to develop two written surveys. The surveys are designed to assist the committee to formulate a recommendation to the Board of Trustees as to whether the Los Angeles County Bar Association should adopt and promote a policy among legal employers on the subject of sexual orientation discrimination. One of the surveys will be directed to legal employers (to the attention of managing partners or their equivalent); the other will be directed to a sample of individual lawyers covering all sexual orientations.

We anticipate that the two surveys will be mailed within the next two weeks. Please help us. Your cooperation is essential if the surveys are to be completed and returned. Please do whatever is appropriate to see that the employer survey is directed to the right person within your firm or office and to see that those attorneys who receive the survey directed to individuals are encouraged to complete and

September 13, 1993
Page 2

return them. Only with your assistance will we be able to develop any recommendation submitted by the committee.

Sincerely,

Gerald L. Chaleff, President
Los Angeles County Bar
Association

Joseph D. Mandel, Chair
Committee on Sexual
Orientation Bias

Committee Members

Amelia A. Craig
Knox M. Cologne
Pamela E. Dunn
Eudon Ferrell
Raymond C. Fisher
Stuart P. Herman
Karen A. Lash
Joan M. LeSage
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WRITER'S DIRECT LINE

September 24, 1993

GERALD L. CHALEFF
PRESIDENT

JOHN CARSON
PRESIDENT-ELECT

LAURIE D. ZELON
SENIOR VICE-PRESIDENT

SHELDON H. SLOAN
VICE-PRESIDENT/
TREASURER

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MICHAEL F. YAMAMOTO

JAN A. YOSS

Dear Colleague:

In order to address the quality of work life for lesbian and gay attorneys in Los Angeles County, the Los Angeles County Bar Association has established a Committee on Sexual Orientation Bias. The Committee's charge is to study sexual orientation bias among Los Angeles County legal employers, to report its findings to the County Bar and to formulate a recommendation as to whether the County Bar should adopt and promote a policy regarding sexual orientation bias among Los Angeles County legal employers.

With the assistance of an independent consultant, the Committee has developed two written surveys to assist it in its work. One of the surveys is being directed to Los Angeles County legal employers. The other survey is being sent to a sample of individual Los Angeles County lawyers.

Your firm or office has been selected as part of the sample of employers surveyed. Accordingly, we enclose a copy of the Committee's survey concerning sexual orientation bias in the legal workplace.

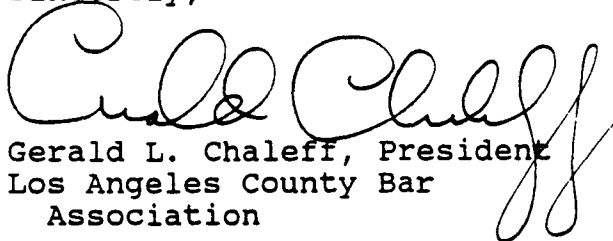
Please take a few moments of your time to respond as fully and completely as possible to the questions in the enclosed survey. We know that you are busy, but we do not make this request lightly. We ask because your responses are crucial to the Committee's and the Association's understanding of this important issue.

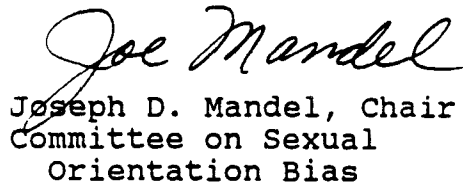
September 24, 1993
Page 2

The questionnaire is anonymous, and the data collected will be released only in an aggregated or disguised form so as not to identify individual employers. We also ask that you complete only one copy of the questionnaire.

Please return the completed questionnaire to the County Bar in the enclosed, pre-addressed envelope by October 22, 1993. Thank you in advance for your time and cooperation.

Sincerely,


Gerald L. Chaleff, President
Los Angeles County Bar
Association


Joseph D. Mandel, Chair
Committee on Sexual
Orientation Bias

Committee Members

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Enclosure

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WRITER'S DIRECT LINE:

(213) 896-6407

October 26, 1993

IMPORTANT MEMORANDUM

GERALD L. CHALEFF
PRESIDENT

JOHN CARSON
PRESIDENT-ELECT

LAURIE D. ZELON
SENIOR VICE-PRESIDENT

SHELDON H. SLOAN
VICE-PRESIDENT/
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KIM McLANE WARDLAW

MICHAEL F. YAMAMOTO

JAN A. YOSS

TO: Members of the Ad Hoc Committee on Sexual
Orientation Bias

FROM: Gracie Lee *gml*

RE: Survey of Legal Employers

Your chair, Joe Mandel, has asked me to enlist your help -- while the survey of individuals has been fairly successful; the return of employer surveys has been slow. Joe would like each firm/corporate law office called in an attempt to elicit more survey returns. Enclosed is a list of employers we would ask you to call ASAP. If you have been assigned a list of law firms, we would also ask the help of a secretary in your office to look up some phone numbers.

When you call the people on your list, please explain that:

1. We are extending the deadline to November 5;
2. They may call Gracie Lee, 213-896-6407, for a copy of the survey.

**** Please say something to the effect that the committee is calling every recipient since the survey is anonymous and we can't tell which offices have returned them, and thank them if they've already returned it.**

If you aren't able to reach the person to whom the survey was addressed, please leave a message with his/her secretary or in his/her voice mail.

Thank you for your investment of time and effort in this project.

Enclosure

cc: Richard Walch

LOS ANGELES COUNTY BAR ASSOCIATION

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TELECOPIER (213) 896-6500
WRITER'S DIRECT LINE

September 13, 1993

Dear Colleague:

GERALD L. CHALEFF
PRESIDENT
JOHN CARSON
PRESIDENT-ELECT
LAURIE D. ZELON
SENIOR VICE-PRESIDENT
SHELDON H. SLOAN
VICE-PRESIDENT/
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In order to examine the quality of work life for lesbian and gay attorneys in Los Angeles County, the Los Angeles County Bar Association has established a Committee on Sexual Orientation Bias. The Committee's charge is to study sexual orientation bias among Los Angeles County legal employers, to report its findings to the County Bar and to formulate a recommendation as to whether the County Bar should adopt and promote a policy regarding sexual orientation bias among Los Angeles County legal employers.

With the assistance of an independent consultant, the Committee has developed two written surveys to assist it in its work. One of the surveys is being directed to Los Angeles County legal employers. The other survey is being sent to a sample of individual Los Angeles County lawyers.

You have been selected as part of the sample of individual lawyers surveyed. Accordingly, we enclose a copy of the Committee's survey concerning sexual orientation bias in the legal workplace.

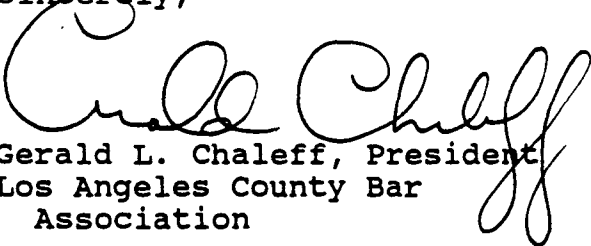
Please take a few minutes of your time to respond as fully and completely as possible to the questions in the enclosed survey. We know that you are busy, but we do not make this request lightly. We ask because your experiences, perceptions and opinions are crucial to the Committee's and the Association's understanding of this important issue.


We encourage you to be both frank and thorough in your responses. The questionnaire is anonymous -- in your responses, you may, but need not, identify yourself or other persons or organizations relevant to your responses. Data collected will be released only in an aggregated or disguised form so as not to identify individual respondents or their employers. We also ask that you complete only one copy of the questionnaire.

September 24, 1993
Page 2

Please return the completed questionnaire to the County Bar in the enclosed, pre-addressed envelope by October 22, 1993. Thank you in advance for your time and cooperation.

Sincerely,


Gerald L. Chaleff, President
Los Angeles County Bar
Association


Joseph D. Mandel, Chair
Committee on Sexual
Orientation Bias

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Joan M. LeSage
Nancy P. McClelland
Molly Munger
Arthur F. Silber
Richard J. Stone
David C. Tseng
Eric A. Webber

Enclosure

October 7, 1993

Dear Member of the Bar:

Two weeks ago, we sent you the Los Angeles County Bar Association's Survey on Sexual Orientation Bias. If you have already returned the survey, we thank you for your participation. If not, please return it to us as soon as possible. Your participation is important to the County Bar's evaluation of employer policies relating to lesbians, gay men and bisexuals.

Gerald L. Chaleff, President
Los Angeles County Bar Association

Joseph D. Mandel, Chair
Committee on Sexual Orientation Bias

**[For information or an extra copy of the survey
call Gracie Lee at (213) 896-6407]**

APPENDIX A-7
METHODS

FOCUS GROUP DISCUSSION QUESTIONS

Introductory Remarks (Committee Member)

- Thank you for coming, etc.
- Make sure parking was validated
- Overview of project/purpose of focus group (to enable Committee to gather anecdotal information concerning sexual orientation bias to flesh out/support the statistical data gathered in the survey)
- Introduce and thank Curt Shephard, note that he has professionally guided us through this entire project, has a Ph.D. in education, was formerly director of Student Affairs Information and Research Office at UCLA, and is currently director of the Campus Project of the National Gay & Lesbian Task Force.
- Participants briefly introduce selves, including current work setting (don't have to identify name of employer if prefer not to)
- Location of rest rooms
- Invite to partake of refreshments

Establish Ground Rules (Dr. Shepard)

- Informal discussion, but we'd like to hear from one person at a time.
- Try to be aware of how much air time you're taking up/let everyone in the group have an opportunity to speak.
- If it's all right with everyone, we'd like to tape this discussion. Be assured that your comments will be kept confidential. The tape will be used only to fill in our notes. The tape will not be transcribed, no names will be assigned to any particular comments, and only the research team will have access to the tape, which will be destroyed upon completion of the project. Any problems with that? [pause]

- Please remember that we are interested in both negative and positive statements regarding the quality of your work life. We are especially interested in specific examples to illustrate particular points; again, only the people in this room will know who said what.
- Finally, the session should last about 90 minutes. We will take a formal break. Feel free to step out to go to the rest rooms or to get more refreshments, but please return to this room.
- Any questions? [pause]

Discussion Questions (Committee Member)

- I. Describe the general climate/culture within the workplace, including specific ways in which the culture/climate is manifest for lesbian and gay attorneys (and other g/l employees?). (PROBE FOR: significant others invited to social events? Is the onus on g/l attorneys exclusively to educate the workplace about g/l issues? Levels of tolerance for homophobic comments, jokes? Other specific ways in which the culture/climate is manifest with regard to gays and lesbians?)
- II. Describe the attitudes of senior management (i.e., employers, partners, other decision-makers) toward lesbians and gay men in the firm/organization.
 - A. Ways in which the employer is supportive of l/g lawyers/employees (PROBE FOR: overt expressions of support in work and social settings, lack of "heterosexual assumptions," willingness to interrupt homophobic comments and behavior, etc.)
 - B. Ways in which the employer is unsupportive of l/g lawyers/employees (PROBE FOR: specific examples of harassment and/or discrimination promotions/job assignments denied on the basis of sexual orientation, willingness to tolerate homophobic comments and behavior, etc.)
 - C. Stories re: availability of mentoring support/professional development for g/l associates (PROBE FOR: relations between senior and junior attorneys, generally, and perceived influence of sexual orientation upon relational dynamics.)
 - D. Examples of degree to which "client relations" plays a role in determining support within the organization for g/l employees.
 - E. Other areas not covered by previous questions?

- III. What are the attitudes of coworkers/colleagues toward lesbians and gay men in the firm/organization.
 - A. Ways in which coworkers are supportive (PROBE FOR: overt expressions of support in work and social settings, lack of a "heterosexual assumption," willingness to interrupt homophobic comments and behavior, etc.)
- IV. Existence of personnel policies and programs that support lesbians and gay men within the firm or organization. (PROBE FOR: a written nondiscrimination policy that includes sexual orientation, spousal equivalent benefits for partners of lesbian and gay employees, professional development programs/opportunities that address diversity, including sexual diversity, policies or practices related to derogatory remarks about sexual orientation, etc.)
- V. Professional Development/Career Path -- Degree to which being g/l has influenced your career decision-making, including your decision either to stay at a certain post or leave a post. (PROBE FOR: What would attract you to a new employment setting?)
- VI. Numbers of lesbian or gay people within the firm/organization. (PROBE FOR: seniority and level of openly gay and lesbian attorneys/employees)

APPENDIX B-1
ANECDOTAL EVIDENCE

SELECTED COMMENTS FROM ATTORNEY SURVEY RESPONDENTS
AND FOCUS GROUP PARTICIPANTS

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants¹

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¹ A letter "G" at the left margin, following the comment number, designates comments by persons who identified themselves as homosexual or bisexual. All other comments are by persons who either identified themselves as heterosexual or did not identify their sexuality.

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

I. ON SEXUAL ORIENTATION DISCRIMINATION GENERALLY

A. ON OVERT DISCRIMINATION

[SEE ALSO COMMENT NOS. 253, 267, 280, 335 & 336, BELOW]

1. Openly gay attorneys or candidates [are] subject to overt criticism and discrimination by partners; same for heterosexual attorneys who support gay rights and/or AIDS research and assistance. Prior incidents have shown that being openly gay is fatal to any professional advancement in the firm. [The] work environment [is] openly hostile to gay or pro-gay attorneys; [there is] no recognition or benefits for same-sex partners of attorneys.
-- Attorney Survey Respondent
2. Sex lives of any personnel are not appropriate topics for the law office. If someone is foolish enough to discuss sexual practices, they risk dismissal for improper conduct and stupidity, whether the person is gay or not.
-- Attorney Survey Respondent
3. I believe there is "unofficial" discrimination in hiring -- the firm, as an institution, thinks of itself as a tolerant, diverse community -- but I do not doubt that individuals involved in recruiting and hiring have their own biases which affect their decision-making. The overwhelming majority of the approximately 200 attorneys in my firm are married, with kids. ... The firm is overwhelmingly white and straight -- I think most of the attorneys (and probably almost all of the partners) don't even think about these issues. A few openly gay associates have done very well at the firm -- so either attitudes are not too terrible or these attorneys are too extraordinary to make their lives so miserable that they'd want to leave. There are no openly lesbian attorneys in the firm.
-- Attorney Survey Respondent
4. My firm has an old fashioned, "laissez-faire" approach: the firm neither seeks nor discourages diversity and simply attempts to hire the best people from its pool of applicants. ... Our one gay attorney, who is out, is outwardly treated no differently from others. But there is an old boys mentality which treats non-white non-males differently, or at least views them differently. ... Perception that it is best to be white, male, straight. The issue is ignored in firm.
-- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(I.A. ON OVERT DISCRIMINATION, CONTINUED)

5. G The perception that I'm gay has caused discrimination in hiring at 3 firms.
-- Attorney Survey Respondent
6. My firm has never employed an openly gay or lesbian attorney; the one gay attorney we had was not comfortable disclosing his sexual preference at work except to 2 or 3 of us, and understandably so -- the male attorneys of the firm consistently and frequently made jokes at the expense of gays. The gay attorney was eventually given 60 days termination notice, reportedly for quality of work reasons; however, he found another job (an in-house position at a prestigious, large company, doing similar work to what he had done in the firm) and has done very, very well there. After he left, I learned that the male attorneys he'd worked with at the firm had in fact suspected or been told of his sexual preference.
-- Attorney Survey Respondent
7. [In my firm,] the recruiting is controlled by the male labor group which is both sexist and very homophobic. ... Gay attorneys do not themselves attend social events [let alone bring same-sex partners]. ... All of the lawyers [who were openly gay] are gone. Other than the overt hostile environment and assigning work to others, there is no direct confrontation. ... I have watched gay men be deprived of work and eased out of jobs.
-- Attorney Survey Respondent
8. It takes only one homophobe to blackball a qualified attorney from being hired.
-- Attorney Survey Respondent
9. G [At this firm,] the policy is to discriminate against gay men and lesbians. They are a bunch of bigoted SOBs -- all aging white males -- I have to stay in the closet at work and would never have been hired if they knew.
-- Attorney Survey Respondent
10. To my knowledge no gay/lesbian attorney has applied for a job as an attorney. My belief is that if that fact were known (sexual orientation is homosexual) they would not be hired.
-- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(I.A. ON OVERT DISCRIMINATION, CONTINUED)

19. G I was denied advancement to partner status after five successful years as an associate in my former firm. A friend who was one of the partners privately advised me of what was going on: one of the partners did not like gays and blocked my being offered a partnership.
-- Attorney Survey Respondent
20. G I was not extended "call backs" from some firms, while looking for a job during law school, on the basis of my being a gay man.
-- Attorney Survey Respondent
21. G I have experienced discrimination in job references from my former employer to my current one ("Oh that little faggot ...").
-- Attorney Survey Respondent
22. G More than once, the firm manager was one making off-color comments and jokes about fags. ... I'm not out at my firm -- bear that in mind. They don't know; they don't have a clue that I'm gay. If they did, things would necessarily be much different for me.
-- Attorney Survey Respondent
23. G I clerk [for a federal judge] and am not out. We have one gay male and one gay female on staff, but the judge is not pleased about it and will not hire more. ... The judge has not created a hostile environment, however, and the non-gay clerks are open to the lifestyles of the gay clerks. But the judge would not choose ever to hire a gay clerk.
-- Attorney Survey Respondent
24. G Partners do not want to risk terminating a gay attorney, but will not offer a partnership to one. For me, there is no possibility for promotion here because of my sexual orientation. Partnership takes active steps to encourage my voluntary separation from the firm.
-- Attorney Survey Respondent
25. G When interviewing for law school teaching positions three years ago, interviewers with church-affiliated schools (and schools in conservative, rural states), explicitly or implicitly discriminated [against gay candidates] in hiring. I know from word-of-mouth that this practice continues.
-- Attorney Survey Respondent

(I.A. ON OVERT DISCRIMINATION, CONTINUED)

- [L132028.2]

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(I.A. ON OVERT DISCRIMINATION, CONTINUED)

34. G In the last law firm I was with, the managing partner said that I could not be affiliated with the lesbian and gay bar association because that was not something a partner of his firm should be doing. Another partner continually made negative remarks about the fact that I was a lesbian.
-- Attorney Survey Respondent
35. G Basically, [I was] frozen out of a position when my being gay was discovered.
-- Attorney Survey Respondent
36. G I believe I have experienced discrimination [based on my sexual orientation] in consideration for positions on a law school faculty.
-- Attorney Survey Respondent
37. G I was denied employment based on my sexual orientation and was removed from a major case in one office due to a client's objections to my sexual orientation.
-- Attorney Survey Respondent
38. G I believe the last firm I worked for openly discriminated against gays and lesbians. I know several associates who are gay or live in fear of being outed and ousted. The firm is totally insensitive to gay and lesbian issues.
-- Attorney Survey Respondent
39. G To my knowledge, no gay/lesbian attorney has remained long at my firm; none have been named partner.
-- Attorney Survey Respondent
40. G I was told that I should not live in West Hollywood by a mid-level partner when I first joined firm. After an "emergency" meeting by partners, I was expressly told that I was "naive" to talk to L.A. Times about diverse families; I was terminated 2 months later.
-- Attorney Survey Respondent
41. G Although I am not on the hiring committee, I know that members have expressed anti-gay/lesbian sentiments and jokes in office surroundings, such as at office open-bars and parties. The firm in general is composed of "macho" trial attorneys who are unenlightened about many issues -- either they don't try for diversity or they are openly hostile toward anyone who does not fit the partners' mold. ... The mentality at this firm -- as expressed in jokes and even gender bias -- make clear that advancement would stop if a gay attorney were to openly admit to his or her sexuality. To a

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Selected Comments from Attorney Survey Responses
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(I.A. ON OVERT DISCRIMINATION, CONTINUED)

certain extent, however, the firm is naive in that it cannot imagine that others are somehow different or diverse.

-- Attorney Survey Respondent

42. G I have heard rumors that a former firm partner was fired because he is gay.

-- Attorney Survey Respondent

43. G For gay attorneys there is a glass ceiling, as very "clubby" partnership of predominantly white, Jewish men in [another city] controls partnership.

-- Attorney Survey Respondent

44. G In a small westside law firm, I was subject to discrimination by homophobic partners. I witnessed discrimination against two openly gay attorneys in a branch office of a large firm (my previous firm).

-- Attorney Survey Respondent

45. G When I put Lawyers for Human Rights on my resume, a number of my job interviews were essentially terminated once I explained what kind of organization it is.

-- Attorney Survey Respondent

46. G Known or suspected gay job applicants are discouraged. ... Only heterosexuals need apply (or expect to be retained, promoted, made partner or compensated well).

-- Attorney Survey Respondent

47. G At my former law firm discrimination was obvious and too uncomfortable to endure! Recruitment [of gay attorneys] at the associate level may have been tolerated, but an associate who turned out to be gay or lesbian would face discrimination. ... The only way a gay or lesbian attorney would be advanced was control of a significant book of business. ... I was told "This firm will never allow a gay male partner."

-- Attorney Survey Respondent

48. G An important case with media attention was taken from me and given to another attorney by a supervisor from downtown who was concerned about my openness on being gay.

-- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(I.A. ON OVERT DISCRIMINATION, CONTINUED)

49. When the gay associate was up for partner, it was made clear that any reference to his sexuality would result in his loss of the partnership opportunity. It is kept so much under the rug, that any hint of sexuality other than heterosexual becomes a scandal and rumors and gossip fly.

-- Attorney Survey Respondent

50. G I am certain that I was passed over for partnership at my most recent former employer because of homophobia on the part of the minority of partners who stood in my way.

-- Attorney Survey Respondent

51. G Two months after the only lesbian partner left [mid-size firm], I was told I didn't fit with the corporate image. This was after two years with no problems in my reviews. Within 6 months the only other gay male associate and all the gay support staff left.

-- Participant in 10/25/93 Focus Group

52. G My firm of 16 lawyers which includes one lesbian had an extensive debate over whether to hire me. I'm told they decided it was "o.k." if they don't hire another gay or lesbian attorney. Since I've been there, all gay and lesbian applicants have been denied.

-- Participant in 10/25/93 Focus Group

53. G [At my former firm,] it wasn't just a gay thing, it was anything that wasn't the "old boys' network" or the golf course syndrome. I got in trouble because I usually didn't laugh [at sexist jokes] and I walked away when sexually suggestive comments were made. I was not part of "the group," and I suffered from it. I think sexual harassment went hand in hand with the whole line of discrimination ... including anti-gay stuff.

-- Participant in 11/8/93 Focus Group

54. G In the courtroom where I work ... I got screamed at -- "dyke" -- by a guy, a father [in a custody case], who was a very hostile person. I was really kind of afraid for my safety so I told the court officers and the clerk looked at me and said, "What's the difference? It's a free country". All of a sudden it's a "free country" and we're raising free speech issues when I was really a little afraid of the guy's behavior. I was pretty upset.

-- Participant in 11/8/93 Focus Group

(I.A. ON OVERT DISCRIMINATION, CONTINUED)

- [L132028.2]

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Selected Comments from Attorney Survey Responses
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(I.A. ON OVERT DISCRIMINATION, CONTINUED)

59. G For one set of job interviews I had, I put Lawyers for Human Rights on my resume, hoping that that would at least relieve me of some kind of future conflict [about whether I was out or not]. Out of quite a few interviews that I had, only one group asked me, "Well, what is this organization?" So I told them [that it is the lesbian and gay bar association] and the whole interview just came to a stop. A startling stop. ... I mean, there was this long, very awkward silence. And then they started asking me the same questions that they had just asked me over again, which I thought was a rather kind of bizarre response, but they really ... they just really couldn't handle it.

-- Participant in 11/15/93 Focus Group

60. G [To find a liberal work environment,] I interviewed at places with relatively high numbers of minorities and all these good [antidiscrimination policies]. When I was in my decision-making process, I decided to ... send out a trial bulletin to let it be known [that I am gay] and see what kind of response I could expect. This particular law firm was in a city which has an anti-discrimination ordinance, so I just knew they weren't going to tell me "go away," but I thought they might at least give me some hint [of what their real attitude was]. And the hint they gave me was in the form of immediately revoking my offer.

-- Participant in 11/15/93 Focus Group

61. G I represented an associate who had his lover pick him up one day from work. A partner saw and decided he was gay. I actually have a tape of two partners -- who didn't know the conversation was being taped -- talking about how they were worried about HIV, health insurance, passing HIV to staff, needing to stop this because they don't want to attract clients like that.

-- Participant in 10/25/93 Focus Group

62. G I work in a generally very positive environment. I have been out since I was hired right out of law school in part because of the horrible experience of a summer clerkship in Washington, D.C., where I went from a superstar to an outcast overnight for having attended a social function with my lover.

-- Participant in 11/15/93 Focus Group

63. My guess is that there would be bias against gay attorneys, but I have no knowledge. Gay secretaries are ostracized by certain administrative/attorney staff.

-- Attorney Survey Respondent

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Selected Comments from Attorney Survey Responses
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B. ON SUBTLE DISCRIMINATION

[SEE ALSO COMMENT NOS. 170, 171, 174, 183, 189, 196, 238, 261, 264, 265, 271, 272, 273, 278, 279, 315, 317, 325, 327, 329 & 338, BELOW]

64. My firm is in-house counsel for a very large religious organization and many of the lawyers belong to the religion. The religion frowns upon "alternate lifestyles" and although I have never seen any job applicants discriminated against, I know that most of the lawyers would not approve of [a gay or lesbian] applicant.
-- Attorney Survey Respondent
65. This firm is a male-dominated, predominately Jewish firm and conservative in nature. The issue [of homosexuality] is taboo. Advancement and pay criteria are subjective so that individual partners and the firm as a whole can tiptoe through the issues professing liberal attitudes.
-- Attorney Survey Respondent
66. This firm does not discriminate against or in favor of gays or lesbians in recruitment, hiring, advancement or any other area. The firm's policy and practice is to recruit, hire, and advance attorneys solely on the basis of ability and quality of work without regard to gender, race, religion, sexual preference or any other characteristic that does not affect one's ability to practice law. ... The firm does not inquire about the sexual predilections of its attorneys.
-- Attorney Survey Respondent
67. [I have] no knowledge regarding recruitment/hiring at this firm. But the atmosphere is anti-gay. ... The two individuals in our firm (1 gay man, 1 lesbian) rarely attend firm functions with their significant other. ... [Their] advancement is doubtful.
-- Attorney Survey Respondent
68. [A]nyone who is different can expect to have other human beings comment on that fact, and mere comments themselves are not necessarily evidence of wrongful discrimination. Male caucasians are subject to comments and even outright discrimination too -- for everything from their national origin (German, Italian, etc.) to whether or not they like football. I am opposed to limiting someone's career opportunities for any of these reasons. However, in the real world, they occur all the time. Anyone who has ever worked with other people knows that career advancement can be affected by such relatively minor things as whether one plays golf well. Individuals have a certain

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(I.B. ON SUBTLE DISCRIMINATION, CONTINUED)

responsibility to find a work environment where they feel comfortable.

-- Attorney Survey Respondent

69. G To my knowledge only one openly gay person has even been considered for partner. She didn't make it for reasons that appear unrelated to sexual orientation. I am openly gay and expect no difficulty in making partner because of my success in retaining and generating clients. ... Then again, I am not out to clients. ... The firm has made no effort to address benefits discrimination, although its gay employees have not yet asked in an organized way. Our policies are good but we allow private biases more sway than we should -- and more than we say we do.

-- Attorney Survey Respondent

70. For the most part, [sexual orientation] is not an issue. Sexual orientation, religion, sex and race is essentially ignored in terms of work and the work place. I know it is not cool to say it, but I could care less what people do when they are not practicing law. I just care about the quality of their legal work. Sorry, but I am old fashioned.

-- Attorney Survey Respondent

71. G The partners did know (figured out, but were not told in advance of asking) that I was (and am) in a committed lesbian relationship at the time they gave me an offer, but I think it would have worked against my candidacy if it was obvious that I was active in gay and lesbian organizations, etc. The partners in this firm are more interested in whether the associates come cheap with decent to good qualifications than in sexual orientation, but it helps a lot if they recognize themselves in a candidate and none [of the partners] are homosexual. ... I have never felt at liberty to reveal my activities in the [gay] community on my resume. Therefore, my leadership abilities have not been reflected on my resume and this probably puts me at a disadvantage with otherwise like qualified candidates for employment.

-- Attorney Survey Respondent

72. The firm recently refused to make any commitment not to discriminate on the basis of sexual orientation. However, I am not aware of any instance of such discrimination.

-- Attorney Survey Respondent

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Selected Comments from Attorney Survey Responses
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(I.B. ON SUBTLE DISCRIMINATION, CONTINUED)

73. An attorney perceived to be gay was hired, however remarks were made. I do not know whether individual attorneys actually encouraged or discouraged hiring on that basis but there was relief when he got engaged to a woman. ... In my firm, there would be no overt discrimination [against gay people]. I believe it would be more subtle, i.e. "need to fit in" or failure to do so.
-- Attorney Survey Respondent
74. Our firm policy regarding nondiscrimination has for a long time included sexual orientation and we have something of a reputation as a "liberal" firm. There are several gay attorneys here, including two of my partners, although none are very public about it. Nevertheless, two of my partners -- people wouldn't dream of saying that we shouldn't have "too many" Jews or Catholics, for example -- have expressed a desire that we not have "too many" gays, out of the concern that we might become known as a "gay firm" or attract too many gay candidates we'd have to turn down. One of the two also expressed a concern over healthcare costs -- presumably, meaning AIDS-related claims. Being a good liberal firm, of course, no one would articulate these concerns publicly. And they are certainly not shared by us all. But they're there.
-- Attorney Survey Respondent
75. G As a gay man, I encounter discrimination in very subtle ways. For example, I attempted to rent space at some legal executive suites and where office space was available in larger law firms. At the more "conservative" locations, although they were very excited to consider me at first, I was eventually told that the space had been rented (although I found out that one of the spaces was rented to a lawyer who did not even begin looking until after I had already moved). Later, through another tenant, I found out that my sexual orientation had been discussed.
-- Attorney Survey Respondent
76. G In my corporation, [advancement of gay attorneys] is a big question mark. While management in my particular office is neutral to supportive, I have no idea what is said in regional or national offices. To the best of my knowledge, the company has no specific policy of non-discrimination on the basis of sexual orientation.
-- Attorney Survey Respondent
77. G How does one know whether he/she has been discriminated against? You can never be sure.
-- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(I.B. ON SUBTLE DISCRIMINATION, CONTINUED)

78. G The hiring process is too subjective to ever guarantee non-discrimination. The process of advancement and promotion is even more subjective than hiring -- and even harder to ensure as being non-discriminatory. ... For example, in my first few years at this firm, I had absolutely stellar reviews. But when my main mentor left the firm, the new senior partner in my department told me that my prospects with the firm were limited because, in his view, I "didn't fit in." Afterwards, he seemed to go out of his way to make my work situation difficult and unpleasant -- berating me in front of clients, giving me last-minute jobs with vague instructions, etc. I also started getting very bad work reviews from that partner. It all seemed personal to me. I am very "out" at this firm, but I can't be sure if that was part of my problem. In any event, I plan to leave as soon as I can find another job.
-- Attorney Survey Respondent
79. G In my office, management prefers to believe that we don't exist and therefore no problems exist. Gay/lesbian lawyers are "secure" only because of the sheer size of our office and our civil service protection. Management has made no effort to make gay/lesbian lawyers comfortable or welcome.
-- Attorney Survey Respondent
80. G I can only suspect that some employment opportunities did not come to fruition because of sexual orientation -- as perceived by a potential employer. The rationale was that I "wouldn't get along" with the rest of the firm.
-- Attorney Survey Respondent
81. G Our office has no policy at all [on sexual orientation bias] -- most would publicly say it's not an issue. But some in influential positions have been heard to make derogatory remarks. Others would not openly make such remarks but would probably discriminate against perceived gays/lesbians.
-- Attorney Survey Respondent
82. G We have a gay associate and a lesbian partner out of 15 attorneys -- there is an informal concern that hiring more lesbian or gay attorneys would make the firm "too gay".
-- Attorney Survey Respondent

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(I.B. ON SUBTLE DISCRIMINATION, CONTINUED)

90. G I am a second-year associate and I feel that I may experience more problems the more senior I become, due to more involvement in management activities.
-- Attorney Survey Respondent
91. G It's the unspoken policies at this firm that worry me. Who knows what the policies here are pertaining to gay and lesbian lawyers? We remain silent so as not to find out. The policy may be to oust us before we reach partnership. The partners on one matter seemed intent on keeping me away from of the client's Vice Presidents, whom they apparently regarded as attractive -- though I did not. I found it offensive on a number of levels; they all knew I've been in a committed relationship with another man for twelve years, but seemed to think I would be so unable to control myself that I would land a big, wet kiss on this guy if I had a chance. And I didn't notice them keeping their distance from the client's rather buxom accountant.
-- Attorney Survey Respondent
92. G I wish the "post-hiring" was as good as the "pre-hiring" on lesbian/gay issues. There may be a "glass ceiling" for lesbian/gays. ... Ultimately, openly gay and lesbian attorneys are held back because of fears (generally, of older, straight lawyers) of client discomfort. We're considered a "liberal" firm, but it's a pretty thin veneer.
-- Attorney Survey Respondent
93. G Senior management of my present firm has expressed concern about client acceptance of an openly gay lawyer. My senior partners profess not to be prejudiced themselves, but express concern for "others" (i.e., clients).
-- Attorney Survey Respondent
94. G To have hope of advancement, the gay or lesbian attorney must be willing to play the corporate game, en toto, and must have a good client base/client development.
-- Attorney Survey Respondent
95. G I perceive that my mentor at the firm may have withdrawn support based on my sexual orientation [after I came out], but it is difficult to tell.
-- Attorney Survey Respondent
96. G Advancement may be affected. There are always dinosaurs who discriminate despite efforts at the top, even if not openly.
-- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
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(I.B. ON SUBTLE DISCRIMINATION, CONTINUED)

97. G I believe an effort is made to concentrate on merit as the advancement issue, although it is impossible to ignore subjective factors.
-- Attorney Survey Respondent
98. G It is possible that being gay slightly hinders one from making partner.
-- Attorney Survey Respondent
99. G Interviewing/recruiting procedures make it very easy for a single attorney interviewing an applicant to blackball him/her for completely subjective reasons (e.g., the applicant won't "fit in"). This is a problem at all firms, and I don't have any solutions to suggest, but I'm aware of a number of instances when this resulted in an otherwise qualified applicant being rejected.
-- Attorney Survey Respondent
100. G I don't think I have been the victim of intentional discrimination because I am gay, but I have been treated unfairly because of other related factors or characteristics, such as being unmarried, not having children, being thought of as not having any responsibilities or pressures outside of work, being thought of as immature or "unsettled" as well as a greater degree of secrecy about my private life than is typical.
-- Attorney Survey Respondent
101. G Opportunities are open, lesbian/gay attorneys are encouraged to apply, but seem to need additional "push" to get the position.
-- Attorney Survey Respondent
102. G I have never been privy to hiring decisions. Managing attorneys were too cautious to allow any perceptions of candidates to float around the office regarding any matter that is related to discrimination. ... The office is politically and socially conservative. All lesbians and gays are closeted. It is difficult to know the effect because the homophobia is so pervasive at upper level management.
-- Attorney Survey Respondent
103. G I was asked to leave a law firm because I was not "aggressive" -- which I believe was a euphemism for being gay; however, I can and will never be certain. Hiring attorneys are far too clever to openly state a bias.
-- Attorney Survey Respondent

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Selected Comments from Attorney Survey Responses
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(I.B. ON SUBTLE DISCRIMINATION, CONTINUED)

104. G There appears to be a "glass ceiling" that keeps gay associates from advancing to the partnership. A minority (sometimes, even one member) of the partnership can easily block any associate's chances. They are, of course, too smart to articulate blatantly discriminatory grounds for doing so. But I've seen it happen to gay associates three times in the last five years and it seems clear what's really going on. And the other partners are either unable or unwilling to counterbalance it -- and would never confront it honestly as homophobia. As a result, qualified gay attorneys usually leave after five to seven years.
-- Attorney Survey Respondent
105. G At my firm, the primary problem is not that final work product isn't assessed fairly (although that is a problem) but lesbian/gay attorneys don't get as much feedback (both positive and negative) at earlier stages so the final product often suffers.
-- Attorney Survey Respondent
106. G I would say that African Americans, Hispanics, Asians -- if they complained of a bigoted act or statement, it would be acted on immediately. Race-based discrimination would be recognized as something you just don't do. But sexual harassment or homophobic remarks, they're not given as much credence. They're not viewed as serious.
-- Participant in 11/8/93 Focus Group
107. G I worked at an extremely liberal firm which was very gay-positive as large law firms go ... but there were still individual partners and associates who didn't really adhere to the firm's overall culture and were nonetheless very discriminatory. ... I think that the discrimination and the harassment, while not accepted and not tolerated by the institution, was nevertheless pervasive in a very subtle way.
-- Participant in 11/8/93 Focus Group
108. G There are a lot of varied reactions [to my being out] at my place of work. I'm very comfortable with a number of people there, and other people who have not spoken to me since I came out.
-- Participant in 11/8/93 Focus Group

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(I.B. ON SUBTLE DISCRIMINATION, CONTINUED)

109. G I had a lunch date with a friend and the courtroom bailiff "forgot" to give me a message, so we ended up crossing paths and not making it. I said to the bailiff, "How come you didn't give me the message?" The court clerk overheard me and said, "Well, was it a woman or a man?" -- the inference being that, because I'm a lesbian, if it was a woman it wouldn't have mattered.

-- Participant in 11/8/93 Focus Group

110. G The emphasis at [my prior firm] was on being straight, being married and having children. And there were rewards given for that and there were discounts given for not fitting that lifestyle. The senior partners would have engagement parties for those who became engaged and there was one partner who was gay and was out who came to one social event that I attended and he was basically shunned by the spouses of those who were at the party. He felt very uncomfortable and so did his partner. Unfortunately, he died of AIDS. I attended the memorial service. The two senior partners who worked very closely with him were conspicuously absent from that memorial, which bothered me. At that time, I was not out. ... I did personally receive communications from my managing partner who was very, very curious ... as to whether I was gay or straight. This made me feel even more fearful about my position on the job and my own identity.

-- Participant in 11/15/93 Focus Group

111. G Part of the reason I left [the office] was because of that oppressive atmosphere that I did not feel I could be out. I don't recall any specific anti-gay jokes ... but I know there were some. When I returned to the office, I was [out as] a lesbian, so what I have found is to my face people are very nice. I haven't had a single problem. But I don't think that's an accurate reading. I think it's because I report directly to [the supervisor] and that's why they're nice to me. And that's unfortunate in a way because it makes it more difficult for me to ferret it out and try to do something concrete about it.

-- Participant in 11/15/93 Focus Group

112. G I think that [the kind of discrimination] I experienced most and what I saw most, both against gay people and against women, was a -- how shall I say this -- less tolerance for error. I saw many times where a straight male associate -- who was a deacon at the Methodist Church, you know -- could have the sorts of little mistakes that come up in litigation and be immediately

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(I.B. ON SUBTLE DISCRIMINATION, CONTINUED)

forgiven as just little litigation errors. But God forbid that a female associate or, worse yet, a gay associate should make such a mistake. If so, suddenly it speaks to fundamental questions about their competence and basic skills. I've seen that happen so many times in [my prior law firm], it's shocking that no one has ever been called on it. It is the issue that, I think, is most critical to fair treatment [of lesbians and gay men] and yet also the most difficult to get your arms around. The problem is the different standards you use when judging someone whom you perceive to be like you versus someone whom you perceive to be alien. And, unfortunately, I think many people -- even relatively enlightened people -- tend to see lesbians and gay men as alien in the extreme.

-- Participant in 11/15/93 Focus Group

113. G How can we show disparate treatment? Silence is the statement. There's no one out in our 100+ firm. The disparate treatment is communicated in subtle ways. One summer associate was not given an offer because he wore an earring and was perceived to be gay. They have accepted everyone in the summer class for the last three years. There are other lesbians at the firm, but we're not even out to each other. Two people have joined the firm from [local law school] and know I'm lesbian from school. I'm not sure what will happen next year. The first few years at the firm were easy -- I was single. Now, being in a relationship has made things much more difficult. I brought my lover to a firm event -- I was conscious not to introduce her as anything -- just by her name. This firm is a very male-dominated environment.

-- Participant in 10/25/93 Focus Group

C. ON EMPLOYERS WHO DO NOT DISCRIMINATE

114. There is no discrimination here on the basis of sexual orientation or any other basis prohibited by law.²

-- Attorney Survey Respondent

² In addition to this, there were at least a dozen similar comments not quoted here.

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Selected Comments from Attorney Survey Responses
and Focus Group Participants

(I.C. ON EMPLOYERS WHO DO NOT DISCRIMINATE, CONTINUED)

115. [Sexuality has] no effect on one's career here. Performance is the only issue. We have one attorney who I believe is gay, but he has not identified himself as such. He has performed above average and has advanced at an above-average speed. We have no special policies just for gays. Our firm policy is one of nondiscrimination on all bases.
-- Attorney Survey Respondent
116. [Sexuality] is not a consideration in our hiring practices. As long as the deportment of the individual is professional, they are treated like any other applicant.
-- Attorney Survey Respondent
117. [Sexuality] does not appear to be a factor [in hiring or promotion], as one gay associate is next in line for partnership and one attorney was hired with sexual preference unclear.
-- Attorney Survey Respondent
118. To my knowledge, I have never employed a gay/lesbian attorney and my answers, accordingly, only express how I feel. My feelings are that all such attorneys should be treated equally with heterosexual attorneys or, in another way, sexual orientation is just not an issue.
-- Attorney Survey Respondent
119. [Our firm has] no known published policies regarding gay or lesbian attorneys ... [but I] believe it is not a factor. However, no gay or lesbian attorney has ever forced the issue of their sexuality. Known gay attorneys have been made equity partners.
-- Attorney Survey Respondent
120. G The firm's stated policy of non-discrimination includes sexual orientation and 3 openly gay attorneys (including myself) are counted among the firm's 65 attorneys.
-- Attorney Survey Respondent
121. G Gay and lesbian attorneys are encouraged to apply to our office. It is well known in the gay/lesbian community that this office is a safe haven for gays/lesbians.
-- Attorney Survey Respondent

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Selected Comments from Attorney Survey Responses
and Focus Group Participants

(I.C. ON EMPLOYERS WHO DO NOT DISCRIMINATE, CONTINUED)

122. G My personal experience [as a first-year associate], based on the fact that I am openly gay and the subject came up a few times in my interviews with the firm, is that the firm values diversity and honesty when making employment decisions.
-- Attorney Survey Respondent
123. G This [large] firm advertises that it seeks a diverse group of applicants, including lesbian and gay attorneys. I believe this is true. However, people of color have a difficult time getting offers. Lesbians and gays do not seem to have that problem.
-- Attorney Survey Respondent
124. G All five attorneys in my office are gay or lesbian.
-- Attorney Survey Respondent
125. G Ours is a small firm. My employers were aware that I was a lesbian before they offered the job to me. They have consistently been supportive in my being "out" at work.
-- Attorney Survey Respondent
126. G While sexual orientation has never been an issue (in fact, gay couples and straight couples from the office socialize together outside the work environment), as far as I know, no statement is made to applicants of non-discrimination policies. I think this is the case because it has never been an issue.
-- Attorney Survey Respondent
127. G I am one of two partners in the firm and I am an open lesbian. The only issue is that we will not tolerate anyone who exhibits racism, sexism or homophobia.
-- Attorney Survey Respondent
128. G I am lesbian and, in my interview for this job 1-1/2 years ago, this fact came out. I had my involvement with Lawyers for Human Rights on my resume. No one batted an eyelash -- there were 9 people in the room when I explained what LHR was.
-- Attorney Survey Respondent
129. G I was hired by a very small firm with a younger partner and a much older partner who was well-connected with the Reagan administration, the rainmaker for the firm. The younger partner was well aware that I had always been openly gay, but I think the older partner was kind of oblivious. I remember saying to the younger partner, "Do you think [the Senior Partner] knows I'm

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Selected Comments from Attorney Survey Responses
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(I.C. ON EMPLOYERS WHO DO NOT DISCRIMINATE, CONTINUED)

gay?" He says, "Well, I don't think he'd have any trouble with you being gay, but don't ever tell him you're a Democrat."

-- Participant in 11/8/93 Focus Group

130. G My workplace currently is extremely tolerant and very supportive. We have three attorneys who we know who are gay to our partners and myself. And I participated in the AIDS Walk with [a gay partner] and there were a number of people in the firm who supported that and who have expressed absolutely no differentiation between someone based upon whether they're gay or straight. There have been some expressions of curiosity from the associates. I'm out, I believe, to most of the partners.

-- Participant in 11/15/93 Focus Group

131. G I was out at the [government office] and, as far as I could tell, it was not an issue. I know quite a few openly gay attorneys [in that office]. ... And I don't know whether I just have the good luck of being at a happy office ... maybe some of the other offices have a more repressive atmosphere or you have to take more crap from people, ... [but at my office] people have all different kinds of backgrounds and all different kinds of things that made them different. The atmosphere of the office seemed to encourage that rather than repress that. One of things that really impressed me was that they were very serious about prosecuting domestic violence cases. Especially since we saw quite a few domestic violence cases that involved same-sex partners. As far as I could tell, they were taken seriously. They were treated the same and prosecuted the same as domestic violence cases involving opposite sex partners. That struck me as putting your money where your mouth is.

-- Participant in 11/15/93 Focus Group

132. G [When I first interviewed with my current employer,] I was very up front with making sure that they knew [that I am gay]. I did not want to raise it, so I made sure my references raised it, because I didn't want to make a political statement. ... And the response came back, "We don't care, we still want to go on with the interview process." And it has not been a problem since the day I started. There are problems with clients, but there's no problem in the [lawyers in the] office.

-- Participant in 11/15/93 Focus Group

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Selected Comments from Attorney Survey Responses
and Focus Group Participants

(I.C. ON EMPLOYERS WHO DO NOT DISCRIMINATE, CONTINUED)

133. G I have never had any difficulties with co-workers. I think occasionally you will have a certain degree of curiosity. But I think that co-workers, generally, when they discover that this is part but not the focal point in your life. ... I mean, in my life, my primary interest is the practice of law. And that's where I focus most of my attention. And I found in particular that, in the firm that I'm at now, it doesn't seem to make a difference to any of the associates. All of the younger people work with us. I don't think it makes any difference what our sexual orientation is.

-- Participant in 11/15/93 Focus Group

II. ON SPECIFIC CONCERNS OF GAY ATTORNEYS

A. ON STEREOTYPES/PERCEPTIONS OF GAY PEOPLE

[SEE ALSO COMMENT NO. 103, ABOVE]

134. My firm does encourage "machoism" and "aggressiveness." Anyone perceived as either "feminine" or "weak" may not be as easily promoted. This hinders both men and women with "feminine" qualities. There is an assumption in my firm that "feminine" men are gay. Women are less affected.

-- Attorney Survey Respondent

135. It is probably more difficult for a gay male attorney to be recruited and hired if he is perceived to be effeminate.

-- Attorney Survey Respondent

136. The only gay or lesbian attorney I know of did horrible work (in addition to running up thousands of dollars of 900 number phone bills to a psychic).

-- Attorney Survey Respondent

137. G If a straight male associate brings a series of different dates to firm events he is likely to be perceived as "sowing his wild oats." If a gay male associate or a female associate were to do so, I perceive a risk that they would be perceived as "unstable."

-- Attorney Survey Respondent

(II.A. ON STEREOTYPES/PERCEPTIONS OF GAY PEOPLE,
CONTINUED)

138. G One of the hiring partners made some comments "favorable" to my hobbies and sports interests: "At last, someone who isn't into 'fruity,' 'artsy' pursuits."
- Attorney Survey Respondent
139. G As a lesbian, I was sexually harassed less than heterosexual women -- the male partners wouldn't flirt with me and so there wouldn't be that dynamic where I had to either flirt back or not have a relationship with them -- which was extremely helpful to me. Also, I was perceived as being more assertive or aggressive, as were the other lesbians, than the heterosexual women. So, we were given opportunities to take depositions when heterosexual women were not and to meet with clients when heterosexual women were not.
- Participant in 11/8/93 Focus Group
140. G [A man] applying for a job in my office is openly gay and one of the comments being made [by attorneys in the office] as to why they shouldn't hire him was that, because he was so "flamboyant," he might ruin the image of the firm -- especially in the way he dresses. This comment was allegedly that he wasn't a good dresser, but the reality was that the comment was about this individual being openly gay -- including wearing earrings and being colorful in his dress. I responded that I thought it was homophobic and the person was hired, not because of what I said, but because he was a good lawyer.
- Participant in 11/8/93 Focus Group
141. G I have heard the same [comments about inappropriate appearance] and, surprisingly, it was always related to men. Not that there was a problem in the firm with hiring gays, but these particular candidates were "too gay." In contrast, the comment that people have made to me [as a lesbian] -- which I think they thought was a compliment -- is that I didn't look like I was gay. So there seems to be a really disparate approach, I think, built on stereotypes of how people looked and behaved.
- Participant in 11/8/93 Focus Group
142. G To pick up on [the subject of stereotypes] of lesbians and gay men. I think that there is something I feel could be a stereotype that works to my benefit as a litigator. I'm out [as a lesbian] to about half the people, including partners, and if as a result they perceive me as tough, aggressive and tenacious -- which

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Selected Comments from Attorney Survey Responses
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(II.A. ON STEREOTYPES/PERCEPTIONS OF GAY PEOPLE,
CONTINUED)

is a stereotype for a lesbian -- that's great. But if I was a gay male, with all the other stereotypes, that would be negative. So, I've had a very positive experience in my firm but I don't think it's supportive of gay issues at all. I've had a hard time making sense of it and, when I come out to people, I hate it. They always say, "Well you know it doesn't matter," and I always want to say, "Oh, yes it does." ... But that's the best that they can do.

-- Participant in 11/15/93 Focus Group

143. G I want to [discuss the topic of] what it takes [to be a good lawyer] and stereotypes. I was asked to leave a law firm, my first job, because I was not "aggressive enough." Now, that may be true. I was trying to do litigation and I'm kind of an academic type anyway. But I had just gotten out of law school and I've never really been able to figure out in my own mind whether "aggressive" was the synonym for being straight and not being "aggressive" was the synonym in that firm for being gay. It was a very small firm. There were only four or five people. Everybody knew about everybody's life pretty well. And I was really torn there, especially when they had the male stripper in for the single female attorney. I learned. I decided the second time around I wasn't going to be closeted in my job environment.

-- Participant in 11/15/93 Focus Group

144. G I don't know any rule that explains how to deal with people's perceptions completely. When I go meet with [a particularly 'macho' client] I don't sit there and say, "Oh, by the way, I'm gay." I mean, you have to deal with the issue. You know, if they know you're gay, they think you're a wuss, so what do I have to do? I've got to have gutter gums like you wouldn't believe. I've got to talk about how "We're going to rip their guts out" and slam tables with my fist -- you know, put on the tough act. But every lawyer -- certainly litigators, but I think every lawyer -- does that. And you put on the act and suddenly they come back: "Oh, he's really tough," you know, "doing great!" You are who you are but you also have to do what you do professionally. Often, to be an effective advocate, you do that act. I don't think that's wrong. I also don't think that [your sexuality] is something that necessarily should come up there. It could if it's appropriate and works, but if it doesn't work, you wouldn't use it. That's what we all do as lawyers.

-- Participant in 11/15/93 Focus Group

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Selected Comments from Attorney Survey Responses
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(II.B. ON DEMEANING ACTIONS AND STATEMENTS
CONCERNING GAY PEOPLE, CONTINUED)

152. G [At my prior firm,] among other things, my managing partner: (1) put his foot against my anus and my scrotum while I was bending over to pick up a box; (2) came into my office where I was on the floor looking at some files and suggestively told me to "get off my knees;" (3) purposely displayed his crotch to me by pulling down his pants in the men's room so that I could see the "bulge" in his underwear; (4) told me that if I didn't "use my cock," he would cut it off; and (5) asked me in the office parking lot after work if I was going "to play with my homosexual friends." Also at that firm, a senior partner's secretary, surmising that I am gay, loudly commented to my secretary, within the presence of another attorney: "How do you know where he went this weekend? He was probably at home getting butt-fucked."
-- Attorney Survey Respondent
153. G I have been called names such as "dyke" by clients. [Witnesses] have repeated what clients have called me in court reports. ... A [government official] commented to the clerk of the court, knowing that I was a lesbian, "How can you stand her putting her hands on you?" I found out about this comment because the clerk is a lesbian and a friend of mine.
-- Attorney Survey Respondent
154. G At one Christmas party I was shocked to hear my boss, other partners, their spouses, and the office administrator laugh and joke about a former gay partner.
-- Attorney Survey Respondent
155. G I was told a "gay" joke by a partner who did not know I was gay.
-- Attorney Survey Respondent
156. G Comments by partners and other attorneys make it evident that there is a general intolerance for homosexuality at the firm. Based on this, I have not felt that the atmosphere is one that would be hospitable to an attorney who makes it known that he or she is gay or lesbian. Accordingly, I am not out.
-- Attorney Survey Respondent
157. G In court, I was referred to as the "dyke attorney."
-- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(II.B. ON DEMEANING ACTIONS AND STATEMENTS
 CONCERNING GAY PEOPLE, CONTINUED)

158. G The recruiting coordinator at a potential employer (from whom I had received an offer) made homophobic remarks (i.e., disparaging comments about gay and lesbian attorneys in her office) to me. Upon being notified of the incident, the firm refused to apologize to me (the coordinator had been laid off -- for other reasons).
- Attorney Survey Respondent
159. G I was at [in-house entertainment company] for five years. There are lots of gays who work there -- yet it's the most homophobic place. The level of denial is profound. There are gays and lesbians at every level but it's never talked about. I was present [at a management meeting] when someone was called a "faggot" -- everyone laughed.
- Participant in 10/25/93 Focus Group
160. G Just this year, one of the attorneys was at a regular meeting where attorneys talk about their schedules and arrange [office staffing] at which he was subjected to some very homophobic remarks by another attorney. The supervisor just smirked; he thought it was kind of funny. The result was a complaint to the higher-ups; there is currently a disciplinary action pending against both the person who made the comments and his supervisor who didn't stop it. ... In part, that is because [an outside lesbian & gay group] heard of the incident and insisted on some action.
- Participant in 11/8/93 Focus Group
161. G [In my office, there was one attorney] who loved to tell jokes about gays. A supervisor [at a government agency] said to an employee: "with that pink shirt, makes you look like a maricon [queer]." And the institutional response was relatively half-hearted. No disciplinary action was taken; really nothing was even done to say that that was not appropriate for the office.
- Participant in 11/8/93 Focus Group
162. G At [my old firm], there were a number of comments evidencing bias, the use of the term 'faggot' relatively consistently. At one point, a partner when talking about a letter he got from BALIF, the lesbian and gay bar association in San Francisco, inquiring as

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Selected Comments from Attorney Survey Responses
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(II.B. ON DEMEANING ACTIONS AND STATEMENTS
 CONCERNING GAY PEOPLE, CONTINUED)

to the terms of the firm's policy regarding lesbians and gays. The partner said, "How could I answer that with a straight face?" He added that "they should know that we don't allow homosexuality in associates".

-- Participant in 11/8/93 Focus Group

163. G I was walking out to my car one night and [the managing partner] screamed out at me, "Are you now going to play with your homosexual friends?" ... He also, in the office, on a subsequent date, it might have been six months to a year later, placed his foot on my rear end basically out in the open hallway when I was leaning over to pick up some files and I turned around and simply acted like it was some nonsense. He is a very immature person but ... the fact is he was in a position of power. He made me feel very uncomfortable. On a subsequent incident, a later day, I was down on the floor looking at some files and he very provocatively said, "Well why don't you get off your knees?" and [he] chuckled. And I knew clearly what the inference was there. He also made a comment to me in the restroom about if I didn't use my penis that he was going to cut it off. You know, in a jovial, good ole boys type way.

-- Participant in 11/15/93 Focus Group

164. G A number of the partners at my prior firm would display derogatory remarks about gay people in a generic sense, telling what I termed to be fag jokes, bar jokes, things that would be very hurtful and were hurtful to me at the time.

-- Participant in 11/15/93 Focus Group

165. G We've had several incidents around the posting of flyers in the office for [a Lesbian & Gay Attorneys Group]. Its flyers have been ripped down, its flyers have been defaced, and its flyers have been moved to door of the mens bathroom with, you know, crude remarks written on them. And when the [office head] was confronted with these problems, he just denied that any of his people would do that and said that it certainly must have been [an outsider] wandering through.

-- Participant in 11/15/93 Focus Group

166. G [At my former firm] there were definitely people at that law firm who were very openly hostile and subtly hostile. ... What I mean by open hostility is all the snide joke stuff [about sexuality and gender] that I have remarkably little tolerance for, and yet seem to find myself letting go by on an almost weekly basis at

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(II.B. ON DEMEANING ACTIONS AND STATEMENTS
 CONCERNING GAY PEOPLE, CONTINUED)

that law firm. And I think it's just very difficult to feel completely welcome where that sort of stuff goes on. Even though I knew there were plenty of people I could go to and say, "Tell so and so not to say, you know, X, Y and Z about so-and-so or this-and-such," and the management person would, in a minute, go and just chew him out within an inch of his life. The damage that I felt and the injury that I felt had already been suffered at that point by virtue of just having to put up with it in the initial instance.

-- Participant in 11/15/93 Focus Group

167. G The same people who tell "fag" and "dyke" jokes today are the people ten years ago that were discriminating blatantly against women. And they wouldn't think about it today. They just need to be told -- as they have about sex discrimination -- clearly and repeatedly that it is not acceptable behavior.

-- Participant in 11/15/93 Focus Group

168. G I think what's so disturbing [about derogatory comments] is the realization that things aren't as safe as you'd hoped or believed. ... [W]hen I came to law as a second career, I went back to law school after being out of school for almost twenty years. ... I sat down in my first class and all of a sudden I heard this voice behind me saying, "Hey, where did you get that faggot sweatshirt?" And, I don't know, my whole expectation was just kind of blown away because I thought I was going to law school. ... I was going to be participating in a particular kind of community that might maybe, say, be above that or be apart from that and I was going to be with people who have power and who are trying to weed our society or culture of injustice.

-- Participant in 11/8/93 Focus Group

169. G I spent a horrible morning at a breakfast meeting at [a private club] where the Chairman of the meeting decided to spend 15 minutes telling jokes about the gay march in Washington in extraordinarily bad taste -- with about 300 people in the room. And I wasn't the only gay.

-- Participant in 11/15/93 Focus Group

C. ON HIV/AIDS AND GAY PEOPLE

[SEE ALSO COMMENT NOS. 31, 61 & 74, ABOVE, AND NO. 355, BELOW]

(II.C. ON HIV/AIDS AND GAY PEOPLE , CONTINUED)

- [L132028.2]

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Selected Comments from Attorney Survey Responses
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(II.C. ON HIV/AIDS AND GAY PEOPLE , CONTINUED)

175. G After a partner at my firm died of AIDS, being out myself, I was constantly fielding questions from very senior partners who would come to me and say "Okay, who are they and are they sick?" And I found that ... there was a McCarthyite aspect to it. ... It was very disturbing.

-- Participant in 11/15/93 Focus Group

176. G [AIDS-related bias] is dealt with -- and very effectively, I think -- through corporate policy. I'm more familiar with [my employer], which has a phenomenal policy that protects it from liability: they will literally terminate supervisors who don't follow the policy and don't protect the people who have AIDS all the way. We protect their privacy and we basically have full job protection. ... But it doesn't work if somebody goes out there without good controls and counsel. [People with HIV or AIDS] need to have mentors designated to help or advise them and who will make sure things work as they're supposed to. I know of one case where a supervisor told [a person with HIV] that "it was time to tell everybody else in the office that he had AIDS because it was their choice to have close contact with him -- and to decide how closely they wanted to associate with him." Fortunately, the employee relations people told the supervisor, "you have absolutely no right to do that." Even with a large employer with good policies, things can go wrong.

-- Participant in 11/15/93 Focus Group

D. ON INSTITUTIONAL SUPPORT FOR GAY ATTORNEYS

177. Gay/lesbian supervisors are pro-active in hiring and promoting others of that type -- to the extent that it appears biased to those in the office that are not gay/lesbian. A written policy is needed.

-- Attorney Survey Respondent

178. G One partner recently said to me, when he heard I had been referred a potential client from the Gay and Lesbian Community Services Center, that he'd "prefer that the referral come from URLA," i.e., be pro bono, non-paying.

-- Attorney Survey Respondent

179. G My boss, who is straight, and who does all the hiring, with input from other lawyers and staff, hired me because I'm gay. We know each other from various bar activities, and he admired my openness and activism.

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Selected Comments from Attorney Survey Responses
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(II.D. ON INSTITUTIONAL SUPPORT FOR GAY ATTORNEYS,
CONTINUED)

He hired another gay attorney who I had recommended, but I don't know whether or not he knew that lawyer's sexual orientation at the time of hiring. I don't think it would matter either way.

-- Attorney Survey Respondent

180. G I am one of the hiring partners -- in this small (6 attorney firm) office. I'm a gay man and every other attorney (and the staff) know this fact. Therefore (but maybe not obviously) there is no discrimination.

-- Attorney Survey Respondent

181. G I'm in a state agency, which does not discriminate and actively recruits minorities and women. While gays and lesbians are not recruited, non-job related criteria are so discouraged in all hiring practices that being gay or lesbian is an irrelevant factor. I'm active in hiring so it may be an advantage in that I may pick up on discrimination factors others don't.

-- Attorney Survey Respondent

182. G That [the head of my office] has made it very clear about sexual orientation discrimination not being tolerated made a big difference this time -- I was in the office before and I was not out and it was not comfortable.

-- Participant in 11/15/93 Focus Group

183. G At my law firm, we once had a very powerful gay partner who was a mentor and policed the review process for gay attorneys. After 20 years or so, the firm had over 100 lawyers, including about a dozen gay men and two lesbians. But just over two years ago, [this partner] became ill with AIDS and it was notable the difference it made, as his illness diminished his influence. While the firm continued to grow, the number [of gay lawyers] declined from 14 to less than half that now, and still dropping. ... And it happened just like that, within a short time after his illness and death. ... How he was treated as he was dying is an entirely different issue. ... The way many of his partners shunned him was just stunning. It was shameful. ... And as soon as he was effectively out of the way, the attorneys who were perceived as his proteges, including every one of the gay attorneys, started feeling serious heat in terms of bad work reviews, social distance at firm functions -- it was remarkable. All in the course of a year or so after his illness and death.

-- Participant in 11/15/93 Focus Group

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Selected Comments from Attorney Survey Responses
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(II.D. ON INSTITUTIONAL SUPPORT FOR GAY ATTORNEYS,
CONTINUED)

people say, "No, you're not -- I can't believe they're doing this to you -- it's definitely a gay issue or some other issue," I think, "Oh, maybe I'm not being hyper-sensitive." As far as mentors and support, it would be my peers who were there and were understanding. But they weren't in a position where they really could defend me.

-- Participant in 11/8/93 Focus Group

190. G As a relatively senior person in my firm at this point, I do work on the recruiting and hiring committees and I will be very much involved in follow up, of course, if a gay or lesbian student has an opportunity. And internally within the firm, you know, when I organize special events, I will make certain that people particularly find out if they're not sure about whether they want to be out, I will make sure they know they are welcomed. And beyond that, I mean, at least in a social setting, I can't do much more. But I'm not going to cow to anyone who behaves inappropriately [towards a lesbian or gay man]. And it's important in my environment that people know that about me. ... So it's just sort of being there, being out, trying to include people when they're ready to be included.

-- Participant in 11/15/93 Focus Group

191. G My impression was that [at my former law firm] there were people who were very supportive. There are, there at least were, a lot of gay attorneys there so that there was a good support group and there were always people to talk to. And I think that's very important when you're trying to make it through what is basically, in my judgment anyway, a hostile society. It's nice to feel like you're not on the lifeboat all by yourself.

-- Participant in 11/15/93 Focus Group

192. G I think the subtle double standard [in workplace evaluations] is likely to be practically impossible to overcome through lawsuits, because it is so difficult to prove. I think we all know that -- many of us have experienced blatant discrimination, but I think the subtle double standard is far harder to address except from the inside. One of the things that I do in my environment, where I am a fairly senior partner, is that whenever a gay or lesbian lawyer is being reviewed by a particular work group in my firm, I'll sit in on the partners' lunch meeting in that work group. I will be there to try to make my own judgments about whether this is fair or whether it involves a double standard.

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Selected Comments from Attorney Survey Responses
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(II.D. ON INSTITUTIONAL SUPPORT FOR GAY ATTORNEYS,
CONTINUED)

... It doesn't eliminate [all bias], but when people more or less know that's what I'm about -- they're aware that I'm there and watching -- it keeps the process more honest.

-- Participant in 11/15/93 Focus Group

193. G Most law firms don't have the kind of powerful gay partner who can watch over the [evaluation] process and ensure that it is fair. What is really needed is for the straight, white male partners and managers to do it ... for the institution to pay special attention to evaluations of gay -- and other minority -- attorneys to make sure that the subtle double standard does not work to weed them out.

-- Participant in 11/15/93 Focus Group

194. G I left one large corporate law firm to go to another after two years of practice, in part because it was extremely uncomfortable at my first firm to be openly lesbian. In fact, there were times where, even though I was open as a lesbian, people pretended not to know -- even if I'd bring a same-sex partner, or a date, to a firm function. People would actually treat us as though I was bringing some single woman to meet men there. That's why I chose the second firm, where there were people encouraging of gay men and lesbians. And where I knew it was comfortably open and at the first firm event at my new firm, where I was for five years, the managing partner and his wife, who also is a partner, came up to me and my lover and said to both of us, "We're really happy you're both here, if you need any help getting settled in the community, let us know ... we want you both to feel welcome."

-- Participant in 11/8/93 Focus Group

E. ON THE CAREER INFLUENCE OF SEXUALITY

[SEE ALSO COMMENT NOS. 37, 92 & 93, ABOVE]

195. G In my old firm, the concern was expressed [that clients would prefer not to work with a gay] and this was part of the reason I opened my own office. ... In my old office, I was deemed to show poor judgment by being openly gay. ... In my old firm, my advancement to partnership was in dispute because I was gay. I turned down the eventual offer because I realized it would continue to be an issue for the dissenters.

-- Attorney Survey Respondent

(II.E. ON THE CAREER INFLUENCE OF SEXUALITY, CONTINUED)

- [L132028.2]

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Selected Comments from Attorney Survey Responses
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(II.E. ON THE CAREER INFLUENCE OF SEXUALITY, CONTINUED)

experience but now I even want more than that, so I'm going to start a firm. I just want to control my life and I really don't want to worry about who I am anymore.

-- Participant in 11/8/93 Focus Group

204. G I think there are also attorneys who project some of their own internal discomfort by saying, "Well, clients won't understand." I remember as a young lawyer being counseled not to be very out in client relationships until I somehow knew it was safe. And I do think that in some respects it affects work opportunity. And at my firm, even within an environment that I think is generally positive, it has not been something that I would call good for gay attorneys. In terms of finding clients, support and mentoring as lawyers, it's not [an atmosphere] I would even classify as being neutral. I don't believe my sexuality ever fundamentally guided my career opportunities, but it has definitely been an influence.

-- Participant in 11/15/93 Focus Group

205. G We had lots of Pacific Rim clients. Gay and lesbian attorneys were told not to have client contact. One closeted lesbian actually got married so she would make partner.

-- Participant in 10/25/93 Focus Group

F. ON IGNORANCE ABOUT GAY PEOPLE AND LAWS
AGAINST SEXUAL ORIENTATION DISCRIMINATION

[SEE ALSO COMMENT NOS. 13 & 173, ABOVE]

206. [The matter of gay attorneys] has never come up at my firm as far as I know. I have no idea if there are gay or lesbian attorneys in my office.

-- Attorney Survey Respondent

207. My prior firm was essentially "clueless" and insensitive regarding gay issues. My efforts to probate the estate of a firm associate who had died of AIDS were frowned upon, for example.

-- Attorney Survey Respondent

208. G I don't think the hiring partners are aware of any issue [concerning hiring of gay attorneys]. They probably don't think they have had any gay or lesbian applicants.

-- Attorney Survey Respondent

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Selected Comments from Attorney Survey Responses
and Focus Group Participants

(II.F. ON IGNORANCE ABOUT GAY PEOPLE AND LAWS
 AGAINST SEXUAL ORIENTATION DISCRIMINATION,
 CONTINUED)

209. G There are people working in the [government office] I work in who believe that there aren't gay and lesbian children in the system we operate. And therefore, if there are not gay and lesbian children, you don't need to be enlightened and you don't need to provide services special for them. ... There's a real ignorance going on.
- Participant in 11/8/93 Focus Group
210. G Because Title VII [of the Civil Rights Act of 1964] doesn't cover sexual orientation, the head of [the federal office where I work] has this attitude that the sexual orientation issue is not important. For example, we had a "cultural open house" where everyone was invited to celebrate their own culture. And when some of us asked to put up posters relating to the gay community, ... [the office head] refused to have them put up. He said, "I don't want this -- what if someone from the public complains? Anyway, it's not one of our issues."
- Participant in 11/8/93 Focus Group
211. G A lot of people have the attitude that sexual orientation discrimination ... is not covered, or that it's not as well established under the law, or it's not an important area of discrimination. I went to a firm seminar in employment law about a year ago and I noticed in their sample non-discrimination clause that sexual orientation wasn't included. I asked the partner in charge about it and he said, "Well, we just don't think it's covered in the law" and I said, "Well, what about the municipalities such as Los Angeles that have non-discrimination clauses?" and he said, "Well, we think that's all preempted anyway."
- Participant in 11/8/93 Focus Group
212. G At my firm, even within what I think is a generally positive environment, there's a lot of ... essentially generational, ignorance -- older attorneys who reject, who just don't have a clue on gay and lesbian issues. Once you confront them, and particularly if you do it in a style that isn't exactly offensive, in my environment, they tend to be responsive. ... Still, I distrust internal education to affect decisions ... to avoid confrontations with powerful people and institutions [over anti-gay bias]. ... It's always easier to decide ... that, "Well, no one wants to offend all our good friends ... and all these very good fellows who send us work." But what do you do? I

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(II.F. ON IGNORANCE ABOUT GAY PEOPLE AND LAWS
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 CONTINUED)

think that kind of unthinking lack of awareness of issues that are of importance to gay and lesbian lawyers can go on in what I like to think of as among the best of organizations for this kind of issue.

-- Participant in 11/15/93 Focus Group

213. G I was in a taxicab going to a board of directors' meeting with two board members, one Hispanic and one Black, and we were having a discussion about different kinds of discrimination and all of the related issues. ... Then, one of them turned to the other, said something about discrimination and I interjected with something like, "Well, I can understand that." They both looked at me, very surprised. One of them, the Hispanic director, said to me, "Well, you wouldn't understand." I blew my top. I said, "That's right, I guess I wouldn't understand -- after all, I'm invisible. I don't count." Then I just stared at them and, finally, both looked back at me and one said, "You know, you're right, and we haven't thought about anti-gay bias and we should." ... But it was very hard in getting there because ... gay people are invisible, and we can't be invisible. And that is painful, and it is difficult, and it is risky, and that is all of those things, and certainly, you know, it is foolish in some work places. But, whether you've had a good experience or a bad experience if you don't understand that invisibility is fundamentally oppressive, you never get to begin acceptance.

-- Participant in 11/15/93 Focus Group

214. G Many heterosexual people ... talk about the race and gender bias issues and forget [gay people]. It is frustrating to hear people saying all the right things about hate and discrimination, but completely forgetting sexual orientation. We need to have "sexual orientation" added to all non-discrimination policies.

-- Participant in 11/15/93 Focus Group

215. G My clients all have my home number and when my companion picks up the phone on occasion they ask who that is and I'll respond either "my companion," or "that's my life partner." When I have parties at my home, my companion is always very visible. I won't have a party unless he is. His picture is on one side of the mantle and my children are on the other side of the mantle, so it's very obvious that he is a significant part of my life. Only once have I been asked, and it was -- I was having a non-profit board

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(II.F. ON IGNORANCE ABOUT GAY PEOPLE AND LAWS
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meeting or retreat at my home -- and one of the board members who has been on this board with me for four years said "by the way, who is that man?" And when I explained "That's my companion," she said "Oh, well, when did that happen?" ... because I also had pictures of my children up on the wall.

-- Participant in 11/15/93 Focus Group

216. G I was really disappointed in the decision made by the California Judges Association -- they voted down a proposal to add sexual orientation to their canons regarding nondiscrimination. I see the judges as the leaders of the legal profession. ... As the leadership of the legal community, that sends a very strong negative message.

-- Participant in 11/15/93 Focus Group

217. G The California Lawyer article on "Gays at Law" ... I kept that out on my desk at [my former employer's office] until one of the senior executives finally said "Why do you have that out there?" And I said "What do you mean?" And he said "What does it do, talk about all the crimes that the gays do?" And I looked at him and said, slowly, "No." Then I opened it up and said, "No, it's about all the senior partners and other people at law firms that are gay. Here's this one. Here's this one." He's looking at me, looking away, and then, looking again. Then I said, "No, I'm not in there." And he ... well ... he just said, "Oh." I think the publicity was very good. It was certainly [good] for anybody gay ... whether you are out or not out, I think it felt good to read it. To see it. ... We need all of that kind of publicity we can get. Getting it out there, even though there are people who will find it offensive. You can't do anything about them. ... That [California Lawyer] article got a lot of very negative letters to the editor.

-- Participant in 11/15/93 Focus Group

G. ON PROBLEMS GAY ATTORNEYS ENCOUNTER NETWORKING
 AND ESTABLISHING PROFESSIONAL RELATIONSHIPS

[SEE ALSO COMMENT NO. 332, BELOW]

218. Once it's out [that an attorney is homosexual], interpersonal relationships with co-workers change.

-- Attorney Survey Respondent

(II.G. ON PROBLEMS GAY ATTORNEYS ENCOUNTER NETWORKING
AND ESTABLISHING PROFESSIONAL RELATIONSHIPS,
CONTINUED)

- [L132028.2]

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Selected Comments from Attorney Survey Responses
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(II.G. ON PROBLEMS GAY ATTORNEYS ENCOUNTER NETWORKING
 AND ESTABLISHING PROFESSIONAL RELATIONSHIPS,
 CONTINUED)

I'll just assign another lawyer. I'm in charge, so they're still going to have to deal with me in terms of budgets and answers, and whatever else they have to do.

-- Participant in 11/15/93 Focus Group

224. G In terms of co-workers, I have never found [my sexuality] to be a serious problem and by that I don't mean that no one cares one way or the other -- I know people who for religious reasons were absolutely horrified and offended when I came out. They couldn't believe that I wasn't getting terminated. And those people had to work for me. And yet, I knew exactly how they felt and what they did. I'd say, that by the time I left [my prior employer], there was absolutely no problem. They would come to my home. I would be invited to their home. It was accepted. It was a teaching process. They had to learn that I wasn't just some strange being. To be honest, too, they were strange to me. Why someone would want to live the way they live is as strange to me as I may be to them. That doesn't mean we can't respect each other and that we can't work together or that we can't respect each other's professional opinion on what we do. The same thing is true of clients. Once we learn to work together professionally -- that's the key point, the professional relationship -- that's our job. They don't have to come home with us, they shouldn't come home with us, but developing that professional relationship is what has to happen. And then, if they happen to know, it's there and if they want to talk about it, you can give them the golden opportunity to learn.

-- Participant in 11/15/93 Focus Group

225. G It is very easy ... to become perceived as the aggressive rabble-rouser -- the odd man out or the odd woman out -- because you find yourself constantly battling on all the issues. Where I am, I am fighting on the racial/ethnic issues, I'm fighting on the homophobia issues, and I frequently join up with the women on the women's issues as well and after a while you get a reputation for being a rabble-rouser and for being automatically the odd man out. I mean, heck, you could even try to laugh at the jokes and be part of the game, and you are not going to be "in" because people are being hyper-cautious around you.

-- Participant in 11/8/93 Focus Group

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III. ON THE VISIBILITY OF GAY ATTORNEYS

A. ON SELF-IMPOSED DISCRIMINATION -- THE "CLOSET"

[SEE ALSO COMMENT NOS. 3, 6, 9, 22, 23, 38, 58, 59, 69, 74, 85, 110, 111, 113 & 213, ABOVE, AND NOS. 295, 301, 303, 305, 306, 312, 316, 321 & 322, BELOW]

226. G I have not perceived discrimination against me [because I am gay], though I am not "out" here at work. The management probably believes I am gay.
-- Attorney Survey Respondent
227. Most of the gay attorneys in my department don't wish to have it known that they are gay. Nevertheless, their superiors know and don't consider it important, as their skills as lawyers are what they are judged by. ... The gay attorneys have achieved equal status in the firm, though none have enough experience yet to rise to supervisorial positions. This, I expect, will resolve as their experience grows.
-- Attorney Survey Respondent
228. G I work for an insurance company as staff counsel; the atmosphere is very conservative. No effort is made to recruit minorities of any kind to my knowledge. ... I would never tell my employer about my sexual orientation.
-- Attorney Survey Respondent
229. G We have no self-identified homosexuals in my firm, [a very large, national firm with a significant L.A. office]. I am, however, aware of the presence of at least three homosexual attorneys. The issues, I am led to believe, simply have not arisen since none of these attorneys, including myself, are "out" in the firm or otherwise self-identified. When we attend [firm social events], we have not brought a "significant other."
-- Attorney Survey Respondent
230. G I don't look gay, don't act any different -- don't wear a badge. I "mainstream" -- thus I suffer no discrimination.
-- Attorney Survey Respondent
231. G You have to take some responsibility for your relationship to the firm as well, and if you want to be a passive victim to everything that the firm does, you know, then just go there and be closeted. There are some environments where they are simply not going to change and you will be miserable and you will be squashed if you try to change things.
-- Participant in 10/25/93 Focus Group

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Selected Comments from Attorney Survey Responses
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(III.A. ON SELF-IMPOSED DISCRIMINATION -- THE "CLOSET",
CONTINUED)

232. G [In my former office,] it wasn't even comfortable really being female and there were many situations where I felt I was excluded or treated differently by the "good old boy" network because I was female. I have to say that some people suspected that I was gay -- I wasn't deceptive about it and I think most of the people who suspected didn't care. But I don't know.
-- Participant in 11/15/93 Focus Group
233. G There is one woman in particular who doesn't seem to have suffered any, but maybe its because she's not really out. She basically has had a very positive experience in the office. She is not out, but she has never been exempted.
-- Participant in 11/15/93 Focus Group
234. G My experience has been that if you're out and you're open, people who have problems with homosexuality won't confront you with the problem. They don't have the guts if they have a problem with it. And most people then get over their curiosity because its just part of a routine and will deal with you just a professional. ... But part of it is being just honest with who you are. If you are not honest with who you are, you're going to have problems -- I don't care what you are hiding or what the issue is.
-- Participant in 11/15/93 Focus Group
235. G When I was in law school, some people from the [local gay and lesbian group] came and talked at a session that we set up at the law school, where I was one of the co-chairpersons of the gay law student group. And they're talking about a study they had done regarding job hunting where they had sent out essentially similar, phony resumes except that one had gay stuff on it and the other one didn't. And the ones with gay stuff on it got like 30% fewer responses than the "neutral" one. And, you know, I think, "I'm no fool!" I heard that and, for a long time afterwards, basically had two resumes. The gay stuff I sent, you know, when I applied to public interest jobs and things where they would be cool, maybe even be a plus, and the neutral one that went to other places.
-- Participant in 11/15/93 Focus Group
236. G Listening to everyone tonight, I'm so aware of how much time and energy we all invest in being out or closeted in the workplace. Conformity is what we're all aware of all the time, wherever we are, even if we're in a small firm, even if we're out, even if we're not out,

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(III.A. ON SELF-IMPOSED DISCRIMINATION -- THE "CLOSET",
CONTINUED)

if we're in a big firm -- we're aware of it. Some of it -- it's like driving a car and you don't notice that you're shifting the gears anymore because it's become so second nature to you. You're not consciously aware of the steps you have to go through in order to get from A to B or A to Z. But thinking about it, you realize how much time [gay people] usually spend on our differentness.

-- Participant in 10/25/93 Focus Group

237. G There's a powerful person, not a lawyer, but someone important in my current company ... who does not acknowledge his relationship of 14 years with his significant other. And I think that's wrong. There needs to be recognition [of gay people] from the top. I would like to think that if, from the bottom, we all came out, that would really do something. But as long as the top is the way it is, realistically, that's not going to happen. If the L.A. County Bar can do anything to help, it is to urge aggressively that firms and corporations institute policies that are supportive of our relationships and our being. And only then will it filter down so that we will see more people coming out and taking responsibility. Without the work at the top, it's just not going to happen.

-- Participant in 10/25/93 Focus Group

238. G One thing that I have found through my experiences is if you are totally open and out with people, you don't have a problem. It tends to be deception that is related to trouble. I came out about ten years ago when I was at [a large corporation]. And at that time when they had hired me, I was married, two children. Everything they thought I was supposed to be. And here I get divorced and come out. And the General Counsel there, who is a close personal friend and could not have been more supportive, begged me -- begged me, literally -- not to tell anybody, saying that it would destroy my career. Even after I did come out -- and I just insisted, "forget it, I don't care," -- he kept saying that I would never be General Counsel. That [the corporate management] had discussed that I wasn't "one of the boys" and that I would not be General Counsel. But I found that as I felt my way through that period, which was difficult, people get back to the fact that what counts is that you are a good lawyer.

-- Participant in 11/15/93 Focus Group

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(III.A. ON SELF-IMPOSED DISCRIMINATION -- THE "CLOSET",
CONTINUED)

239. G I'm working in a corporate environment and ... what's been interesting, I think, is trying to gauge the general safety level for gays. I'm closeted where I work, and the issues of gays in the military has provoked a lot of discussion at lunch, occasionally even among the management. ... You can kind of see where every person -- particularly all my colleagues and management -- was on the spectrum as to what they believe [about gays and lesbians generally] by what they felt about that issue.

-- Participant in 11/15/93 Focus Group

B. ON "DON'T ASK; DON'T TELL" POLICIES

[SEE ALSO COMMENT NOS. 2, 41, 49, 65, 70, 84, 102, 108, 119, 230 & 232, ABOVE, AND NOS. 284, 286, 304, 307, 309, 311, 315, 317, 324, 325, 327, 328, 329, 333, 335, 336 & 338, BELOW]

240. Here, you can "be" gay, but not "act gay" or show it at the office.

-- Attorney Survey Respondent

241. I don't think the firm would care if a lawyer was gay, but would care if he/she was openly gay at office, social events, etc. Support staff would be up in arms.

-- Attorney Survey Respondent

242. We do not have a policy on sexual orientation. [Sexual orientation] is not an issue and therefore nothing needs to be said about it. Such things should not be discussed in the office anyway.

-- Attorney Survey Respondent

243. Sexual orientation is not an issue here because no one talks about it. Neither of the homosexual lawyers are "out of the closet" and no one else would bring up the subject.

-- Attorney Survey Respondent

244. G [Sexual orientation] is a non-issue. It doesn't even come up -- unless its thrown in my face by the applicant -- at which time I would seriously question that individual's discretion and judgment, two qualities important to being an effective attorney.

-- Attorney Survey Respondent

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(III.B. ON "DON'T ASK; DON'T TELL" POLICIES, CONTINUED)

245. Gay and lesbian attorneys can advance [at this firm] but there is pressure to keep a gay or lesbian lifestyle private -- to not be openly homosexual. Attorneys are not questioned about their private lives and generally would not be judged by what they do in their private lives. I'm not aware of any effort by the firm or this office to promote equality for gay and lesbian lawyers or to ensure that discrimination will be dealt with and not tolerated. The message seems to be "Don't let us know and don't let us see it," or "You can be gay, but keep it to yourself and your close friends."
-- Attorney Survey Respondent
246. Generally, [sexual orientation is] not a factor in attorney advancement. No one asks or particularly cares about sexual orientation. Open identification and advocacy with clients would be a problem, just as political advocacy would be.
-- Attorney Survey Respondent
247. [I h]ave never heard of a gay or lesbian lawyer being open about sexual orientation in our office -- social events or work place.
-- Attorney Survey Respondent
248. As far as I'm concerned, an employee's sexual preference (straight, bi or gay) is absolutely private and none of my business. I don't promote gay or hetero attitudes. ... We don't ask our recruits about their sexual practices nor is it ever discussed, mentioned or considered!
-- Attorney Survey Respondent
249. What's the point of all this openness [about homosexuality]? Work is unrelated to sexual preference -- why try to mix them? These are personal matters, not work matters.
-- Attorney Survey Respondent
250. G My sense is that being gay or lesbian is not a hinderance to advancement as long as one is quiet (although not necessarily secretive) about one's sexual orientation.
-- Attorney Survey Respondent
251. We do not make inquiries which would enable us to determine sexual orientation. Unless it is voluntarily mentioned by an applicant, we just do not know. A private life is private.
-- Attorney Survey Respondent

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(III.B. ON "DON'T ASK; DON'T TELL" POLICIES, CONTINUED)

252. As the sexual orientation of job applicants is not the subject of inquiry, the subject, to my knowledge, has not come up directly. However, given our firm's basic policies and philosophies, the issue is of no significance.
-- Attorney Survey Respondent
253. If gay people apply [for work in my office, they should] hide their orientation ... a gay or lesbian perceived person would not be hired. ... [Our policy is] "don't ask/don't tell."
-- Attorney Survey Respondent
254. [At this firm,] gays are not out of the closet. There is not an issue of whether they are welcome.
-- Attorney Survey Respondent
255. [An attorney's sexual orientation] is a non-issue so long as it remains a non-issue. Its a private matter that should remain private. I expect sexual practices to be kept personal either straight or gay. So long as it doesn't affect work or clients, its all O.K.
-- Attorney Survey Respondent
256. If we have any [gay attorneys], it is not known to me. ... In my personal experience at my firm, they keep out of my personal business and I do the same. I do not want to work at a firm where this kind of question is asked of me or any employee. It is none of my business what the sexual orientation of others is. How do partners behind closed doors decide? I do not know.
-- Attorney Survey Respondent
257. Sexual orientation is irrelevant and not properly part of the office environment.
-- Attorney Survey Respondent
258. G I am in a life partnership, and am currently celebrating my 10th anniversary. I do not attempt to hide this fact, although I do not bring it up unless asked by a friend. I do not discuss it with most of my clients.
-- Attorney Survey Respondent
259. G Nondiscrimination based on sexual orientation is part of the firm's employment manual. Explicitly, the firm is supportive. Implicitly, there is a "don't ask, don't tell" attitude. Although I'm out to my partner, I'd not make a point of being perceived as gay.
-- Attorney Survey Respondent

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(III.B. ON "DON'T ASK; DON'T TELL" POLICIES, CONTINUED)

260. G [B]asically, our policy is "don't ask, preferably don't tell."
-- Attorney Survey Respondent
261. G This firm does not promote an open atmosphere for gay and lesbian attorneys. Therefore, virtually all gay and lesbian attorneys, including myself, hide their sexual orientation. It is perceived that exposure of homosexuality is detrimental to one's employment at this firm.
-- Attorney Survey Respondent
262. G Policy is: Don't Ask; Don't Tell; Don't Pursue.
-- Attorney Survey Respondent
263. G I am not perceived as being gay by the office. I believe the three attorneys who are gay know about each other, but we do not socialize together or go out of our way to become a "social group."
-- Attorney Survey Respondent
264. G My office is small and does not hire attorneys often. However, I would not recommend that someone be "out" prior to being hired because the management is quite conservative. ... Gay or straight, one has to know how to manipulate the senior partner or stay out of his line of sight altogether in order to prevent harassment of any type. I look presentable and my work and billables are good, and the management simply doesn't scrutinize me any further.
-- Attorney Survey Respondent
265. G Gay attorneys are often "out" with their colleagues at the firm, but still feel they cannot be "out" with clients due to prejudice by clients -- real or imagined.
-- Attorney Survey Respondent
266. G Out of 20 attorneys in my office, two are known gay or lesbian. It seems to make no difference so long as they are competent and unobtrusive.
-- Attorney Survey Respondent
267. G No one is "out." The word is not to come out to keep your job.
-- Attorney Survey Respondent
268. G At my office, do not act in any way which one can perceive as being gay or lesbian.
-- Attorney Survey Respondent

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(III.B. ON "DON'T ASK; DON'T TELL" POLICIES, CONTINUED)

269. G The firm does not actively recruit (and does not actively encourage the recruitment of) gay/lesbian attorneys. However, if one is gay, it is not held against the applicant. It simply never is discussed.
-- Attorney Survey Respondent
270. G A gay and lesbian attorney have advanced to the level of partner in the firm. But, they are basically closeted by their own choice. I don't know how openness would have changed their advancement. My feeling is that the situation would be pretty much the same. But, I don't know. And no one else has taken the risk of being open. The firm's silence on the issue can be more burdensome and oppressive than outright discrimination -- which can be confronted.
-- Attorney Survey Respondent
271. G I think if the attorney were out and an activist, that would probably preclude his/her being hired. If nothing is said about being gay or lesbian, I think it is not an issue or factor in being hired. ... I think if nothing is said and one is not an activist bringing attention to his/her being gay or lesbian, advancement is possible. There is no discrimination to my knowledge and utmost respect for everyone's privacy, straight or gay.
-- Attorney Survey Respondent
272. G This office is decidedly heterosexual, with no freedom to discuss sexuality unless you are male and straight. It is inhibiting, particularly to lesbians. Gays or lesbians do not feel the freedom to disclose their sexuality. We are semi-closeted, so advancement possibilities are considered, ostensibly, exclusive of sexuality.
-- Attorney Survey Respondent
273. G I have been the object of critical statements about "dragging in" my "personal" life because I mentioned my life partner.
-- Attorney Survey Respondent
274. G I also think education is very important because I do think there are certain people, generally more senior people in many firms, who are uncomfortable with many of the issues relating to people's sexuality. It doesn't matter if it's gay or straight. I mean, they just don't want to know.
-- Participant in 11/15/93 Focus Group

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(III.B. ON "DON'T ASK; DON'T TELL" POLICIES, CONTINUED)

275. G If we sit here and talk only about how horrible some of these experiences are, and I think they really are horrible, we tend to forget the real comparison that we want to make. It is not just the "don't ask, don't tell" model where someone's sexual orientation doesn't matter so long as it's never mentioned and that people don't make bad comments and don't make someone defend the fact that they're gay. The real level we want to get to is someplace where we enjoy our sexual orientation -- and I don't mean that in a lewd way at all. I mean it in the sense of our identity being well-known within the firm, being something we are frank and open about with our partners, being complete equals in every way and having people feel free to tease each other, joke about each other and not feel so extraordinarily afraid of talking about it. I can't offer personal experience of being in a firm where I was discriminated against, but I certainly have heard of numbers of instances. When we are talking about a benchmark [for a good work environment], I think we need to keep our sights a little higher than just not having to endure homophobic comments.
-- Participant in 11/8/93 Focus Group
276. G I remember once one of my ... senior partners, you know, when he saw that ... we had changed our firm's anti-discrimination clause to include sexual orientation, he made a comment that he didn't see why it was anyone's business to know or anyone's business to let it be known.
-- Participant in 11/15/93 Focus Group
277. G The message is strong and clear: be closeted. No one is openly gay at my firm. There is no discussion of same-sex partners at work -- though there is lots of discussion of husbands and wives.
-- Participant in 10/25/93 Focus Group
278. G There is a strong culture of conformity -- of not sticking out. For gays and lesbians, that means we must keep our personal life private. But, in our work reviews we get criticized for being private and quiet.
-- Participant in 10/25/93 Focus Group
279. G I think we have to start -- what I would like to see where I'm working is for the executive staff to start somewhere -- by acknowledging the existence of gays and lesbians within the corporation and in society. That's

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(III.B. ON "DON'T ASK; DON'T TELL" POLICIES, CONTINUED)

very basic, but I think that's where we are [in my office] because the policy where I am, is now "don't ask, don't tell."

-- Participant in 11/15/93 Focus Group

280. G I was told [by management] I would never have certain jobs because I was openly gay. They said not to tell anyone, to be grateful that I have that job. I told them that I had to do it even if I had to change [employers]. And they accepted it. There are other general counsel at major institutions who are gay, but aren't out. They were hired that way, but their employers don't know it. You just have to do it. The old story is that, if everybody who was gay on one day just stood up and said so, everybody else would be shocked and they'd accept it the day after because ... what else are they going to do?

-- Participant in 11/15/93 Focus Group

281. G In my workplace, we have had only two social functions in three years and neither one of them were put on by any of the -- by what you would call the managing partners -- they were functions that were hosted by co-workers. Because I'm closeted there, everybody seems to know just how far they can go in a conversation as to their own personal life. ... And that's kind of where we are, where I'm working: very impersonal, very easy to stay private. I have never tried to test anything. I think the difficult thing -- I think all of us have been in this situation -- the difficulty for me personally is that I'm trying to be a holistic kind of person. I had to settle a lot of internal problems about who I am and I want to be able to develop in such a way that I can be me. But its hard if I have to sit anxiously in the office and at every moment try to figure out whether and when I can say "we" and risk someone asking who "we" is. You know, if someone asks, "What happened this weekend?" and I slip and I said "we" instead of "I" then I go through a kind of turmoil. That really requires energy that kind of prevents you, I think, from achieving any peace and assurance.

-- Participant in 11/15/93 Focus Group

282. G The emotional cost of being in the closet is enormous -- you can't underestimate the potential lost. The most important function we have is to make sure that the younger people coming along will be the last to have to deal with this sort of anxiety.

-- Participant in 11/15/93 Focus Group

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(III.B. ON "DON'T ASK; DON'T TELL" POLICIES, CONTINUED)

283. G Where I work now, in a corporate environment, I think we need to start at the very beginning [on gay issues]. Our corporation could not exist without its gay and lesbian employees. They're everywhere. But everybody acts as if they don't even exist.

-- Participant in 11/15/93 Focus Group

C. ON SAME-SEX PARTNERS AT OFFICE-SPONSORED
SOCIAL AND PROFESSIONAL EVENTS

[SEE ALSO COMMENT NO. 67, ABOVE]

284. Same sex partners would not be welcome and would be subjected to harassment. Gay attorneys attend functions alone or with an opposite sex date for the event.

-- Attorney Survey Respondent

285. At the last two Christmas holiday functions, same sex partners attended. It is not promoted or advertised -- it simply occurs and no one objects. It would be incorrect to suggest, however, that everyone is thrilled by it -- nevertheless it is not an issue that has been raised in any official way.

-- Attorney Survey Respondent

286. I've never seen a gay or lesbian attorney bring his/her partner to a firm function, even though I know of 2 or more gay attorneys in the office. A partner expressed his strong objection to a staff employee who brought his partner with him to the firm holiday party last year.

-- Attorney Survey Respondent

287. Our attorneys feel free to bring same-sex significant others to the firm's annual retreat, holiday party, summer associate events, etc.

-- Attorney Survey Respondent

288. I am unaware if any gay or lesbian attorney has ever brought a significant other to an event. Thus, whether or not such a guest would be "welcome" is unknown.

-- Attorney Survey Respondent

289. None of the gay attorneys are willing to be the one to test the system. They either come alone [to social events] or do not attend.

-- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(III.C. ON SAME-SEX PARTNERS AT OFFICE-SPONSORED
SOCIAL AND PROFESSIONAL EVENTS, CONTINUED)

290. Same sex partners are welcomed at LA office social events; they would probably not be welcomed at "home" office events -- our "home" office based in another major US city.
-- Attorney Survey Respondent
291. No effort has ever been made to reach out to gay and lesbian attorneys and to make them feel welcome at social events.
-- Attorney Survey Respondent
292. The partners are fairly accepting of same sex spouses showing up at/attending social events though I don't think that would apply if clients were also invited -- unless they could be fairly certain that the nature of the relationship would not be revealed. Also, while it would not (probably) be explicitly discouraged, I don't think it would be wise to bring a same-sex boyfriend or girlfriend, as opposed to a domestic partner, to a firm event. I'm pretty sure that would be frowned upon.
-- Attorney Survey Respondent
293. We have never discouraged attendance [at firm events] by significant others. Attendance is governed by the comfort level and choice of the gay employees.
-- Attorney Survey Respondent
294. Firm social invitations consistently use the term "significant other." I am at present unaware of any homosexual "other" who has shown up at a firm function.
-- Attorney Survey Respondent
295. G [Regarding same-sex partners at social events,] there is tacit self-discrimination based on perceptions of what the clients' reactions might be rather than adverse staff reaction as such.
-- Attorney Survey Respondent
296. G [On invitations to office social events,] the word "guest" is used for single attorneys and probably anticipates an opposite-sex guest. I have never tested it by bringing a same-sex guest.
-- Attorney Survey Respondent
297. G At my firm, "significant others" are always invited verbally where spouses are invited in writing. To my knowledge, no attorney has ever brought a gay/lesbian partner.
-- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(III.C. ON SAME-SEX PARTNERS AT OFFICE-SPONSORED
SOCIAL AND PROFESSIONAL EVENTS, CONTINUED)

307. G In my year of being "out" at the firm, my partner was invited only to one small (6 person) function. My partner has not been invited to any firm-wide functions, particularly those which clients with heterosexual spouses attend. There was little or no recognition of our announced commitment ceremony.
-- Attorney Survey Respondent
308. G Most of the social events we are expected to participate in are sponsored by other than the firm. Inasmuch as the firm does not control the invitation list, most events I participate in are necessarily homophobic, like society at large.
-- Attorney Survey Respondent
309. G During the firm's [long] history, there was only one openly-gay attorney hired. He became a partner [several years ago] and died of complications from AIDS [less than a year thereafter]. He attended one firm function, prior to his illness, with his life partner. His life partner was isolated and alienated from the heterosexual group during the entire evening.
-- Attorney Survey Respondent
310. G Because the office is small, the personality of each attorney makes a difference to how accepted they are socially. Almost everyone knows my lover because I make a point to introduce her to people if she's around the office, and they seem to take her in stride (although gay issues are not discussed), but another gay attorney is quite closeted.
-- Attorney Survey Respondent
311. G The firm's official "welcomes" to its social events are more inclusive than the firm is truly comfortable with. Some adverse comments are made behind closed doors about gay attorneys bringing same-sex partners.
-- Attorney Survey Respondent
312. G The office has a good policy but the gay and lesbian attorneys are afraid to bring a same-sex partner to a social event.
-- Attorney Survey Respondent
313. G Before I was hired, the firm went out of its way to include my significant other in various activities, so that she could meet firm.
-- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(III.C. ON SAME-SEX PARTNERS AT OFFICE-SPONSORED
SOCIAL AND PROFESSIONAL EVENTS, CONTINUED)

314. G Why would anyone subject their partner to a social event with people from work? Most employees dread the events; I can only imagine how spouses and partners feel.
-- Attorney Survey Respondent
315. G I believe it would have been fatal to an attorney's career to bring a gay significant other [to an office event]. I know of one instance where a heterosexual attorney brought a male friend to a firm function because the friend was visiting from out of town. The heterosexual attorney was effeminate. He was passed over for partner although he was a good attorney.
-- Attorney Survey Respondent
316. G There are several gay attorneys in my firm. Only one or two of them ever bring same-sex partners to functions. I sense that this is a bold step and somewhat difficult for the people who do it, not to mention their partners.
-- Attorney Survey Respondent
317. G The first "significant others" invitation was recently sent out by the firm. However, if one were to bring a same-sex date/partner the attorney would either be ridiculed or not advanced to partnership. I suspect that the invitation was not a firm policy but the product of a secretary (who is worldly) who is sponsoring a benefit for her partner.
-- Attorney Survey Respondent
318. G The firm is very social. There are two out attorneys (including me) and we bring our partners to events where spouses are welcome (usually recruiting events). However, this is fairly new for the firm as we are the first out attorneys.
-- Attorney Survey Respondent
319. G I brought my boyfriend to a summer associates party at a partner's house when I was a summer associate. Other gay/lesbian associates and summer associates have brought their respective partners to firm-sponsored social events.
-- Attorney Survey Respondent
320. G I am a lesbian and have been with my partner for seven years. Though it is probably known within the firm that I "may be" gay, it's not spoken about. I do invite my spouse to some larger office functions if I feel comfortable about it. It is very difficult,

APPENDIX B-1
Selected Comments from Attorney Survey Responses
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(III.C. ON SAME-SEX PARTNERS AT OFFICE-SPONSORED
SOCIAL AND PROFESSIONAL EVENTS, CONTINUED)

however, when you don't know what the office philosophy on same sex partners is. When you don't know, you fear discrimination, lay off or firing. Its still not safe and there are many "closeted" attorneys here.

-- Attorney Survey Respondent

321. G Given that there are no out attorneys at firm, I have never seen a same-sex couple at an attorney event.

-- Attorney Survey Respondent

322. G One paralegal has brought a same sex date to the annual Christmas dinner/dance. The attorneys have not been so adventurous. Is that their fault or the firm's? Hard to tell.

-- Attorney Survey Respondent

323. G I am a gay man. At firm social events it is assumed I am heterosexual and, if I am welcome to bring a guest, I am told that I may bring "a girlfriend."

-- Attorney Survey Respondent

324. G Although "welcome," gay and lesbian partners do not in fact attend: a dinner-dance still requires very courageous same-sex couples to submit to disapproval by colleagues -- who needs their social-leisure time spent like that?!

-- Attorney Survey Respondent

325. G Office social events -- this is the area when gay and lesbian attorneys are most likely to feel and be perceived as "different" -- usually attending events without a date/spouse, making it more difficult to enjoy the event and participate fully. As a result, they are often perceived by other attorneys as antisocial or as mysterious -- i.e., not fitting in.

-- Attorney Survey Respondent

326. G Management uniformly welcomes partners of lesbian/gay attorneys, attempts to make all feel welcome; lower level management and many attorneys are less welcoming/inclusive.

-- Attorney Survey Respondent

327. G I think, though I am not sure, that having one's gay or lesbian partner at an event would violate the code of silence about homosexuality in the firm.

-- Attorney Survey Respondent

(III.C. ON SAME-SEX PARTNERS AT OFFICE-SPONSORED
SOCIAL AND PROFESSIONAL EVENTS, CONTINUED)

328. G If I chose to bring a guest to a social function, clearly the guest was expected to be of the opposite sex. On a firm retreat where spouses were included, it was clear that my companion was not invited.
-- Attorney Survey Respondent
329. G I am very reluctant to bring my same-sex partner due to stigma or unacceptance.
-- Attorney Survey Respondent
330. G Because we are a small firm, we invite people informally and by name. Partners/spouses are always welcome and are integral parts of the firm. Children are also a large part of the social life of the firm, including the children of 2 of the 3 gay attorneys.
-- Attorney Survey Respondent
331. G The firm has been very supportive of attorneys bringing same sex partners to social events -- including recruiting dinners.
-- Attorney Survey Respondent
332. G Same-sex partners are always permitted but rarely feel welcome. Older male attorneys especially become socially awkward around such partners.
-- Attorney Survey Respondent
333. G My partner was invited to "in-house" events because I was open in the firm, but for events where clients were included, [my partner] was excluded. ... [I]t would be clear that I was expected to come by myself whereas, when other associates had partners, their partners came.
-- Participant in 11/8/93 Focus Group
334. G [T]he previous year, there was a firm-wide event to which significant others of any sort were invited The following year [invitations to] the same event requested that only "spouses" be invited to attend. ... I made a specific point of going to the managing partner of the local office ... [to ask] if that meant that I was excluded from bringing my significant other. I recall saying, "What do you define as 'spouse' in this policy?" and clearly making him uncomfortable. His response was, "Well, I'm not even going. So, it's clearly not an important thing or a command performance."
-- Participant in 11/8/93 Focus Group

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(III.C. ON SAME-SEX PARTNERS AT OFFICE-SPONSORED
SOCIAL AND PROFESSIONAL EVENTS, CONTINUED)

335. G [A]n individual brought his significant other to a firm Christmas party, and ... immediately after this party, he noticed a marked change in the way partners related to him, he noticed a significant drop off in terms of the work assigned to him by a number of the partners and, the following year, he was asked to leave the firm.

-- Participant in 11/8/93 Focus Group

336. G [When I asked about bringing my life partner,] one partner said, "I don't care whether you bring a dog or a horse." I took that as his way of saying that the firm's rule was tolerance. But if you looked at the firm's history and how the partners treated people, you knew that this was not really the case. They may say they don't care, but deep down, they did. And while they would let you do that, your next year would be made miserable -- your work assignments would be cut-back, etc. So, no one ever dared to bring same-sex significant others.

-- Participant in 11/8/93 Focus Group

337. G My partner and I got married a year ago, we had a ceremony, and a number of heterosexual lawyers, including partners from my former firm, came with their spouses. Several of them said that they were really honored to be invited and that they learned a lot just by being there. I think that there is something that we can do to try to encourage more interaction and to foster an environment where people value diversity because I think that's really what is most important.

-- Participant in 11/8/93 Focus Group

338. G Although I was never told not to, it was not o.k. to bring my significant other to social events. You need to be careful -- I wouldn't be perceived to be fitting in.

-- Participant in 10/25/93 Focus Group

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

IV. ON EMPLOYER POLICIES

A. ON ENFORCEMENT OF NONDISCRIMINATION POLICIES

[SEE ALSO COMMENT NOS. 4, 66, 192, 193 & 194, ABOVE]

339. G Formerly, I worked for a major studio and, although the studio purports to have an anti-discrimination policy, there are still pockets of discriminatory attitudes throughout, which I felt. Any attempt to call this fact to the attention of the higher executives would have resulted in some dutiful lip service. However, it would have been difficult to obtain another job in the industry after having been labeled a "troublemaker."

-- Attorney Survey Respondent

340. G Correcting [sexual orientation bias] is so hard -- we usually need to sue to get attention, but the hardest thing is to get good cases.

-- Participant in 10/25/93 Focus Group

341. G When I had serious trouble [at my first firm], I decided to make some inquiries about litigation and I called Lambda [Legal Defense & Education Fund, Inc.], and I called the Gay and Lesbian [Community Services] Center in Hollywood. They arranged for me to have a meeting with a pretty well-known Beverly Hills attorney who basically said: "Forget it. You are gonna spend several years in misery and you are gonna discover every fault that ever existed about [you] and not any of them are going to be related to your sexuality." I mean, who wants that kind of pain and suffering? So I'm not sure, I mean, if there is a really blatant case, litigation may be the answer, but in most cases, I don't think it is.

-- Participant in 11/15/93 Focus Group

342. G Most people are willing to go on leading lives of silent desperation, rather than take the risks involved in a serious confrontation with an employer. Who wouldn't rather have a career than a lawsuit? For whatever [the wrong done] is, the lives of these people are easy to disrupt ... very vulnerable ... because they're gay.

-- Participant in 11/15/93 Focus Group

343. G Whatever [policies employers adopt], there would have to be reinforcement of the policies whether it be through the threat of litigation or internal enforcement -- it can be very tricky when you have people like lawyers who are not stupid and are adept at evading rules. Because they have learned, on the

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(IV.A. ON ENFORCEMENT OF NONDISCRIMINATION POLICIES,
CONTINUED)

racial and gender issues, how not to speak their prejudices but to still act on them.

-- Participant in 11/15/93 Focus Group

344. G Someone mentioned earlier that their firm initiated an antidiscrimination policy as a way of making it more supportive of lesbians and gay men. In the environment and at the firm that I'm with I'm not sure if we have an antidiscrimination policy. But even if we did, it wouldn't guarantee that all of us complied.

-- Participant in 11/15/93 Focus Group

345. G The only problem with paper policies is that many people who will sign on because it seems right don't really know how much work is needed because they don't see in themselves some of the problems.

-- Participant in 11/15/93 Focus Group

346. G I think you need to sit leaders in law firms down at tables like this with people who experience discrimination and really hash it out -- so that people don't just respond with that liberal knee jerk and say "Oh, yes, we won't discriminate ... we don't discriminate" but, rather, look at some of the more subversive lies about how lawyers are groomed and evaluated which, institutionally, could be better. That way, they would understand the need for the policy.

-- Participant in 11/15/93 Focus Group

B. ON EMPLOYEE BENEFITS POLICIES

347. Management would probably be supportive of benefits for same sex partners if coverage could be obtained at reasonable cost and if coverage standards were reasonably clear and limited to relatively stable, committed relationships.

-- Attorney Survey Respondent

348. G Discrimination has not been an issue except, arguably, lack of health coverage for unmarried partners.

-- Attorney Survey Respondent

349. No policies address gays/lesbians per se. There are older attorneys who I believe would balk at extending protections and benefits to homosexuals. Others, particularly younger attorneys, would be more tolerant.

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Selected Comments from Attorney Survey Responses
and Focus Group Participants

(IV.B. ON EMPLOYEE BENEFITS POLICIES, CONTINUED)

The reluctance of gay lawyers to identify themselves attests to the weight of the few lawyers who I believe would not be receptive.

-- Attorney Survey Respondent

350. Unfortunately, as with national policies, the corporate dictates of this firm as an in-house legal firm are conservative and don't allot family-oriented benefit packages for non-traditional couples.

-- Attorney Survey Respondent

351. As a small firm struggling to survive in this adverse economic environment, we do not provide group health insurance for any of our personnel. We do, however, provide a flat monthly contribution to our non-attorney staff on account of their individual health insurance coverage, which they are able to apply as they desire. Other benefits (vacation, sick days, paid parking, etc.) are afforded equally to all.

-- Attorney Survey Respondent

352. Our firm recently changed its benefit policies to apply to gay couples, although I don't believe it has changed people's attitudes.

-- Attorney Survey Respondent

353. Gays should receive no better treatment than any other unmarried individuals, whether they live together or not.

-- Attorney Survey Respondent

354. G Employee benefits ought to be the same for same-sex partners, and they are not.

-- Attorney Survey Respondent

355. G The firm will not consider extending benefits to same-sex domestic partners on cost grounds -- largely, fear of AIDS-related health claims.

-- Attorney Survey Respondent

356. G I am not sure how my firm stands on the employee benefits issue -- the issue has not come up.

-- Attorney Survey Respondent

357. G It is disappointing that regarding medical benefits for significant others [my current firm] lags behind leading firms/companies.

-- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(IV.B. ON EMPLOYEE BENEFITS POLICIES, CONTINUED)

358. G My firm's failure to provide benefits to domestic partners of gays was justified as "acceptable to community as a whole."
-- Attorney Survey Respondent
359. G Employee benefits do not treat lesbian and gay lawyers comparably to heterosexuals if insurance benefits [are] not available to non-married couples.
-- Attorney Survey Respondent
360. G No benefits extend to gay lawyers' significant others as would happen for heterosexuals.
-- Attorney Survey Respondent
361. G My feeling about life partner health benefits is that even in firms where they might consider giving benefits, it is viewed as a huge benefit to one gay/lesbian employee. Most firms, however, do not even consider those benefits.
-- Attorney Survey Respondent
362. G Company cars may be driven by heterosexual spouses, but not by significant others.
-- Attorney Survey Respondent
363. G Firm has recently instituted program of funding domestic partner health insurance.
-- Attorney Survey Respondent
364. G There are no employee benefits (other than paid parking), which is one reason why I left. If the firm offered insurance, I think my boss would want gender-neutral coverage, but small firms may not have access to the few carriers who offer it, and couldn't afford to reimburse lawyers who get their own coverage.
-- Attorney Survey Respondent
365. G The firm seems to be "neutral" towards gays and lesbians. It does not actively promote or discriminate against gays. However, it does not provide domestic partnership benefits.
-- Attorney Survey Respondent
366. G I think my firm should treat same sex domestic partners the same as spouses for the purposes of benefits.
-- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(IV.B. ON EMPLOYEE BENEFITS POLICIES, CONTINUED)

367. G There are no efforts to achieve equity [for gay attorneys] in benefits or other policies. I would guess this is due to neglect, not deliberate discrimination.
-- Attorney Survey Respondent
368. G At my firm, there is no issue yet regarding work benefits, but I believe the firm would be receptive to suggestions, should any issue arise.
-- Attorney Survey Respondent
369. G Gays do not have spousal benefits -- and should.
-- Attorney Survey Respondent
370. G [My employer] does not currently offer benefits for domestic partners, but I don't have one anyway.
-- Attorney Survey Respondent
371. G Same sex couples are not entitled to family benefits (health). A same-sex insurance beneficiary's designation is never commented upon.
-- Attorney Survey Respondent
372. G Our firm provides health benefits to the partners and dependents of the gay and lesbian attorneys.
-- Attorney Survey Respondent
373. G There is no insurance for same-sex partners (mates) of employees/attorneys.
-- Attorney Survey Respondent
374. G There is no same-sex health coverage for domestic couples -- a clear discrimination against gay and lesbian attorneys.
-- Attorney Survey Respondent
375. G The firm at one point offered to see if my partner could be covered by my insurance. However, my partner found a job and the coverage didn't become an issue. I'm not sure, if push came to shove, how the firm would have come out in the end.
-- Attorney Survey Respondent
376. G The firm, after uncharacteristically strenuous debate (probably due to economic hard times), adopted domestic partner health care benefits for next year.
-- Attorney Survey Respondent
377. G Health care should include same-sex domestic partners.
-- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(IV.B. ON EMPLOYEE BENEFITS POLICIES, CONTINUED)

378. G The benefits issue has not come up, but I have heard partners express a willingness to address the issue if a gay/lesbian attorney requests.
-- Attorney Survey Respondent
379. G Benefits [for gay life partners] are non-existent! Still an "unmentionable."
-- Attorney Survey Respondent
380. G We need health benefit coverage and pension coverage.
-- Attorney Survey Respondent
381. G My long term companion should be provided with the identical benefits a spouse is provided with.
-- Attorney Survey Respondent
382. G We would include Domestic Partners on a group medical plan if we could find a plan that offers such coverage. We currently pay for domestic partners' individual policies if they are not covered by another plan.
-- Attorney Survey Respondent
383. G We need insurance and pension benefits for same-sex partners.
-- Attorney Survey Respondent
384. G Spousal equivalent benefits ... that says it all to gay employees.
-- Participant in 11/15/93 Focus Group
385. G Same-sex spousal benefits. That's the biggest single statement that an employer can make. That says we're going to treat you like we treat everybody else, pay you the same, let you get the same perks as everyone else does.
-- Participant in 11/15/93 Focus Group
386. G The fact of the matter is that, for employees who use outside insurers for health benefits, [spousal equivalent benefits] can involve substantial surcharges. In an environment where, you know, money is tight ... the legal community being where it is these days, to try to argue persuasively for a significant new expense like this, people say, "You know, we know it's important, but geez" I want to underscore the importance of spousal benefits, because I think we have to move beyond it being considered as an economic issue to one of moral right and wrong. It is simply unjust that we are paid less than our heterosexual peers.
-- Participant in 11/15/93 Focus Group

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Selected Comments from Attorney Survey Responses
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C. ON AFFIRMATIVE HIRING AND ADVANCEMENT POLICIES

[SEE ALSO COMMENT NO. 177, ABOVE]

387. To my knowledge, our firm has not actively pursued or discouraged gay/lesbian hiring. I believe our firm seeks the best attorneys regardless of race, sex, sexual orientation or otherwise.
-- Attorney Survey Respondent
388. G Our office actively recruits from the lesbian and gay community.
-- Attorney Survey Respondent
389. I absolutely oppose the notion that each office, no matter how large or how small, should try to represent the racial/gender/sexual orientation mix of the community in which it happens to be located. Individuals should be evaluated on their own merits, and not on whether they make an office more representative of the community. If anything, "reverse discrimination" will only undermine tolerance for minorities in the long run, especially if someone is hired for minority status and does not fit into a work environment for other reasons, including quality of work.
-- Attorney Survey Respondent
390. We have a strong affirmative action policy that management considers applicable to gay and lesbian attorneys. Work environment and general policies and practices are supportive of gay and lesbian issues.
-- Attorney Survey Respondent
391. Fairness is great! Quota-thinking is awful!
-- Attorney Survey Respondent
392. Our firm does not discriminate either in favor of or against any gender, race, class, or group. I believe that this type of designation [of gay people as a "minority"] is segregationistic and actually contributes to the problems being encountered.
-- Attorney Survey Respondent
393. There appears to be affirmative action [to recruit gay candidates], which some perceive to be reverse discrimination. The office does a good job on minority/gay/female recruitment and promotion. As stated above, however, its affirmative action policies sometimes are controversial.
-- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
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(IV.C. ON AFFIRMATIVE HIRING AND ADVANCEMENT POLICIES,
CONTINUED)

394. I disagree with the assumption or implication ... that law firms have an obligation to engage in affirmative action "to ensure that its attorney workforce reflects the diversity of the attorneys" in the county. At the same time, when given the opportunity to select among two or more candidates for the same position, all of whom otherwise are equally qualified for the position without regard to gender, race, religion, disability, sexual orientation, and other "subjective" criteria, then and only then should these other criteria be invoked by an otherwise insufficiently diverse firm to achieve that diversity.
- Attorney Survey Respondent
395. We think that diversity is nice, but we do not consider it significant. We hire people based on our perception of how good they are and how much fun they will be to have around. We try not to hire attorneys who lack humor.
- Attorney Survey Respondent
396. G Here, things are excellent -- the firm goes out of its way to include gays and lesbians (as well as other "protected groups") in recruiting and hiring. ... One of firm's main goals is to promote diverse workforce.
- Attorney Survey Respondent
397. G The office attempts to conduct outreach to the lesbian/gay community, but only sporadically and half-heartedly, and at the prodding of lesbian/gay attorneys.
- Attorney Survey Respondent
398. G One of the things that the firm that I'm with has done to make it supportive for gays and lesbians is to actively recruit gay and lesbian attorneys.
- Participant in 11/15/93 Focus Group

D. ON NONDISCRIMINATION POLICIES GENERALLY

399. We do not specifically identify sexual orientation as a discrete criterion on the basis of which we do not discriminate. We advise recruiters and applicants that we select solely on the basis of demonstrated legal ability and willingness to participate in bar association and pro bono activities.
- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
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(IV.D. ON NONDISCRIMINATION POLICIES GENERALLY,
 CONTINUED)

the idea that it is forward thinking and progressive and therefore supportive, and more attractive to any given applicant.

-- Attorney Survey Respondent

407. G The firm does try to match up an interviewee with an out gay/lesbian attorney if the interviewee requests or if his/her resume reflects activity in gay/lesbian organizations.

-- Attorney Survey Respondent

408. G The firm has all the good intentions. It has the reputation for being a friendly place for gays and lesbians. I know letters are sent out to gay/lesbian law student groups to invite people to interview with the firm.

-- Attorney Survey Respondent

409. G Recruitment should encourage openness pertaining to their hiring and or retaining attorneys who are/may be gay/lesbian.

-- Attorney Survey Respondent

410. G I am on the recruiting committee and know that we make an effort to put gay/lesbian potential hires in contact with our openly gay/lesbian attorneys. Otherwise gay/lesbian status is not considered.

-- Attorney Survey Respondent

411. G The firm has totally accepted the openly gay/lesbian attorneys but has not done anything affirmatively to improve the work environment.

-- Attorney Survey Respondent

412. G The military issue allowed an expression of negativity by upper management, though many attorneys were supportive of gays and lesbians.

-- Attorney Survey Respondent

413. G Non-discrimination policies must specify sexual orientation. A general statement does not reassure lesbian/gay applicants sufficiently.

-- Attorney Survey Respondent

414. G At least when you invite your employees to a social function, should we recommend that they make it open to everyone to bring their spouses, significant others, lovers, boyfriends, girlfriends -- everyone included -- so that they all know that they are welcome and then they could bring this other part of their life into the

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(IV.D. ON NONDISCRIMINATION POLICIES GENERALLY,
CONTINUED)

office and share it with everyone without it being a problem. And, if they do that, they have got to go the next step and that is making them feel welcome.

-- Participant in 11/15/93 Focus Group

415. G In terms of helping or starting firms to be more supportive, one way is starting at the law school phase. The school that I attended, [a local law school], has an antidiscrimination policy covering every improper basis. And I think it's not just a policy for the school; the school has taken a stand that employers who want to interview on campus also must have that antidiscrimination policy. If they don't, they're not welcome to interview at the school. So the firms that are homophobic or who don't have the internal safeguards against discrimination, you know, won't have the privilege to interview at the school. At the same time I don't know what's being done [to support gay and lesbian students] on the law school level. In some ways, I feel that help there would be most beneficial because, unless the students are in the process that they can come out of the closet and find support, once they enter the profession they may be overwhelmed when they start practicing law. And ... the heterosexuals in law school who are entering the legal field also need to be told that this kind of discrimination will not be, you know, allowed in the field they're entering.

-- Participant in 11/15/93 Focus Group

E. ON PUBLICITY FOR EMPLOYMENT POLICIES

416. We do not affirmatively publicize our policy of non-discrimination. We simply allow our actions to speak for themselves.

-- Attorney Survey Respondent

417. Since the firm/office has no criteria concerning sexual orientation or otherwise nor any discriminatory practices, there is no reason to make its policies regarding gay/lesbians known to applicants.

-- Attorney Survey Respondent

418. G A formal non-discrimination policy should be adopted and announced to all employees.

-- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
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(V. ON THE SURVEY AND THE LACBA S.O.B. COMMITTEE, CONTINUED)

425. I believe this survey is indicative of over-sensitivity to large and recognized minority groups. We all need more tolerance toward others, and that includes more tolerance by "traditional" minorities of "minor" acts of perceived discrimination. I recognize that these comments will probably be used to characterize me as "racist" or "homophobe" or whatever. For the record, this respondent is absolutely opposed to limiting an individual's advancement because of any ethnic, race, sexual or similar characteristics.
-- Attorney Survey Respondent
426. I grew tired of this survey and did not complete it. I realize you all took considerable time and thought to create it but I found the issues very biased toward favoring gay/lesbian attitudes in the work place.
-- Attorney Survey Respondent
427. I don't think the [survey] questions are written in a neutral fashion. Built-in bias.
-- Attorney Survey Respondent
428. My firm's recruitment and hiring of homosexual attorneys is no business of the L.A. County Bar.
-- Attorney Survey Respondent
429. Excuse me, but no professional should be treated differently within the office. Outside, personal preferences and activities belong outside and should not even be an issue inside the office. Quality of performance is the only issue. To spend this amount of time on what should be a non-issue is approaching the absurd.
-- Attorney Survey Respondent
430. Doesn't the County Bar have better things to do with our dues besides establishing a Committee on Sexual Orientation Bias to "examine the quality of work life for lesbian and gay attorneys in Los Angeles County?" What next? "Pay Discrimination Against Marginally Competent Attorneys?" How about examining the "quality of life of all attorneys?" Come on!
-- Attorney Survey Respondent
431. I am unwilling to participate in the survey and strongly believe it is not an activity the Los Angeles County Bar Association should be carrying on. There are many more important and pressing matters about which the local bar should be concerned. All the survey is going to do is to upset many people and create unnecessary problems among attorneys and firms.

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(V. ON THE SURVEY AND THE LACBA S.O.B. COMMITTEE, CONTINUED)

... I am sure you are aware of the many complex legal, moral, religious and political problems and questions which exist in this field. ... Look at what happened to the American Bar Association over the abortion issue.

-- Attorney Survey Respondent

432. Frankly, I can find no justification for the Los Angeles County Bar Association to be expending its funds (and my dues) on investigating policies regarding lesbians, gay men and bisexuals. I have practiced law for 20 years in Los Angeles County, and I know many, many attorneys. To date, not a single attorney has ever expressed an interest to me in this subject nor has it ever been discussed. The most probable reason for that lack of interest is that there are some subjects which may better be left unevaluated.

-- Attorney Survey Respondent

433. There are plenty of important issues that the Bar should be addressing, this certainly is not one of them. Find someone else to spend his/her valuable time responding to this garbage.

-- Attorney Survey Respondent

434. I object to the intrusion of sexual questions such as those contained in the attached questionnaire. I object to a committee on the purported subject of "bias" in sexual orientation. Please discontinue this obnoxious intrusion. Why are the sexual practices of lawyers of interest to my bar association?

-- Attorney Survey Respondent

435. This is a very poorly written and developed survey. It does not permit any real flexibility in answering these issues. I regard this as a very unreliable indicator of anything.

-- Attorney Survey Respondent

436. G Thank you for caring about this subject.

-- Attorney Survey Respondent

437. G Thanks for doing this!

-- Attorney Survey Respondent

438. G I believe your survey is slanted toward private firms
-- as opposed to public agencies.

-- Attorney Survey Respondent

APPENDIX B-1
Selected Comments from Attorney Survey Responses
and Focus Group Participants

(V. ON THE SURVEY AND THE LACBA S.O.B. COMMITTEE, CONTINUED)

439. G Ours is a small firm -- these questions seem to apply to large bureaucracies.³

-- Attorney Survey Respondent

440. This survey does not fit well with a sole practice like mine; many of the questions are inapplicable.³

-- Attorney Survey Respondent

441. G This survey is particularly geared to employment in a large firm. I work in a small firm where the turnover is not very high and the management actually prides himself on the fact that we have no written policies and procedures, particularly regarding employment matters. The employment decisions made are often completely irrational, which makes it difficult to give a response regarding how things are generally done in my firm.

-- Attorney Survey Respondent

442. G I have to compliment this task force and the County Bar for undertaking this project. ... [T]his is very important.

-- Participant in 11/15/93 Focus Group

³ There were several similar comments not reproduced here.

APPENDIX B-2
ANECDOTAL EVIDENCE

SELECTED COMMENTS FROM EMPLOYER SURVEY RESPONDENTS

1. We do not care what sexual orientation [an attorney] is. We have gay attorney[s] on staff (we're [a] small firm).
- Small Law Firm
2. Sexual orientation is neither a positive [n]or negative consideration. As a small firm, we do not have the structure and procedures anticipated in the above question. We have hired and will continue to hire openly gay/lesbian attorneys and employees.
- Medium-Sized Law Firm
3. One's sexual orientation is not a factor or in our selection of attorneys.
- Medium-Sized Corporate Law Office
4. We hire strictly on the basis of merit -- sexual orientation is irrelevant.
- Small Law Firm
5. There simply is no issue as to gay and lesbian attorneys bringing their significant others/domestic partners. They are expressly invited and welcome at all events that include "spouses."
- Small Law Firm
6. There are two openly gay/lesbian attorneys in this firm of 15, one of whom is responding to this survey on behalf of the firm. Sexual preference simply has not been an issue in terms of work assignments, partnership, committee assignments, social events or interaction with clients. This is a very good environment for gay and lesbian attorneys.
- Small Law Firm
7. We strive [to hire] the best qualified candidate without regard to gender, color, sexual orientation, etc.
- Medium-Sized Law Firm
8. If they are talented, we want them.
- Large Law Firm
9. We have gay attorneys in our office and do not discriminate against or for them.
- Medium-Sized Corporate Law Office

10. We have notified search firms that we have an openly gay attorney in our office and asked them to notify applicants of this fact. We do this to identify possible homophobic attitudes of applicants which might affect their being able to work for our openly gay attorney, who is in a management position.
- Small Corporate Law Office
11. [The] office has been very accepting of both openly gay attorneys who have worked here. One continues as an officer/manager of the company. Open acceptance of his sexual orientation by company management has helped create [a] hospitable work environment.
- Small Law Firm
12. No one asks about an individual's sexual preference because it is irrelevant. If an attorney volunteers that she (he) is lesbian (gay) it won't cause her (him) to be treated differently.
- Small Corporate Law Office
13. This office has a national reputation for bring[ing] cases on behalf of gays/lesbians....
- Large Law Firm
14. [The] firm has hired one openly gay attorney, although several others are partially open after hiring. [A] concern about hiring [was] expressed by one senior partner re [the] effect on mainstream, stuffy business clients.
- Medium-Sized Law Firm
15. Of the four-five gay/lesbian attorneys in [the] office, only one regularly brings his mate; all [the] others are somewhat closeted, i.e., only partially out to some attorneys or staff.
- Medium-Sized Law Firm
16. The response was negative and the speaker [was] made to feel like a jerk.
- Medium-Sized Law Firm
17. It is hard to be successful in our firm as a woman, minority or [presumably] gay or lesbian. We have a bunch of prima donnas who think they are too smart for the world. Has nothing to do with [being] gay or lesbian.
- Medium-Sized Law Firm
18. We do not discriminate against gays and lesbians. To the extent your survey indicates a bias towards favoring gays and lesbians we believe such a course of action would result in hostility from other minority groups we employ.
- Large Law Firm

19. One's sexual preference has no business being considering in the hiring process.
- Medium-Sized Law Firm
20. I do not know if any of our lawyers is gay or lesbian - we try to ignore any evidence in that respect.
- Large Law Firm
21. I find this entire survey absurd and a total waste of time and money. Doesn't the Bar Association have anything of importance to do?
- Small Law Firm
22. We have no "policy." Why should there be?
- Small Law Firm
23. We hire any qualified candidate, gay or straight, minority or majority, male or female.
- Large Law Firm
24. We have not perceived a problem and, therefore, have not addressed the issue.
- Small Law Firm

APPENDIX C-1
SUMMARIES OF SURVEY DATA
ATTORNEY SURVEY RESPONSES

TABLE 1

% who believe an attorney applying for employment in his/her firm/office has been declined as a result of being or being perceived to be lesbian or gay

	G/B♂	S♂	L/B♀	S♀	Total
	17.3	2.3	15.0	4.1	9.4
% Believe that management in his/her office learned of such an incident(s)					
Don't know	4.7	.7	4.3	--	2.5
Reported formally	--	--	2.1	--	.2
Learned informally	6.8	.7	4.3	--	3.2
Dealt with privately	.7	.7	--	--	.5
No clear complaint process	3.4	--	4.3	--	1.7
Fear of reprisal by perpetrator	2.7	--	2.1	--	1.2
Fear of reprisal by others	2.0	--	--	--	.7
Perceived to be unimportant	1.4	--	2.1	1.3	1.0
Perceived to be futile	2.7	--	2.1	1.3	1.5
% Believe that management response was:					
Don't know	4.1	.7	4.3	--	2.2
Treated seriously	--	.7	--	--	.2
Worked to find truth	--	--	--	--	--
Learned facts	--	--	--	--	--
Initial concern, no follow-up	2.0	--	--	--	.7
Develop a plan to correct	.7	--	--	--	.2
Indifferent	6.1	1.5	--	--	2.7
Explain away	1.4	--	6.4	1.3	1.5
Embarrassed	--	--	--	--	--
Other	2.7	.2	--	--	1.2

TABLE 2

	% who believe that his/her firm/office's criteria for <u>hiring</u> FEMALE attorneys is:					% who believe that his/her firm/office's criteria for <u>hiring</u> ETHNIC MINORITY attorneys is:					% who believe that his/her firm/office's criteria for <u>hiring</u> GAY/LESBIAN attorneys is:				
	G/B♂	S♂	L/B♀	S♀	Total	G/B♂	S♂	L/B♀	S♀	Total	G/B♂	S♂	L/B♀	S♀	Total
more severe	9.2	3.1	23.3	17.3	10.3	14.3	5.4	25.0	10.7	11.9	19.7	11.8	20.5	6.7	14.7
more lenient	14.7	7.0	4.7	2.7	8.5	27.9	19.4	13.6	18.7	21.6	4.9	4.7	4.5	5.3	4.9
no effect	63.1	82.9	37.2	68.0	67.8	41.4	66.7	27.3	52.0	50.3	51.4	64.6	29.5	52.0	53.4
don't know	13.5	7.0	34.9	12.0	13.4	16.4	8.5	34.1	18.7	16.2	23.9	18.9	45.5	36.0	27.1

Corresponds to Question 2

TABLE 3**% who believe that his/her firm/office has not taken steps necessary to do the following:**

	G/B♂	S♂	L/B♀	S♀	Total
ensure that recruitment and hiring do not discriminate on the basis of sexual orientation	34.5	21.6	40.0	21.7	28.6
ensure that lesbian and gay attorneys are not discouraged from seeking employment here	34.7	26.8	51.1	22.1	31.8
make policies and practices with respect to lesbian and gay attorneys known to job applicants	62.9	45.0	62.2	56.7	56.0
ensure that its attorney workforce reflects the diversity of the attorneys in Los Angeles County, including lesbian and gay attorneys	59.9	54.9	65.1	43.9	56.0
ensure that the work environment is as hospitable to lesbian and gay lawyers as it is to heterosexual lawyers	49.3	28.8	52.3	34.9	40.6
ensure that performance reviews and work assignments are not affected by the actual or perceived sexual orientation of lawyers	42.1	23.7	40.9	25.8	33.3
ensure that advancement and promotion decisions do not discriminate on the basis of sexual orientation	44.6	26.3	47.7	29.7	36.4
ensure that employee benefits treat lesbian and gay lawyers comparably to heterosexual lawyers	63.0	31.5	67.4	35.1	49.0
ensure that the interests and activities of lesbian and gay lawyers here are acknowledged, addressed and supported to the same extent as those of heterosexual lawyers	59.6	42.5	59.1	45.0	51.7
make policies and practices with respect to lesbian and gay attorneys known to its employees	61.7	44.7	53.5	50.0	53.3

Corresponds to Questions 3 & 18

TABLE 4

	% who believe that his/her firm/office's criteria for <u>advancement</u> of FEMALE attorneys is:					% who believe that his/her firm/office's criteria for <u>advancement</u> of ETHNIC MINORITY attorneys is:					% who believe that his/her firm/office's criteria for <u>advancement</u> of GAY/LESBIAN attorneys is:				
	G/B♂	S♂	L/B♀	S♀	Total	G/B♂	S♂	L/B♀	S♀	Total	G/B♂	S♂	L/B♀	S♀	Total
more severe	23.7	5.6	39.5	27.4	20.3	21.6	6.3	26.2	13.7	15.5	23.0	9.6	32.6	9.6	17.1
more lenient	7.2	7.2	2.3	—	5.3	9.4	13.5	9.5	5.5	10.0	1.4	3.2	—	—	1.6
no effect	49.6	77.6	34.9	57.5	58.7	44.6	69.0	28.6	52.1	52.4	44.6	61.6	32.6	47.9	49.5
don't know	19.4	9.6	23.3	15.1	15.8	24.5	11.1	35.7	28.8	22.1	30.9	25.6	34.9	42.5	31.8

Corresponds to Question 11

TABLE 5

	G/B♂	S♂	L/B♀	S♀	Total
% of people who said that a lawyer in his/her firm/office made at least one derogatory statement or joke about homosexuals or bisexuals	65.5	69.5	64.4	61.2	65.9
% of people who said that a lawyer in his/her firm/office made at least one derogatory statement or joke about someone in the firm/office that was based on that person being or being perceived to be lesbian or gay	38.2	27.5	40.9	29.8	33.4
% Believe that management in his/her office learned of such an incident(s)					
Don't know	14.2	20.0	12.8	30.7	19.0
Reported formally	2.7	2.2	6.4	2.7	3.0
Learned informally	14.2	11.1	12.8	5.3	11.4
Dealt with privately	4.1	2.2	2.1	1.3	2.7
No clear complaint process	10.8	2.2	6.4	6.7	6.7
Fear of reprisal by perpetrator	14.2	.7	19.1	4.0	8.4
Fear of reprisal by others	11.5	.7	14.9	5.3	7.2
Perceived to be unimportant	23.0	31.9	23.4	20.0	25.4
Perceived to be futile	18.9	5.2	19.1	8.0	12.3
% Believe that management response was:					
Don't know	10.1	15.6	4.3	18.7	12.8
Treated seriously	2.7	5.2	6.4	5.3	4.4
Worked to find truth	1.4	2.2	2.1	1.3	1.7
Learned facts	2.7	1.5	2.1	1.3	2.0
Initial concern, no follow-up	5.4	3.0	8.5	--	4.0
Develop a plan to correct	1.4	3.0	4.3	2.7	2.5
Indifferent	12.8	7.4	6.4	6.7	9.1
Explain away	2.0	.7	.5	.2	1.7
Embarrassed	4.1	2.2	4.3	--	2.7
Other	10.1	10.4	8.5	5.3	9.1

Corresponds to Question 12

TABLE 6

	G/B♂	S♂	L/B♀	S♀	Total
% of people who said that some or all of the clients of his/her firm/office have expressed a preference not to work with a lawyer who is (or is perceived to be) lesbian or gay	23.6	9.4	21.0	4.2	14.9
% of people who said that a partner or supervisor in his/her firm/office has expressed a preference not to work with a lawyer who is (or is perceived to be) lesbian or gay	18.7	10.0	16.6	2.8	12.6
% of people who said that at least once an attorney in his/her firm/office has been denied an assignment as a result of being or being perceived to be gay or lesbian	17.3	.8	14.3	--	8.4
% Believe that management in his/her office learned of such an incident(s)					
Don't know	2.7	4.4	6.4	4.0	4.0
Reported formally	2.0	--	4.3	--	1.2
Learned informally	7.4	3.0	8.5	1.3	4.9
Dealt with privately	2.7	.7	--	--	1.2
No clear complaint process	6.1	.7	--	--	2.5
Fear of reprisal by perpetrator	7.4	.7	10.6	--	4.2
Fear of reprisal by others	6.1	.7	4.3	--	3.0
Perceived to be unimportant	1.4	3.7	2.1	--	2.0
Perceived to be futile	8.1	1.5	6.4	2.7	4.7
% Believe that management response was:					
Don't know	2.7	4.4	2.1	5.3	3.7
Treated seriously	2.7	1.5	8.5	--	2.5
Worked to find truth	1.4	1.5	2.1	--	1.2
Learned facts	.7	.7	2.1	--	.7
Initial concern, no follow-up	.7	--	4.3	--	.7
Develop a plan to correct	2.0	.7	--	--	1.0
Indifferent	8.1	1.5	4.3	1.3	4.2
Explain away	2.0	--	2.1	--	1.0
Embarrassed	.7	--	--	--	.2
Other	5.4	3.7	4.3	1.3	4.0

TABLE 7

	G/B♂	S♂	L/B♀	S♀	Total
% of people who said that a lawyer in his/her firm/office has made a statement to the effect that an applicant or lawyer showed poor judgment by openly identifying her/himself as lesbian or gay	23.1	5.5	27.2	1.4	13.7
% of people who said that a lawyer in his/her firm/office has been asked or advised by someone in the firm/office to conceal her/his sexual orientation	17.9	--	27.9	2.7	10.2
% Believe that management in his/her office learned of such an incident(s)					
Don't know	6.8	1.5	12.8	4.0	5.2
Reported formally	1.4	.7	--	--	.7
Learned informally	3.4	--	4.3	1.3	2.0
Dealt with privately	1.4	--	4.3	1.3	1.2
No clear complaint process	2.7	--	2.1	1.3	1.5
Fear of reprisal by perpetrator	3.4	--	8.5	--	2.2
Fear of reprisal by others	3.4	--	8.5	--	2.2
Perceived to be unimportant	.7	3.0	4.3	--	1.7
Perceived to be futile	7.4	--	8.5	--	3.7
% Believe that management response was:					
Don't know	4.1	.7	10.6	4.0	3.7
Treated seriously	--	.7	2.1	--	.5
Worked to find truth	--	--	--	--	--
Learned facts	.7	--	--	--	.2
Initial concern, no follow-up	--	--	--	--	--
Develop a plan to correct	.7	1.5	--	--	.7
Indifferent	5.4	2.2	6.4	1.3	3.7
Explain away	2.0	--	6.4	--	1.5
Embarrassed	1.4	--	4.3	--	1.0
Other	4.7	--	2.1	1.3	2.2

Corresponds to Question 14

TABLE 8

**% who believe that the effect to an attorney in his/her firm/office of the following would be
HARMFUL to his/her career prospects:**

	G/B♂	S♂	L/B♀	S♀	Total
Letting peers know that he/she is gay/lesbian	44.1	32.6	36.6	26.5	36.2
Letting subordinates know that he/she is gay/lesbian	36.1	29.1	35.7	29.4	32.5
Letting supervisors/superiors know that he/she is gay/lesbian	47.9	34.9	50.0	33.3	41.1
Letting selected clients know that he/she is gay/lesbian	41.5	43.1	43.6	50.8	43.9
Letting all clients know that he/she is gay/lesbian	76.2	66.4	71.8	83.9	73.8
Taking on lesbian or gay-related pro bono work	29.5	19.0	32.5	31.3	26.6
Becoming active in gay or lesbian community organizations	34.7	26.2	37.5	35.3	32.3
Discussing gay or lesbian issues or community activities in the office	37.5	33.9	41.0	38.6	36.9
Discussing his/her personal or family life involving a same-sex partner	48.6	45.2	46.3	43.7	46.3
Displaying a picture of a same-sex partner in his/her office	47.8	29.4	45.2	39.1	39.7
Displaying indicators of gay or lesbian community involvement in his/her office	51.1	43.5	53.7	46.3	48.0
Bringing a same-sex date to an internal office event (without clients/outside) where dates are appropriate	45.4	31.7	41.0	31.8	37.9
Bringing a same-sex date to an outside social or professional event where dates are appropriate	55.5	36.3	50.0	43.1	46.2

TABLE 9

% who believe they are disadvantaged in the following aspects of their current job:

	G/B♂	S♂	L/B♀	S♀	Total
Opportunity for advancement	34.4	17.5	25.0	29.9	27.4
Respect by colleagues within firm/office	7.9	.9	9.3	8.5	6.0
Respect by client(s)	2.3	.8	7.7	2.9	2.5
Personal status/prestige within profession	10.5	10.1	7.1	14.1	10.7
Intellectually challenging work	16.7	10.0	11.4	12.7	13.2
Colleagues perception that I fit in socially and personally	17.0	6.1	19.0	11.6	12.8
Adequate feedback on work	29.5	15.9	32.6	38.5	27.4
Superiors/colleagues willingness to provide advice and assistance	15.1	7.8	13.6	13.2	12.3
Availability of a mentor or mentors	22.2	24.0	35.7	39.7	27.9
Encouragement to participate in firm/office activities and management	34.1	10.6	33.3	28.4	25.7
Encouragement to participate in community activities of interest to me	39.7	20.2	37.5	35.5	32.7

Corresponds to Question 21

TABLE 10

% who are DISSATISFIED with the following aspects of his/her job:

	G/B♂	S♂	L/B♀	S♀	Total
Pay and fringe benefits	23.9	18.8	37.8	12.7	21.8
Number of hours you work	28.3	37.0	36.4	33.3	33.0
Relations with male co-workers	12.9	3.5	20.9	10.0	10.4
Relations with female co-workers	2.2	1.8	2.4	4.4	2.5
Help you receive from support staff	15.8	12.8	18.2	21.1	16.2
Opportunity for advancement	24.8	19.0	27.9	25.4	23.6
Challenging opportunities	17.3	6.1	15.9	14.1	13.0
Respect and prestige	9.9	9.2	15.9	11.1	10.6
Job security	23.4	12.9	18.6	21.7	19.2
General working conditions	22.1	8.4	36.4	15.7	18.2
Pro bono opportunities	28.6	18.5	35.9	37.1	27.8
Overall job satisfaction	20.6	10.3	21.4	18.6	17.0

Corresponds to Question 22

TABLE 11

% who believe that GAY and LESBIAN attorneys have fared WORSE than similarly-situated heterosexual attorneys in Los Angeles County in terms of:

	G/B♂	S♂	L/B♀	S♀	Total
Annual income	37.2	18.8	40.5	25.7	29.3
Working relationship with clients	41.0	25.8	37.2	27.0	32.9
Contacts with potential clients	57.0	25.8	55.8	27.0	40.8
Success in attracting lucrative legal work	52.1	24.2	55.8	18.9	37.0
Working relationships with office colleagues	48.3	25.0	54.8	31.5	38.1
Social relationships with office colleagues	68.3	38.3	65.1	38.9	52.6
Contacts with lawyers outside the firm/office	39.3	20.3	47.6	19.2	30.2
Achieving visibility within professional associations	44.8	18.8	44.2	21.6	31.8

Corresponds to Question 24

TABLE 12

% who have experienced or witnessed discrimination to themselves or other attorneys based on being or being perceived to be lesbian or gay	G/B♂	S♂	L/B♀	S♀	TOTAL
	58.3	17.2	67.4	24.0	38.6

	% EXPERIENCED					% WITNESSED				
	G/B♂	S♂	L/B♀	S♀	TOTAL	G/B♂	S♂	L/B♀	S♀	TOTAL
Discrimination in hiring	16.2	--	6.4	--	6.7	22.3	8.2	29.8	5.3	15.3
Discrimination in pay	8.1	--	10.6	--	4.2	7.4	--	8.5	2.7	4.2
Discrimination in work assignments	11.5	--	6.4	--	5.0	16.9	3.8	17.0	9.3	11.2
Discrimination in work evaluations	8.8	--	6.4	--	4.0	18.9	3.0	25.5	8.0	12.4
Discrimination in promotion/advancement at work	14.9	--	19.1	--	7.7	23.6	6.0	19.1	8.0	14.4
Discrimination in/by professional organizations	4.1	--	6.4	--	2.2	4.1	2.3	10.6	1.3	3.7
Discrimination by clients in attorney selection	6.1	--	10.6	--	3.5	10.8	6.0	14.9	1.3	7.9
Adverse rulings/treatment by judges or other officials	4.1	--	4.3	--	2.0	4.1	.8	14.9	2.7	4.0
Discrimination in academic evaluations	4.7	--	6.4	--	2.5	4.1	1.5	8.5	--	3.0
Verbal abuse or harassment	15.5	--	17.0	1.3	7.9	18.9	8.3	25.5	12.0	14.9
Exclusion from social functions or groups	18.9	--	17.0	1.3	9.2	20.3	6.1	25.5	13.3	14.9
Other	2.7	--	2.1	1.3	1.5	3.4	1.5	2.1	5.3	3.0

TABLE 13

**% identifying following reasons for changing or seeking to change jobs,
during the last 5 years:**

	G/B♂	S♂	L/B♀	S♀	Total
Does not apply	44.5	52.6	34.0	36.0	44.4
Actual or prospective closing or dissolution of firm/office	8.2	7.4	4.3	6.7	7.2
Actual or prospective layoff due to financial difficulties of firm/office	10.3	6.7	10.6	5.3	8.2
Asked to leave or terminated by employer	11.6	1.5	4.3	2.7	5.7
Higher paying or more prestigious position elsewhere	15.8	9.6	12.8	16.0	13.4
Work not sufficiently challenging	10.2	7.4	19.1	12.0	10.6
Opportunities for advancement were limited	19.0	17.8	27.7	28.0	21.3
Insufficient responsibility or courtroom/client exposure	6.8	6.7	17.0	6.7	7.9
Insufficient or ineffective training or mentoring	7.5	2.2	12.8	10.7	6.9
Level of pressure/tension on the job was too great	14.4	5.2	19.1	12.0	11.4
Lack of personal compatibility with colleagues	10.9	4.4	12.8	12.0	9.2
Disagreement with management policies/practices	10.3	10.4	19.1	21.3	13.4
Amount of time required was excessive	9.6	7.4	6.4	9.3	8.4
Wanted more time for family/personal life	7.5	7.4	8.5	22.7	10.4
Wanted more time for community/pro bono/political activities	6.2	3.0	10.6	6.7	5.7
Wanted to own and manage own practice	3.4	8.9	6.4	8.0	6.5
Insufficient number of minority attorneys in work setting	1.4	.7	8.5	1.3	2.0
Insufficient number of women attorneys in work setting	.7	--	6.4	2.7	1.5
General atmosphere of intolerance and discrimination	13.5	.7	8.5	5.3	7.2
Observed discrimination against others	7.6	--	8.5	5.3	4.7
on the basis of gender	5.5	--	12.8	4.0	4.2
race or ethnicity	3.4	--	8.5	8.5	2.7
disability	1.4	--	--	--	.5
sexual orientation	6.2	--	12.8	2.7	4.2
Personal experience of discrimination	9.7	--	8.5	8.0	6.0
on the basis of gender	--	--	8.5	8.0	2.5
race or ethnicity	.7	--	--	--	.2
disability	--	--	--	--	--
sexual orientation	9.7	--	10.6	--	4.7
Moved out of city or state	2.8	2.2	12.8	5.3	4.2
Facilitates spouse/partner's employment/professional opportunities	.7	.7	2.1	1.3	1.0
Other	8.9	5.2	6.4	6.7	6.9

CI-13

TABLE 14A

**% who, comparing themselves to heterosexual white male attorneys of similar seniority
in their firm/office, believe that:**

	G/B♂		S♂		L/B♀		S♀	
	Less	More	Less	More	Less	More	Less	More
My compensation is	11.2	7.8	7.7	15.4	42.4	6.1	22.4	13.8
My opportunity for advancement is	28.9	6.1	9.9	7.7	50.0	8.8	36.7	11.7
My opportunity to work on matters considered by the firm/office as important and challenging is	11.1	12.8	6.3	15.8	30.3	15.2	15.0	13.3
The amount of encouragement and appreciation I receive from my superiors/colleagues is	16.2	9.4	11.7	11.7	40.0	14.3	30.4	7.1
The amount of mentoring and other assistance I receive from my superiors/colleagues is	19.0	6.9	13.0	8.7	38.9	16.7	31.0	5.2
The expectations of my performance by my superiors/colleagues is	4.2	17.6	4.3	21.5	8.6	40.0	12.1	19.0
The extent of my participation in management is	25.0	13.4	7.5	23.7	45.5	15.2	35.6	13.6
The extent of my out-of-office socializing with my superiors/colleagues is	51.8	6.3	25.3	5.7	62.9	11.4	50.0	7.4
My opportunity for contact with persons who are in a position to refer lucrative legal matters to me is	38.2	5.6	15.7	13.3	70.4	3.7	44.2	3.8

TABLE 14B

% who, comparing themselves to heterosexual white male attorneys of similar seniority in their firm/office, believe that the amount of professional regard/respect they receive:

	G/B♂		S♂		L/B♀		S♀	
	Less	More	Less	More	Less	More	Less	More
From superiors/supervisors in my firm/office is	16.1	13.6	7.1	18.8	34.3	28.6	30.5	15.3
From clients is	2.8	17.8	1.1	26.7	46.4	14.3	30.0	11.7
From judges/hearing officers is	2.2	9.9	1.2	21.4	33.3	13.3	34.0	10.0
From attorney peers/colleagues is	3.4	8.4	2.2	24.7	23.5	11.8	20.3	8.5
From opposing attorneys is	3.7	9.2	1.1	22.0	51.5	9.1	39.3	12.5
From courtroom personnel is	--	13.6	2.4	18.1	36.7	13.3	13.7	13.7
From the public is	4.7	9.3	--	17.0	29.0	12.9	24.1	12.1
From my firm/office staff is	4.2	20.2	2.1	27.7	25.0	25.0	24.6	16.4

Corresponds to Question 23

TABLE 15

% of homosexual and bisexual respondents whose professional colleagues/coworkers are aware of their sexual orientation:

	G/B♂			L/B♀		
	None/Unsure	Some	Most/All	None/Unsure	Some	Most/All
Supervisors/Superiors	23.9	18.8	57.2	29.3	12.2	58.5
Clients	51.9	37.2	10.9	55.0	40.0	5.0
Judges/Hearing Officers	72.0	21.6	6.3	69.3	20.5	10.3
Attorney peers/Colleagues	17.6	43.7	38.7	13.6	45.5	40.9
Opposing attorneys	66.6	29.4	4.0	56.4	30.8	12.8
Courtroom personnel	77.3	15.5	7.3	79.5	15.4	5.1
Non-attorney office staff	22.8	28.6	48.6	27.9	20.9	51.2

TABLE 16

**% who believe that social activities are very or somewhat important
to advancement of attorneys in his/her firm/office:**

G/B♂ L/B♀	S♂ S♀	Total
61.7	42.7	51.9

Private Firm Respondents	Self-employed Respondents	In-house Respondents	Non-profit & Government Respondents	Lobbyist Respondents
58.2	45.7	38.9	39.0	8.3

APPENDIX C-2
SUMMARIES OF SURVEY DATA
EMPLOYER SURVEY RESPONSES

TABLE 1

**% OF EMPLOYERS WHO HAVE A WRITTEN NON-DISCRIMINATION POLICY
THAT EXPLICITLY COVERS LESBIANS AND GAYS
TO THE SAME EXTENT AS WOMEN AND PEOPLE OF COLOR
(BY SIZE OF EMPLOYER)**

	LARGE	MEDIUM	SMALL	TOTAL
YES	83.3%	25.0%	70.0%	67.2%
NO	13.37%	56.3%	10.0%	22.4%
NO COMPARABLE ACTION TAKEN	3.3%	18.8%	20.0%	10.4%
DO NOT KNOW	--	--	--	--

TABLE 2

**% OF EMPLOYERS WHO HAVE A WRITTEN NON-DISCRIMINATION POLICY
THAT EXPLICITLY COVERS LESBIANS AND GAYS
TO THE SAME EXTENT AS WOMEN AND PEOPLE OF COLOR
(BY TYPE OF EMPLOYER)**

	LAW FIRM	CORPORATE LAW OFFICE	OTHER	TOTAL
YES	64.4%	75.0%	66.7%	67.2%
NO	24.4%	25.0%	11.1%	22.4%
NO COMPARABLE ACTION TAKEN	11.1%	--	22.2%	10.4%
DO NOT KNOW	--	--	--	--

TABLE 3

**% OF EMPLOYERS THAT PROVIDE TRAINING
FOR INTERVIEWERS ABOUT APPROPRIATE
AREAS OF INQUIRY
(BY SIZE OF EMPLOYER)**

	LARGE	MEDIUM	SMALL	TOTAL
YES	73.3%	47.1%	63.6%	63.2%
NO	13.3%	29.4%	18.2%	22.1%
NO COMPARABLE ACTION TAKEN	13.3%	23.5%	18.2%	14.7%
DO NOT KNOW	--	--	--	--

TABLE 4

**% OF EMPLOYERS THAT PROVIDE TRAINING
FOR INTERVIEWERS ABOUT APPROPRIATE
AREAS OF INQUIRY
(BY TYPE OF EMPLOYER)**

	LAW FIRM	CORPORATE LAW OFFICE	OTHER	TOTAL
YES	59.6%	75.0%	62.5%	63.2%
NO	25.5%	16.7%	12.5%	22.1%
NO COMPARABLE ACTION TAKEN	14.9%	8.3%	25.0%	14.7%
DO NOT KNOW	--	--	--	--

TABLE 5

**% OF EMPLOYERS THAT GIVE
GUIDANCE TO SEARCH FIRMS
ON THE EMPLOYER'S NONDISCRIMINATION POLICY
(BY SIZE OF EMPLOYER)**

	LARGE	MEDIUM	SMALL	TOTAL
YES	32.0%	6.7%	--	15.3%
NO	52.0%	66.7%	60.0%	54.2%
NO COMPARABLE ACTION TAKEN	16.0%	26.7%	40.0%	30.5%
DO NOT KNOW	--	--	--	--

TABLE 6

**% OF EMPLOYERS THAT GIVE
GUIDANCE TO SEARCH FIRMS
ON THE EMPLOYER'S NONDISCRIMINATION POLICY
(BY TYPE OF EMPLOYER)**

	LAW FIRM	CORPORATE LAW OFFICE	OTHER	TOTAL
YES	15.0%	18.2%	14.3%	
NO	60.0%	54.5%	14.3%	
NO COMPARABLE ACTION TAKEN	25.0%	27.3%	71.4%	
DO NOT KNOW	--	--	--	--

TABLE 7

**% OF EMPLOYERS THAT INCLUDE LESBIANS AND GAYS
IN THE INTERVIEW PROCESS**

	IN HIRING COMMITTEE APPOINTMENTS	DURING IN-OFFICE INTERVIEWS	DURING ON CAMPUS INTERVIEWS
YES	39.6%	41.2%	29.8%
NO	22.9%	21.6%	23.4%
NO COMPARABLE ACTIONS TAKEN	37.5%	37.3%	46.8%
DO NOT KNOW	--	--	--

TABLE 8

**% OF EMPLOYERS THAT HAVE POLICIES AND PROCEDURES
TO ENSURE THAT PERFORMANCE REVIEWS AND WORK ASSIGNMENTS
ARE NOT AFFECTED BY ACTUAL OR PERCEIVED
SEXUAL ORIENTATION OF ATTORNEYS**

	LARGE	MEDIUM	SMALL	TOTAL
YES	66.7%	43.8%	63.6%	60.9%
NO	3.3%	18.8%	9.1%	8.7%
NO COMPARABLE ACTION TAKEN	30.0%	37.5%	27.3%	30.4%
DO NOT KNOW	--	--	--	--

TABLE 9

**% OF EMPLOYERS THAT HAVE POLICIES AND PROCEDURES
TO ENSURE THAT PERFORMANCE REVIEWS AND WORK ASSIGNMENTS
ARE NOT AFFECTED BY ACTUAL OR PERCEIVED
SEXUAL ORIENTATION OF ATTORNEYS**

	LAW FIRM	CORPORATE LAW OFFICE	OTHER	TOTAL
YES	4.4%	84.6%	33.3%	60.9%
NO	53.3%	--	22.2%	8.7%
NO COMPARABLE ACTION TAKEN	42.2%	15.4%	44.4%	30.4%
DO NOT KNOW	--	--	--	--

TABLE 10

**% OF EMPLOYERS THAT HAVE EDUCATION PROGRAMS
TO COVER ISSUES RELATED TO
GAYS AND LESBIANS**

YES	9.2%
NO	55.4%
NO COMPARABLE ACTION TAKEN	35.4%
DO NOT KNOW	--

TABLE 11

**% OF EMPLOYERS THAT HAVE STATED GOALS
FOR GAYS AND LESBIANS**

YES	5.7%
NO	55.7%
NO COMPARABLE ACTION TAKEN	35.7%
DO NOT KNOW	2.9%

TABLE 12

**% OF EMPLOYERS THAT HAVE HEARD, SEEN, OR BEEN
MADE AWARE OF CONDUCT DIRECTED TOWARDS
OR CONCERNING LESBIANS AND GAYS**

	DEROGATORY STATEMENTS OR JOKES RE LESBIANS AND GAYS GENERALLY	DEROGATORY STATEMENTS OR JOKES RE AN INDIVIDUAL IN EMPLOYER'S OFFICE
YES	26%	8%
NO	74%	92%
RESPONSE:		
1. TREATED THEM SERIOUSLY	25%	50%
2. WORKED TO DETERMINE TRUTH OF THE ALLEGATIONS (LEARN RELEVANT FACTS)	25%	--
3. DEVELOPED A PLAN TO CORRECT PROBLEM	44%	50%

TABLE 13

**% OF EMPLOYERS WHO HAVE A WRITTEN NON-DISCRIMINATION POLICY
THAT EXPLICITLY COVERS LESBIANS AND GAYS
TO THE SAME EXTENT AS WOMEN AND PEOPLE OF COLOR
(BY SIZE OF EMPLOYER)**

	LARGE	MEDIUM	SMALL	TOTAL
YES	83.3%	25.0%	70.0%	67.2%
NO	13.37%	56.3%	10.0%	22.4%
NO COMPARABLE ACTION TAKEN	3.3%	18.8%	20.0%	10.4%
DO NOT KNOW	--	--	--	--

TABLE 14

**% OF EMPLOYERS WHO INCLUDE THEIR NON-DISCRIMINATION POLICY
IN THEIR "WELCOMING PACKET"
(BY TYPE OF EMPLOYER)**

	LAW FIRM	CORPORATE LAW OFFICE	OTHER	TOTAL
YES	43.6%	53.8%	33.3%	45.8%
NO	23.1%	30.8%	--	22.0%
NO COMPARABLE ACTION TAKEN	33.3%	15.4%	66.7%	32.2%
DO NOT KNOW	--	--	--	--

TABLE 15

**% OF EMPLOYERS WHO HAVE REVIEWED THEIR
BENEFITS POLICIES TO ENSURE THAT
GAY AND LESBIAN ATTORNEYS ARE TREATED FAIRLY**

YES	54.0%
NO	46.0%

TABLE 16

**% OF EMPLOYER POLICIES THAT ARE
GENDER OR MARITAL STATUS NEUTRAL**

	GENDER NEUTRAL PARENTAL LEAVE/ PART TIME POLICY	GENDER NEUTRAL PARENTAL LEAVE/PART TIME POLICY (IRRESPECTIVE OF BIOLOGICAL RELATIONSHIP)	MARITAL STATUS NEUTRAL PARENTAL LEAVE/ PART TIME POLICY
YES	67.2%	70.3%	67.8%
NO	20.3%	17.2%	13.6%
NO COMPARABLE ACTION TAKEN FOR HETEROSEXUALS	12.5%	12.5%	18.6%

TABLE 17**% OF EMPLOYERS WHO EXTEND CERTAIN POLICIES
TO SAME-SEX DOMESTIC PARTNERS**

	BEREAVEMENT LEAVE	REIMBURSEMENT OF MOVING COSTS	EMPLOYMENT ASSISTANCE BENEFITS (e.g. substance abuse or crisis counseling)	HEALTH BENEFITS ON THE SAME OR SIMILAR BASIS AS SPOUSES OF HETEROSEXUAL ATTORNEYS
YES	50.8%	19.6%	15.1%	15.1%
NO	23.7%	26.8%	35.8%	64.2%
NO COMPARABLE ACTION TAKEN FOR HETEROSEXUALS	25.4%	53.6%	49.1%	20.8%

TABLE 18

**% OF EMPLOYERS WHO PAY BAR DUES TO
LESBIAN AND GAY BAR ASSOCIATIONS**

YES	34.9%
NO	28.6%
NO COMPARABLE ACTION TAKEN FOR WOMEN OR PEOPLE OF COLOR	36.9%

TABLE 19

**% OF EMPLOYERS WHO ALLOW ATTORNEYS TO INVITE
SAME-SEX GUESTS TO OFFICE-SPONSORED SOCIAL EVENTS;
ATTORNEY ATTENDANCE WITH GUESTS**

	HOW OFTEN GAY/LESBIAN ATTORNEYS ARE WELCOME TO BRING SAME SEX GUEST TO OFFICE-SPONSORED SOCIAL EVENTS	HOW OFTEN GAY/LESBIAN ATTORNEYS BRING SAME SEX GUESTS
ALWAYS	93.7%	13.0%
SOMETIMES	4.8%	71.7%
NEVER	1.6%	15.2%

TABLE 20

**% OF EMPLOYERS THAT TAKE STEPS IN
RECRUITMENT AND HIRING OF GAYS AND LESBIANS
TO THE SAME EXTENT STEPS ARE TAKEN
FOR WOMEN AND PEOPLE OF COLOR**

	IDENTIFY ATTORNEYS WHO VOLUNTEER TO BE CONTACTS RE GAY AND LESBIAN ISSUES IN THE WORKPLACE	ACTIVELY RECRUIT GAYS AND LESBIANS	INCLUDE GAYS AND LESBIANS AS PART OF HIRING COMMITTEES	INCLUDE GAYS AND LESBIANS IN IN-OFFICE INTERVIEWING	INCLUDE GAYS AND LESBIANS IN ON-CAMPUS INTERVIEWING
YES	9.2%	6.0%	39.6%	41.2%	29.8%
NO	69.2%	76.1%	22.9%	21.6%	23.4%
NO COMPARABLE ACTION TAKEN	21.5%	17.9%	37.5%	37.3%	46.8%

TABLE 21

**FORMS OF SUPPORT PROVIDED TO LESBIANS AND GAYS
COMPARED TO WOMEN AND PEOPLE OF COLOR**

	PEER GROUP COUNSELING OR MENTORING	NEWSLETTERS WHICH CONTAIN REPORTS RE ACTIVITES ON BEHALF OF LESBIANS AND GAYS	EMPLOYEE MEETINGS WHICH INCLUDE ISSUES RELATED TO LESBIANS AND GAYS
YES	3.1%	22.6%	12.5%
NO	49.2%	24.5%	43.8%
NO COMPARABLE ACTION TAKEN	47.7%	52.8%	43.8%

APPENDIX C-3
SUMMARIES OF SURVEY DATA

STATE BAR DATA

SRI International

January 1994

1991 DEMOGRAPHIC SURVEY OF THE STATE BAR OF CALIFORNIA

COMPARISONS OF GAY AND NON-GAY STATE BAR MEMBERS

Prepared for:

**Standing Committee on Sexual Orientation Discrimination
THE STATE BAR OF CALIFORNIA
555 Franklin Street
San Francisco, CA 94102**

**COMPARISONS OF GAY* AND NON-GAY STATE BAR MEMBERS :
PERCENTAGE DISTRIBUTION BY LEGAL POSITION, BY AGE,
AND BY YEARS IN PRACTICE**

Legal Position	Age			
	Under 40***		40 or Older*	
	Gay	Non-Gay	Gay	Non-Gay
Sole practitioner	12	13	38	38
Partner	6	21	24	33
Associate	57	45	16	8
Corporate in-house counsel	11	7	8	8
Government attorney	14	14	14	13
TOTAL	100	100	100	100
<i>Number of respondents</i>	<i>144</i>	<i>3953</i>	<i>104</i>	<i>4596</i>

Legal Position	Years in Practice			
	Fewer than 10**		10 or More**	
	Gay	Non-Gay	Gay	Non-Gay
Sole practitioner	16	14	31	35
Partner	4	11	26	38
Associate	60	54	13	6
Corporate in-house counsel	10	6	11	9
Government attorney	10	15	19	12
TOTAL	100	100	100	100
<i>Number of respondents</i>	<i>142</i>	<i>3417</i>	<i>111</i>	<i>5126</i>

*Survey respondents who identified themselves as members of the gay, lesbian, or bisexual community.

☆ The overall difference between gays and non-gays is statistically significant ($p < .05$).

☆☆ The overall difference between gays and non-gays is statistically significant ($p < .01$).

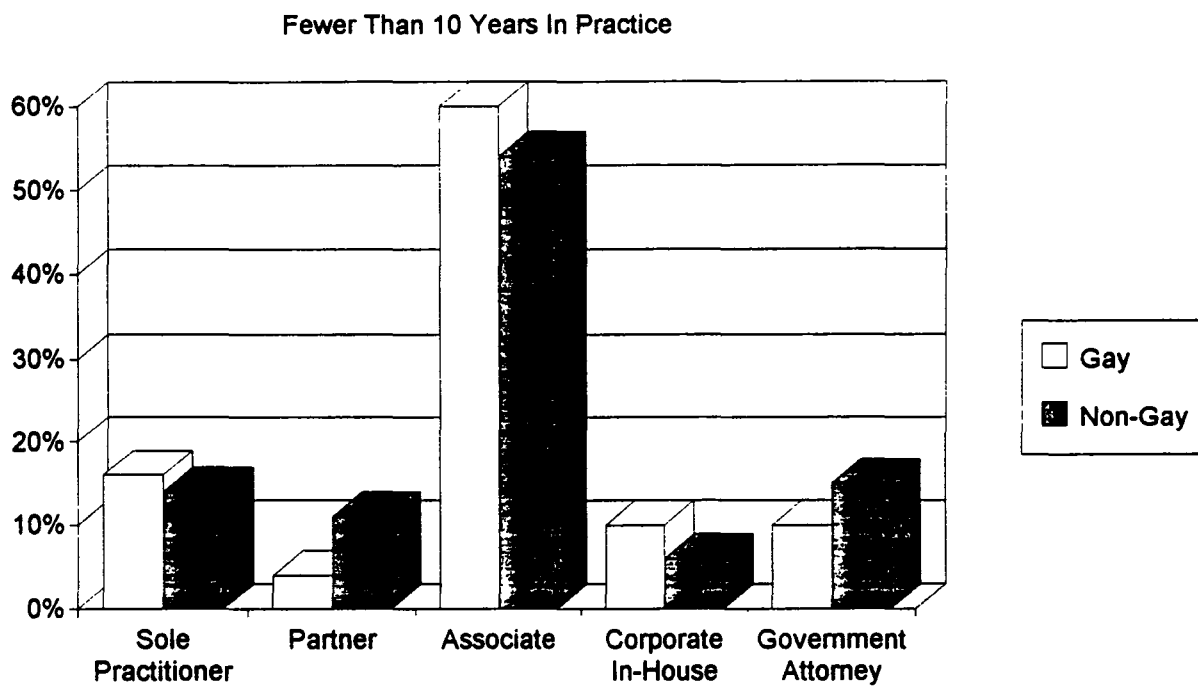
☆☆☆ The overall difference between gays and non-gays is statistically significant ($p < .001$).

Source: 1991 SRI International survey of members of the State Bar of California

COMPARISON OF GAY AND NON-GAY MEMBERS
OF THE STATE BAR OF CALIFORNIA

Figure 1-A

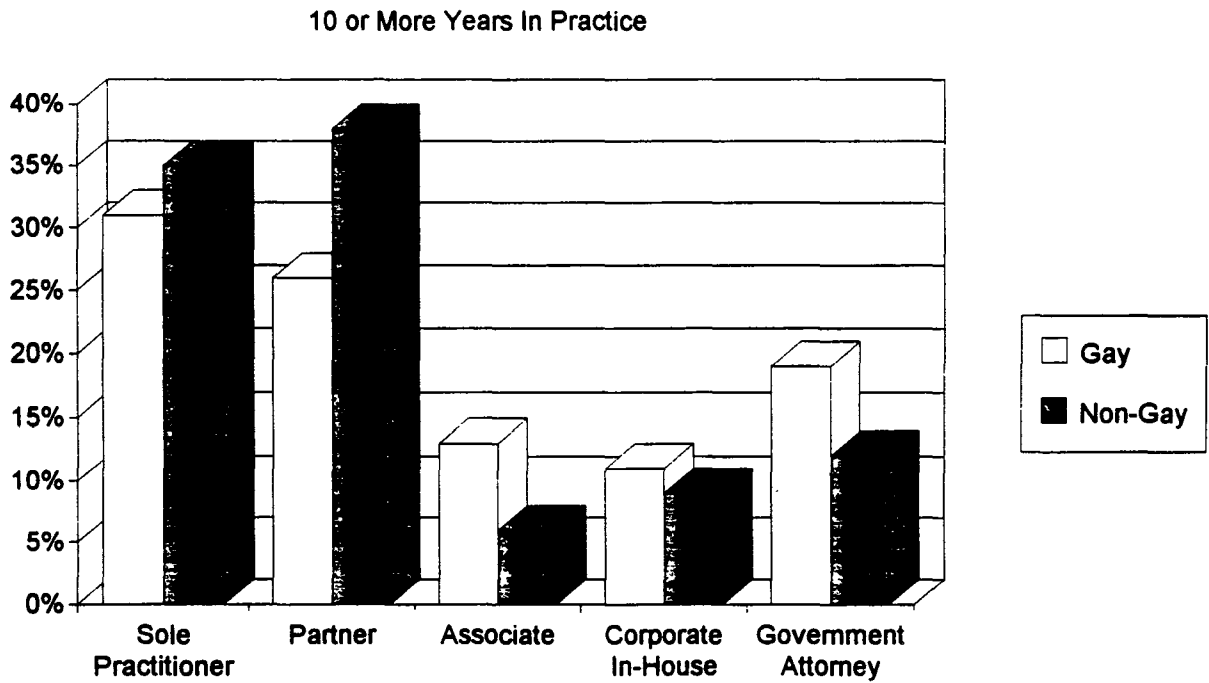
Percentage Distribution by Legal Position
(Fewer Than 10 Years in Practice)



COMPARISON OF GAY AND NON-GAY MEMBERS
OF THE STATE BAR OF CALIFORNIA

Figure 1-B

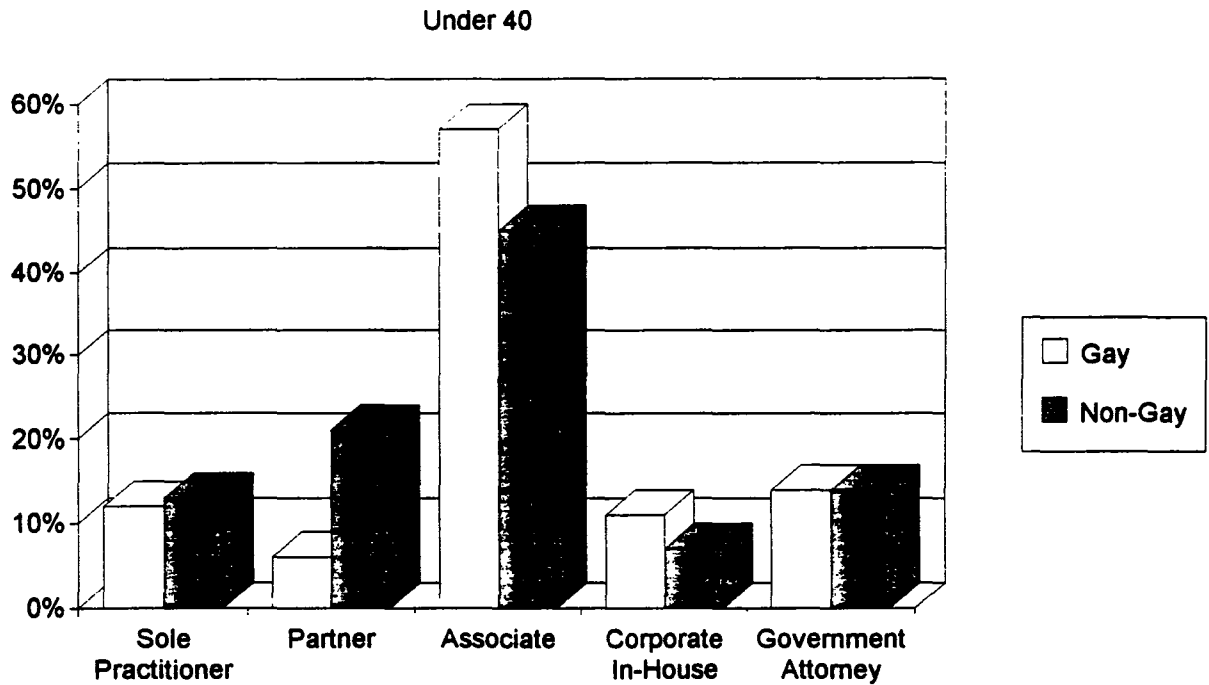
Percentage Distribution by Legal Position
(10 or More Years in Practice)



COMPARISON OF GAY AND NON-GAY MEMBERS
OF THE STATE BAR OF CALIFORNIA

Figure 1-C

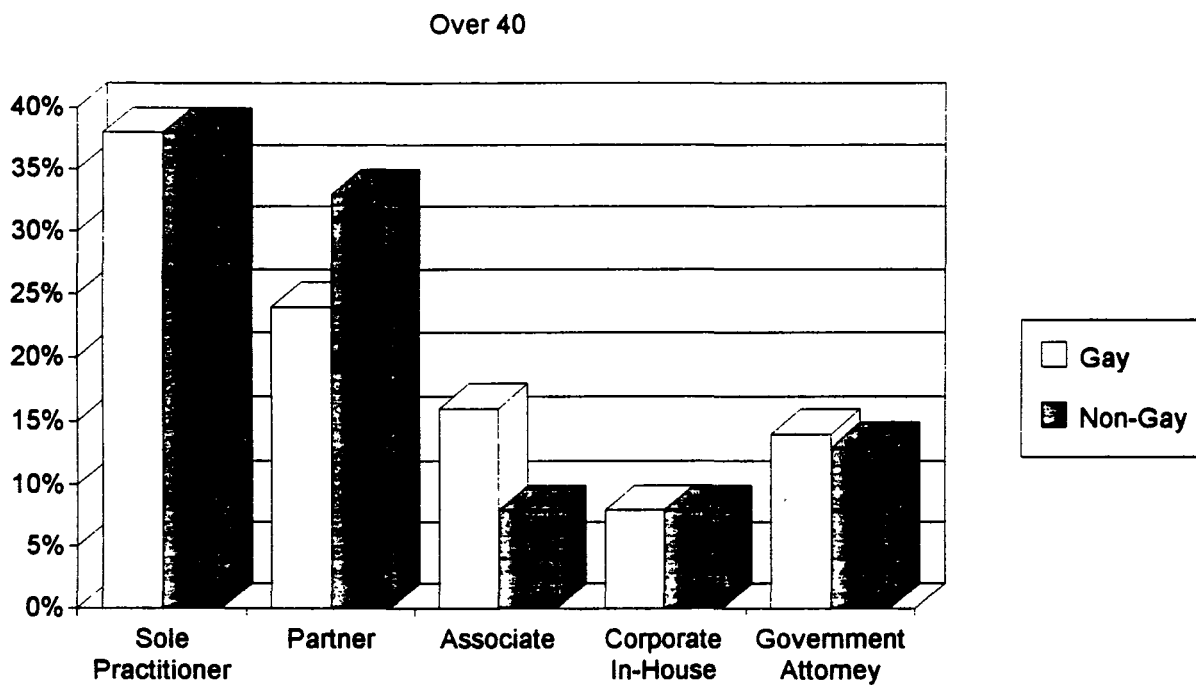
Percentage Distribution by Legal Position
(Under 40 Years of Age)



COMPARISON OF GAY AND NON-GAY MEMBERS
OF THE STATE BAR OF CALIFORNIA

Figure 1-D

Percentage Distribution by Legal Position
(40 or More Years of Age)



**COMPARISONS OF GAY* AND NON-GAY STATE BAR MEMBERS :
PERCENTAGE DISTRIBUTION OF ATTORNEYS IN LAW FIRMS
BY SIZE OF LAW FIRM, BY AGE, AND BY YEARS IN PRACTICE**

Number of Attorneys in Law Firm	Age			
	Under 40☆☆		40 or Older	
	Gay	Non-Gay	Gay	Non-Gay
5 or fewer	12	20	42	34
6 to 20	14	26	18	27
21 to 75	30	23	13	17
More than 75	44	31	27	22
TOTAL	100	100	100	100
<i>Number of respondents</i>	92	2622	45	1982

Number of Attorneys in Law Firm	Years in Practice			
	Fewer than 10		10 or More☆	
	Gay	Non-Gay	Gay	Non-Gay
5 or fewer	13	20	39	32
6 to 20	20	24	9	28
21 to 75	27	24	19	17
More than 75	40	32	33	23
TOTAL	100	100	100	100
<i>Number of respondents</i>	91	2232	46	2353

*Survey respondents who identified themselves as members of the gay, lesbian, or bisexual community.

☆ The overall difference between gays and non-gays is statistically significant ($p < .05$).

☆☆ The overall difference between gays and non-gays is statistically significant ($p < .01$).

Source: 1991 SRI International survey of members of the State Bar of California

**COMPARISONS OF GAY* AND NON-GAY STATE BAR MEMBERS :
PERCENTAGE DISTRIBUTION WHO PRACTICED LAW 35 OR MORE HOURS PER
WEEK, BY INCOME DERIVED FROM THE PRACTICE OF LAW,
BY AGE, AND BY YEARS IN PRACTICE**

Income Derived from the Practice of Law	Age			
	Under 40☆		40 or Older☆☆☆	
	Gay	Non-Gay	Gay	Non-Gay
Less than \$50,000	27	23	30	13
\$50,000 to \$74,999	40	34	25	19
\$75,000 to \$99,999	19	20	20	18
\$100,000 to \$124,999	9	8	5	12
\$125,000 to \$199,999	4	10	8	18
\$200,000 or more	1	5	12	20
TOTAL	100	100	100	100
<i>Number of respondents</i>	<i>150</i>	<i>3668</i>	<i>97</i>	<i>3909</i>

Income Derived from the Practice of Law	Years in Practice			
	Fewer than 10		10 or More☆☆	
	Gay	Non-Gay	Gay	Non-Gay
Less than \$50,000	36	31	15	9
\$50,000 to \$74,999	37	38	29	17
\$75,000 to \$99,999	17	18	23	20
\$100,000 to \$124,999	8	7	6	13
\$125,000 to \$199,999	2	5	11	20
\$200,000 or more	0	1	16	21
TOTAL	100	100	100	100
<i>Number of respondents</i>	<i>149</i>	<i>3184</i>	<i>101</i>	<i>4383</i>

*Survey respondents who identified themselves as members of the gay, lesbian, or bisexual community.

☆ The overall difference between gays and non-gays is statistically significant ($p < .05$).

☆☆ The overall difference between gays and non-gays is statistically significant ($p < .01$).

☆☆☆ The overall difference between gays and non-gays is statistically significant ($p < .001$).

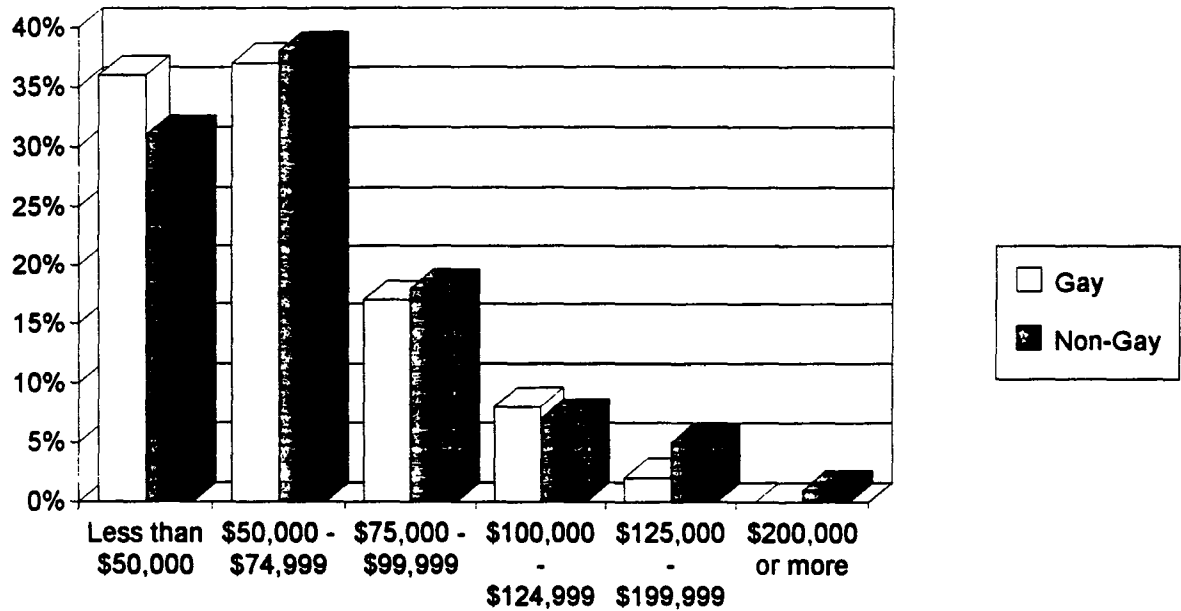
Source: 1991 SRI International survey of members of the State Bar of California

COMPARISON OF GAY AND NON-GAY MEMBERS
OF THE STATE BAR OF CALIFORNIA

Figure 3-A

Percentage Distribution by Income Derived
from the Practice of Law
(Fewer Than 10 Years in Practice)

Fewer Than 10 Years In Practice

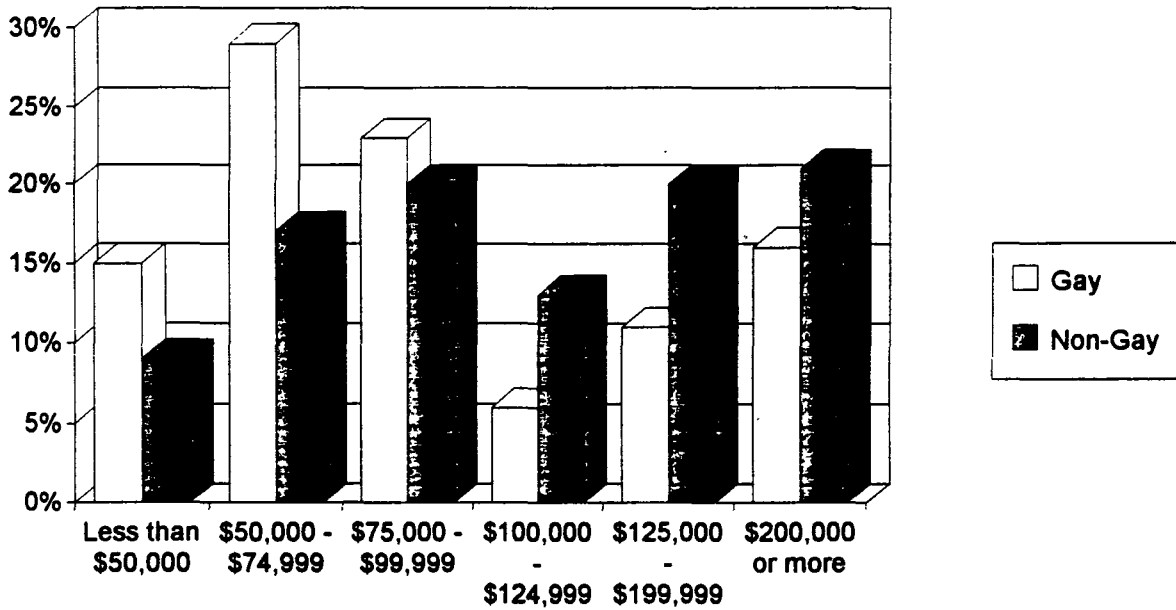


COMPARISON OF GAY AND NON-GAY MEMBERS
OF THE STATE BAR OF CALIFORNIA

Figure 3-B

Percentage Distribution by Income Derived
from the Practice of Law
(10 or More Years in Practice)

More Than 10 Years In Practice

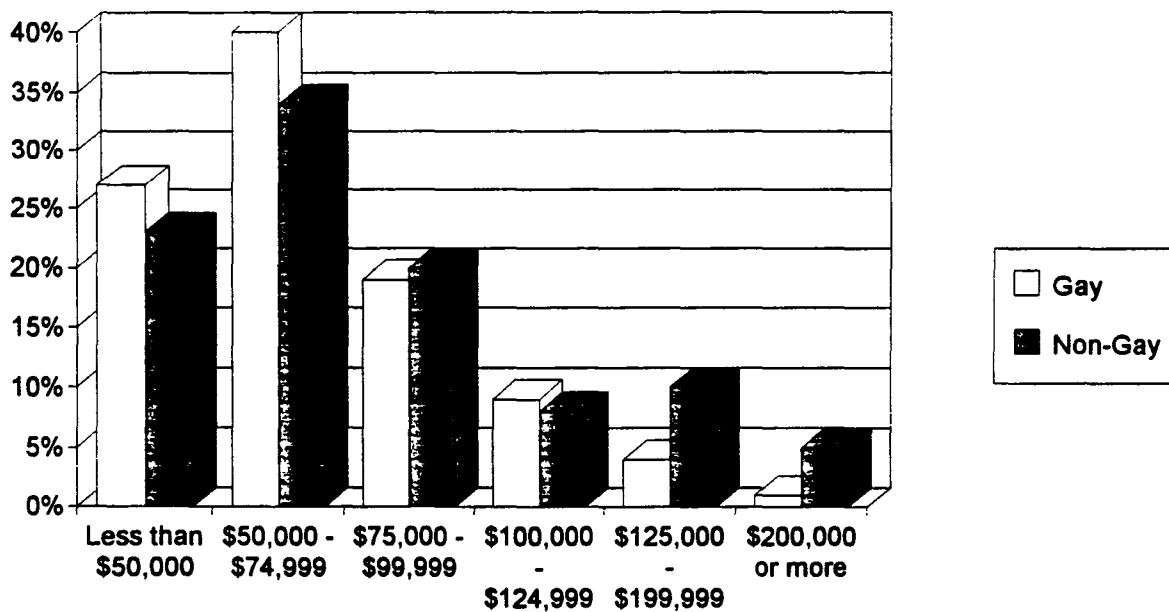


COMPARISON OF GAY AND NON-GAY MEMBERS
OF THE STATE BAR OF CALIFORNIA

Figure 3-C

Percentage Distribution by Income Derived
from the Practice of Law
(Under 40 Years of Age)

Under 40

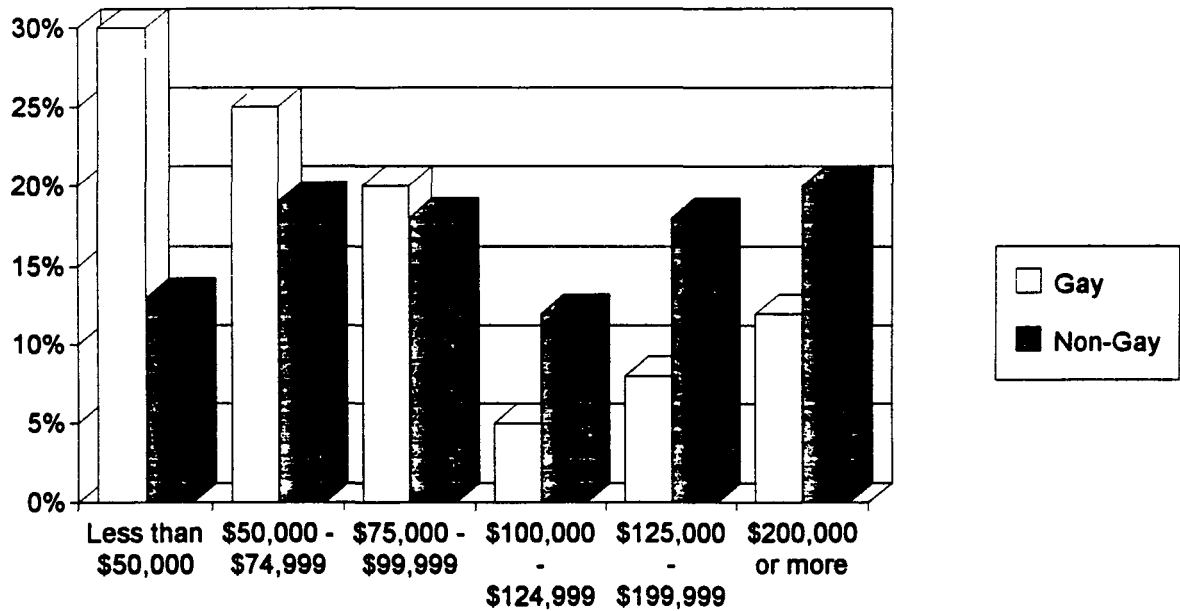


COMPARISON OF GAY AND NON-GAY MEMBERS
OF THE STATE BAR OF CALIFORNIA

Figure 3-D

Percentage Distribution by Income Derived
from the Practice of Law
(40 or More Years of Age)

40 or Older



**COMPARISONS OF GAY* AND NON-GAY STATE BAR MEMBERS :
PERCENTAGE WHO SPENT TIME ON VARIOUS TYPES OF UNCOMPENSATED
LAW-RELATED ACTIVITIES AND MEAN NUMBER OF HOURS SPENT ON
UNCOMPENSATED ACTIVITIES , BY AGE**

Type of Activity	Under 40		40 or Older	
	Gay	Non-Gay	Gay	Non-Gay
Free legal services to indigent clients, provided through an organized program	29☆☆☆	18	26☆☆☆	13
Free legal services to indigent clients, provided on an <i>ad hoc</i> basis	29	31	41	39
Free legal services to religious, educational, civic, or other community or charitable groups or organizations	32	31	37	38
Volunteer services to bar associations (e.g., committee work, staffing bar programs, etc.)	22	21	20	24
Any of the above-listed uncompensated law-related activities	67	61	68	65
<i>Number of respondents</i>	<i>165</i>	<i>4226</i>	<i>129</i>	<i>5342</i>
Mean number of hours spent on all of the above-listed uncompensated law-related activities (<i>of those who spent at least some time on these activities</i>)	100☆☆☆	75	127☆☆☆	89

*Survey respondents who identified themselves as members of the gay, lesbian, or bisexual community.

☆ The difference between gays and non-gays on this item is statistically significant ($p < .05$).

☆☆ The difference between gays and non-gays on this item is statistically significant ($p < .01$).

☆☆☆ The difference between gays and non-gays on this item is statistically significant ($p < .001$).

Source: 1991 SRI International survey of members of the State Bar of California

**COMPARISONS OF GAY* AND NON-GAY STATE BAR MEMBERS :
PERCENTAGE WHO SPENT TIME ON VARIOUS TYPES OF UNCOMPENSATED
LAW-RELATED ACTIVITIES AND MEAN NUMBER OF HOURS SPENT ON
UNCOMPENSATED ACTIVITIES , BY YEARS IN PRACTICE**

Type of Activity	Fewer than 10		10 or More	
	Gay	Non-Gay	Gay	Non-Gay
Free legal services to indigent clients, provided through an organized program	35☆☆☆	19	18	13
Free legal services to indigent clients, provided on an <i>ad hoc</i> basis	34	30	34	39
Free legal services to religious, educational, civic, or other community or charitable groups or organizations	35☆	27	34	40
Volunteer services to bar associations (e.g., committee work, staffing bar programs, etc.)	25☆	17	17☆	25
Any of the above-listed uncompensated law-related activities	73☆☆☆	58	60	66
<i>Number of respondents</i>	162	3680	136	5879
Mean number of hours spent on all of the above-listed uncompensated law-related activities (<i>of those who spent at least some time on these activities</i>)	112☆☆☆	74	100	88

*Survey respondents who identified themselves as members of the gay, lesbian, or bisexual community.

☆ The difference between gays and non-gays on this item is statistically significant ($p < .05$).

☆☆ The difference between gays and non-gays on this item is statistically significant ($p < .01$).

☆☆☆ The difference between gays and non-gays on this item is statistically significant ($p < .001$).

Source: 1991 SRI International survey of members of the State Bar of California

APPENDIX D
BIBLIOGRAPHY

SELECTED RESOURCE MATERIALS USED BY THE COMMITTEE
AND POTENTIALLY USEFUL TO EMPLOYERS AND OTHERS INTERESTED
IN THE COMMITTEE'S REPORT AND RECOMMENDATIONS

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APPENDIX E
SAMPLE EMPLOYER MATERIALS
REPRODUCTIONS OF SAMPLE POLICIES
AND OTHER EMPLOYER MATERIALS

MODEL DOCUMENTS REGARDING DOMESTIC PARTNER BENEFITS

Heller, Ehrman, White & McAuliffe Medical Insurance Program for Domestic Partners, including affidavits regarding spousal equivalency

Lotus Development Corporation Enrollment Instructions for Spousal Equivalent Benefit, including affidavits of spousal equivalency

Levi Strauss & Co. documents regarding benefits for domestic partners, including enrollment forms and tax tables

Blue Cross Blue Shield of Massachusetts policy regarding insurance coverage for employees with domestic partners

City of New York domestic partner policy and affidavits of domestic partnership in Stipulation of Settlement and Discontinuance of Lesbian & Gay Teachers Ass'n v. Board of Education of the City School Dist. of the City of New York

Model documents for extending group health coverage to employees' domestic partners published by Hollywood Supports Domestic Partner Task Force

Millbank, Tweed, Hadley & McCoy's policy regarding insurance coverage for employees with domestic partners, including affidavits regarding spousal equivalency

M E M O R A N D U M

TO: Everyone

FROM: Barry Levin, Chair, Insurance Committee *BSL*

DATE: August 31, 1993

RE: Medical Insurance Program for Domestic Partners

For some time, the firm has been investigating ways to offer medical insurance coverage to same-sex domestic partners. This coverage is not currently practical through the firm's indemnity or HMO providers, although we will continue to pursue this possibility and hope to encourage our insurers to change their policies.

As an interim step, the firm has developed an alternative program to provide medical insurance benefits to same-sex domestic partners, which is described in detail in the attached policy statement. Under this new program, which will become effective October 1, 1993, associates, special counsel and non-attorney staff who qualify may purchase individual medical insurance coverage (from any provider) for their same-sex domestic partner. Subject to a maximum reimbursement amount, the firm will then pay the employee the difference, if any, between the cost of such coverage and the amount a married employee would have to pay for spousal coverage under the Prudential HMO coverage offered by the firm in California -- currently \$57 per pay period (\$124 per month). The current maximum reimbursement amount will be \$26 per pay period (\$56 per month).

To qualify under this new program, the employee and his or her domestic partner must share living quarters and must be in an intimate and committed relationship of mutual caring. They must also have agreed that they will be jointly responsible for their basic living expenses.

This new program is intended to further the firm's commitment to fair and equal treatment of all employees, regardless of sexual orientation. We recognize that it is more complicated than direct coverage under the firm's group medical plans, and we realize that individual medical insurance purchased for a domestic partner may, in some cases, provide more limited coverage than the coverage provided under the firm's group plans. However, this program is the most reasonable alternative we have found in our continuing effort to provide equivalent medical insurance benefits to our gay and lesbian employees.

Questions or inquiries about the program should be addressed to Marla Morton, Employee Benefits Manager, San Francisco (room 1906; extension 6417).

HELLER EHRMAN WHITE & MCAULIFFE

MEDICAL INSURANCE PROGRAM
FOR DOMESTIC PARTNERS

Effective October 1, 1993

Heller Ehrman White & McAuliffe is committed to fair and equal treatment of all employees, irrespective of sexual orientation. To further that general policy, the firm has investigated the possibility of obtaining and offering to its gay and lesbian employees the same medical insurance coverage for their domestic partners as is available to the spouses of married employees. To date, Heller Ehrman has been unable to persuade the providers from whom the firm obtains medical coverage to offer our gay and lesbian employees the option of purchasing medical coverage for their domestic partners on a viable basis. The firm intends to revisit this issue every year at the time of contract renewal discussions with those providers, and to attempt to persuade them to offer benefit coverage to domestic partners of Heller Ehrman gay and lesbian employees on the same basis that spousal coverage is provided to married employees. In the interim, the firm adopts the following program regarding medical insurance benefits for domestic partners of gay and lesbian employees of the firm, effective October 1, 1993. This interim program will be reviewed from time to time, and may be modified or terminated by Heller Ehrman at any time, in its sole discretion.

Which Employees Are Eligible. This program will be available to all associates, special counsel and non-attorney

employees who are covered by one of the firm's medical plans.

(It will not be available to partners, or to associates, special counsel or non-attorney employees who do not qualify for the medical insurance coverage provided by Heller Ehrman.)

Definition of Domestic Partner: A domestic partner for purposes of this program means an adult person of the same gender as an employee, with whom the employee shares living quarters and an intimate and committed relationship of mutual caring, and with whom the employee has agreed that they will be jointly responsible for their basic living expenses incurred during their domestic partnership. To be considered domestic partners, the employee and the other person must provide a properly completed "Affidavit of Spousal Equivalency" (in the form attached to this memorandum) to the firm's Employee Benefits Manager in San Francisco.

Description of the Program: Under the firm's domestic partner medical insurance program, any gay or lesbian employee who is covered by one of the firm's medical plans may purchase individual medical coverage for his or her domestic partner. Upon providing satisfactory proof of the purchase of such coverage, the firm will reimburse the employee for the difference between the premium the employee is required to pay for the individual medical coverage for his or her domestic partner and the amount a married employee would have to pay for spousal coverage under the firm's Prudential HMO plan in California. Currently, this cost is \$57 per pay period (\$124 per month). The

current maximum reimbursement will be \$26 per pay period (\$56 per month).

All reimbursements from the firm will be paid each pay period, based on the prorated annual cost of the domestic partner's coverage, and will commence with the first paycheck received by the employee after the later of: (1) the effective date of the domestic partner's medical insurance coverage; or (2) the date the employee submits satisfactory proof of his or her purchase of such coverage.

To commence reimbursement, employees must submit:

(1) a copy of a properly completed Affidavit of Spousal Equivalency; (2) where applicable, a completed "Statement of Domestic Partner's Dependent Status for Purposes of Health Care Taxation"; and (3) evidence of the purchase of medical insurance coverage for his or her domestic partner, the cost thereof, and the nature of the coverage purchased. All of this documentation must be submitted to the firm's Employee Benefits Manager in San Francisco. Evidence of ongoing domestic partner coverage (such as a canceled check) must also be submitted to the Employee Benefits Manager in San Francisco on at least a quarterly basis. If such evidence is not received in a timely manner, reimbursement from the firm will stop. (No reminder notice will be sent, so employees should be sure to mark their own calendar to remind themselves of this requirement.)

Employees who use this new program should be aware that the full amount paid by the firm to subsidize medical coverage for domestic partners will be taxable income to the employee (and

will be reported as such on the employee's W-2), unless, for the relevant calendar year: (1) the employee provides more than one-half (1/2) of the support of the domestic partner; (2) the principal place of residence of the domestic partner is the same as the employee's; and (3) the relationship between the domestic partner and the employee is not in violation of local law. (This rule applies for purposes of both federal and California income taxes.) If all three of these conditions are met, any reimbursement by the firm will not be included in the employee's (or the domestic partner's) taxable income, and the value of any benefits received under the domestic partner's medical coverage will not be included in the employee's (or the domestic partner's) taxable income. However, if any of these three conditions is not met, the full amount of the firm's reimbursement will be taxable income to the employee (not to the domestic partner), and will be subject to income tax and social security withholding. In these "taxable reimbursement" situations, the value of the medical benefits received by the domestic partner (as distinguished from the firm's premium reimbursement) will still not be taxable to the employee (or the domestic partner). The firm will report any reimbursements as taxable income to the employee (on the employer's W-2), unless the employee completes a "Statement of Domestic Partner's Dependent Status for Purposes of Health Care Taxation" (in the form attached to this memorandum), and submits the signed Statement to the Employee Benefits Manager in San Francisco.

Employees should also be aware that the \$26 per pay period maximum reimbursement has been calculated on the assumption that any reimbursement will be taxable to the employee. As a result, in those cases where the reimbursement for domestic partner medical coverage is not taxable to the employee, the \$26 per pay period maximum reimbursement -- and any reimbursement payment that is less than the maximum -- will be reduced by 30%, to convert it to an after-tax equivalent.

Finally, employees should also understand that COBRA health care continuation rights will not be available to domestic partners, because their medical insurance will not be provided under one of the medical plans offered by the firm.

HELLER EHRMAN WHITE & MCAULIFFE

STATEMENT OF DOMESTIC PARTNER'S DEPENDENT STATUS
FOR PURPOSES OF HEALTH CARE TAXATION

I. STATUS:

I, _____ (employee), hereby certify that:

1. I have provided (or expect to provide) more than one-half (1/2) of the support of my domestic partner, _____ (print name of partner), during the current calendar year, and expect to continue to do so, unless and until we cease to be spousal equivalents.

2. My above-named domestic partner's principal place of residence is the same as mine.

3. To the best of my knowledge, the living relationship between me and my above-named domestic partner is not in violation of local law.

II. CHANGE IN STATUS:

I hereby agree to notify the Employee Benefits Manager of Heller Ehrman White & McAuliffe within thirty-one (31) days after any element of the status described in part I above changes. I understand that any change in such status will have an effect on the income tax consequences of my participation in the Heller Ehrman Medical Insurance Program for Domestic Partners.

III. ACKNOWLEDGEMENTS:

I affirm, under penalty of perjury, that the statements made in this Statement are true and correct to the best of my knowledge.

Employee Signature

Employee Name (please print)

Employee Address and Telephone Number

HELLER EHRMAN WHITE & MCAULIFFE

AFFIDAVIT OF SPOUSAL EQUIVALENCY

I. DECLARATION:

We, _____ and _____
employee (print) spousal equivalent (print)

hereby declare, under penalty of perjury, that we are spousal equivalents in accordance with the following criteria:

1. We have an intimate, committed relationship of mutual caring;
2. We live together (i.e., we share the same living quarters);
3. We have agreed to be jointly responsible for the basic living expenses we incur during our domestic partnership;
4. We are both at least eighteen (18) years of age and mentally competent to consent to contract;
5. We are of the same sex and neither of us is married;
6. Neither of us is related to the other as a parent, brother, sister, half-brother, half-sister, niece, nephew, aunt, uncle, grandparent or grandchild;
7. We are currently each other's sole spousal equivalent; and
8. Neither of us has had a different spousal equivalent within the last six (6) months. (NOTE: This last certification is not required if either of you had a former spousal equivalent who died within the last six (6) months. If either of you did, you may cross out this item.)

II. CHANGE IN SPOUSAL EQUIVALENCY:

I, _____ (employee), agree to notify the Employee Benefits Manager of Heller Ehrman White & McAuliffe within thirty-one (31) days after there is any change in our status as spousal equivalents, as attested to in this Affidavit (for example, if we cease to share the same living quarters or we are no longer each other's sole spousal equivalent). Such notice will be made by filing a Statement

of Termination of Spousal Equivalency, affirming that our spousal equivalency status was terminated on or before its date of execution and that a copy of the Statement has been mailed to the other party.

III. PURCHASE OF MEDICAL INSURANCE COVERAGE:

I (employee) certify that I have purchased individual medical insurance coverage for my spousal equivalent as follows:_____

(describe insurance company and type of coverage). This coverage costs \$_____ per _____. Attached are proof of coverage and payment.

IV. ACKNOWLEDGEMENTS:

We have provided the information in this Affidavit for use by Heller Ehrman White & McAuliffe for the sole purpose of determining our eligibility for reimbursement under the firm's Medical Insurance Program for Domestic Partners. No third parties shall have any rights under this Affidavit.

Employee Signature

Employee Name (please print)

Employee Address and Telephone Number

Spousal Equivalent Signature

Spousal Equivalent Name (please print)

Spousal Equivalent Address and Telephone Number

HELLER EHRMAN WHITE & MCAULIFFE

STATEMENT OF TERMINATION OF SPOUSAL EQUIVALENCY

I, _____ (employee), hereby certify
that:

1. _____ (name of former spousal
equivalent) and I are no longer spousal
equivalents.
2. I make and file this Statement of Termination to
cancel the Affidavit of Spousal Equivalency filed
by me with Heller Ehrman White & McAuliffe.
3. I mailed my former spousal equivalent a copy of
this notice at _____
on _____ (date) _____ (address)

I declare, under penalty of perjury, that the above
statements are true and correct.

Signed: _____

Print Name: _____

Address: _____

Date: _____

LOTUS DEVELOPMENT CORPORATION
ENROLLMENT INSTRUCTIONS FOR SPOUSAL EQUIVALENT BENEFIT

PLAN COVERAGE

Spousal equivalents have the same eligibility for benefits as a legally recognized spouse - provided the individual is the spousal equivalent of an eligible employee and meets the established criteria for determining spousal equivalency. Upon completion of an affidavit, a spousal equivalent can be enrolled in the following plans under the Lotus Benefits Program.

- * The Lotus Medical Plan - Options 1, 2 or 3
- * Harvard Community Health Plan
- * Dental Plan
- * Vision/Hearing Plan
- * Prescription Drug Program
- * Dependent Life Insurance

In addition, spousal equivalents will be able to access the Employee and Family Assistance Plan (EFAP), Catastrophic Care and Assistance Program, Elder & Disability Care Referral Service and Child Care Resource Center (Cambridge only).

HOW TO ENROLL

To enroll an eligible spousal equivalent, both the employee and the designated partner must jointly complete and sign an "Affidavit of Spousal Equivalency". The employee must also complete and sign an "Enrollment Form". Both of these forms will be available through the Benefits Department and must be returned to the Benefits Department within 31 days of the change in family status event.

NOTE: The IRS does not recognize spousal equivalents as eligible dependents under the Internal Revenue Code governing flexible benefit programs. Therefore, benefits may only be purchased on an after-tax basis and the present market value of the coverage is taxable income to the employee.

TERMINATION OF SPOUSAL EQUIVALENTS

If there is any change in the criteria certified in the "Affidavit of Spousal Equivalency", the employee or registered partner must complete a "Statement of Termination of Spousal Equivalency" within 31 days of the change in family status. This form is available through the Benefits Department. All Benefits will be discontinued as of the signing date of the Statement of Termination except for Dependent Life coverage which ceases after 31 days.

It is the responsibility of the partner who initiates the Statement of Termination to notify the other party of such action. The former spousal equivalent will be eligible for continuation of coverage under equivalent terms as participants covered under the Consolidated Omnibus Budget Reconciliation Act (COBRA).

Once a "Statement of Termination of Spousal Equivalency" has been submitted, the employee may not register another spousal equivalent for twelve months, except in the instance of the re-registration of the same partner within 31 days.

To: LDBVAX::SHOTGUN_LIST ! CAMBRIDGE,US_FIELD @ LOTUSVAX
cc:
From: LDBVAX::MCONSIDINE @ LOTUSVAX
Date: 09/03/91 04:38:28 PM
Subject: Spousal Equivalent Benefits Announcement

To: All U.S. Lotus Employees
From: Russ Campanello, Vice President, Human Resources
Subject: Spousal Equivalent Benefits

Since early in its history, Lotus has had a stated policy prohibiting discrimination based on sexual preference. Lotus recognizes that lesbian and gay employees do not have the choice to legalize permanent and exclusive relationships through marriage; thus, they cannot legally share financial, health and other benefits with their significant partners. For this reason, in the interest of fairness and diversity Lotus will recognize the significance of such relationships by including them in our policies and benefits.

Spousal Equivalent

Lotus policies and benefits will refer to employees' same-sex partners as "spousal equivalents," rather than "domestic partners" or "significant others." This phrase has been selected to highlight the fact that, unlike couples of the opposite sex, marriage for gay and lesbian couples is not an option, since it is not sanctioned by U.S. state laws.

Effective immediately, the phrase "spousal equivalent" will be added to all Lotus policies in the U.S. wherever the word "spouse" is used. (Among the policies this affects are Relocation, Bereavement Leave and Expatriate Assignments.) Spousal equivalents of lesbian and gay employees and their qualified dependents will also be eligible to receive medical, dental, vision and hearing health coverage.

While many companies throughout the U.S. are cutting back health coverage for employees, the issue of extending benefits to employees with non-traditional families is currently being given serious consideration by a number of public and private institutions. Few companies in the private sector have provided benefits to employees' domestic partners; experts anticipate that we're on the cutting-edge of a trend more companies are likely to join. Those who have extended health coverage to domestic partners of employees have been closely watched. Their reports are uniformly similar. Data indicates that that coverage of same-sex employees and their partners has not significantly increased their per capita health care expenses. Fears that AIDS will drive up costs have proven to be unfounded.

Criteria for Spousal Equivalents

Lotus employees can designate only one person as an eligible dependent for benefits as a spousal equivalent; each person must be the sole

partner of the other.

Spousal equivalents must:

- * be the same sex as the employee;
- * live in the same residence with the intent to reside together permanently;
- * be jointly responsible for the common welfare and financial obligations of both individuals.

Employees interested in receiving more information about spousal equivalent benefits can contact their Human Resources representative; to enroll, contact Helen Berry in the Benefits department. (Note: all Lotus benefit information is subject to strict confidentiality between the employee and Human Resources and may not be shared with anyone without the employee's written consent.)

Diversity at Lotus

In the past year, we have made great strides in our continuing efforts to create a workplace where all employees are valued, respected and given equal and fair treatment. This new policy is further evidence of our firm commitment to value differences and provide fair and equal access to benefits for all Lotus employees. I wholeheartedly endorse this policy and am proud to be part of a company in which such policies are possible.

Employees in the Cambridge area are welcome to join the Diversity Advisory Group, Keith Peden, director of Compensation & Benefits, and me in an open forum to discuss this information. The forum is scheduled Wednesday, September 11, from 2 p.m. - 4 p.m. in Rogers Auditorium A&B.

LOTUS DEVELOPMENT CORPORATION

AFFIDAVIT OF SPOUSAL EQUIVALENCY

I. DECLARATION:

We, _____ and _____ certify that
employee (print) spousal equivalent (print)

we are spousal equivalents in accordance with the following criteria and eligible for benefits coverage as spousal equivalents under Lotus Development Corporation's benefits program:

II. STATUS:

1. We are each other's sole spousal equivalent and intend to remain so indefinitely.
2. We are of the same sex and neither one of us is married.
3. We are at least eighteen (18) years of age and mentally competent to consent to contract.
4. We are not related by blood to a degree of closeness than which would prohibit legal marriage in the state in which we legally reside.
5. We reside together in the same residence and intend to do so indefinitely.
6. We are jointly responsible for each other's common welfare and financial obligations.
7. We understand that as spousal equivalents we are subject to the same thirty-one (31) day notice requirement set forth in Lotus' Flexible Benefits Program as are all other Lotus employees who are covered by or applying for Lotus benefits.

III. CHANGE IN SPOUSAL EQUIVALENCY:

8. We agree to notify the Lotus Benefits Department if there is any change in our status as spousal equivalents as attested to in this Affidavit which would make us no longer eligible for Lotus benefits (for example a change in joint-residence or if we are no longer each other's sole spousal equivalent). We will notify Lotus within thirty-one (31) days of such change by filing a Statement of Termination of Spousal Equivalency ("Statement of Termination"). The Statement of Termination shall affirm that the spousal equivalency status is terminated as of its date of execution and that a copy of the Statement of Termination has been mailed to the other party by the party authorizing such action.

9. After such termination, I, _____, understand that a
(employee)
subsequent Affidavit of Spousal Equivalency cannot be filed until twelve (12) months after a Statement of Termination has been filed with the Lotus Benefits Department. (The twelve (12) month waiting period will be waived only if another Affidavit is filed for the same spousal equivalent within thirty-one (31) days following the filing date of the Statement of Termination.)

IV. ACKNOWLEDGEMENTS:

10. We understand that any person/employer/company who suffers any loss due to any false statement contained in this Affidavit may bring a civil action against either or both of us to recover their losses, including reasonable attorneys' fees.
11. We have provided the information in this Affidavit for use by Lotus' Benefits Department for the sole purpose of determining our eligibility for spousal equivalency benefits.
12. We affirm, under penalty of perjury, that the assertions in this Affidavit are true to the best of our knowledge.

Community Property Implications: Please be advised that some courts have recognized non-marriage relationships as the equivalent of marriage for the purpose of establishing and dividing community property.

employee signature

Date

employee address

spousal equivalent signature

Date

spousal equivalent address

LOTUS DEVELOPMENT CORPORATION

STATEMENT OF TERMINATION OF SPOUSAL EQUIVALENCY

_____, being duly sworn, deposes and say that:
employee or spousal equivalent (print)

1. _____ and I are no longer
(name of employee or spousal equivalent) print
spousal equivalents.

2. I make and file this Statement of Termination in order to cancel the Affidavit of Spousal Equivalency filed by me with Lotus Development Corporation on
_____.

3. I mailed my former spousal equivalent a copy of this notice at
_____ on _____.

I declare, under penalty of perjury, that the above statements are true and correct.

Signed: _____

Print: _____

Address: _____

Date: _____

LEVI STRAUSS & CO.
Inter-Office Correspondence

TO: LS&CO. Home Office Payroll Employees

FROM: Bev Beaudreault, Manager Health & Welfare Plans *BB*

DATE: April 19, 1993

SUBJECT: Benefits for Domestic Partners

Attached are the sign up materials to enroll your partner (and the partner's qualified dependents, if applicable) in the LS&CO. Aetna Medical Plans, the Dental Plans and/or Vision Plan. If you choose coverage for your partner, it must be the same coverage you have chosen for yourself.

We are happy to announce that Kaiser will extend coverage for Domestic Partners in the San Francisco Bay Area. At this time, coverage through our other HMOs and Voluntary Accidental Death & Dismemberment insurance is not available.

The process is as follows:

1. Choose the program you wish to enroll in using the FLEX enrollment form. Include other eligible dependents on the FLEX form, but not your domestic partner or his/her children.
2. Read the materials in this package, especially the definition of unmarried couples. All four conditions must be met for eligibility to exist. If you want clarification, call Mae Lee at ext. 6483 or Profs \$Lee127.
3. Using the Enrollment Form in this packet of information on page 5, input partner's name, birth date, sex, Social Security Number and date relationship was formed.
4. Certify that your relationship meets our definition by signing and dating the Enrollment Form.
5. Fill out the Partner Surcharge Form (page 6) indicating whether your partner is or is not eligible for medical coverage from another employer and whether or not your partner is signed up for that coverage.
6. If your partner has dependent children, use the Medical Coverage Certification For Dependent Children Living With An Unmarried Couple sign up form (page 7) to enroll them if they are eligible. Eligibility criteria is provided on the form.
7. Return all of these forms with your FLEX enrollment materials.

Due to IRS regulations, contributions cannot be made on a pre-tax basis and the value of the benefit must be considered as taxable income to the employee. Three tables are provided on page 10 which show the amount of the additional contribution and the amount of the imputed income applicable for your situation.

DEFINITION OF UNMARRIED COUPLE

For purposes of this coverage, LS&CO. defines an "unmarried couple" as any eligible employee and one other person (the "partner" or "unmarried partner") sharing a committed relationship with the following characteristics:

- Living together
- Financially interdependent
- Jointly responsible for each other's common welfare
- Considering themselves as life partners

An "unmarried couple" does not include roommates, siblings, parents or other similar relationships.

The couple must consist of two people who are not legally married and who are free to enter into the relationship (no similar relationship with another person). Couples must be free of previous relationships which LS&CO. would have recognized for purposes of this coverage for at least 12 months.

- If both members of the couple are LS&CO. Home Office payroll employees, each should sign up for his/her own single coverage.
- If an unmarried partner of an LS&CO. employee qualifies but elects coverage elsewhere, the LS&CO. employee should still complete the Enrollment Form (page 5) and waive coverage for their partner. This Enrollment Form will prevent the need for evidence of insurability if unmarried partner is added to LS&CO. employee's coverage at a future date.

HOW TO ENROLL

Levi Strauss & Co. makes medical, dental and vision coverage available to employees in an unmarried relationship. Coverage is available under the Aetna medical plans (the \$200 Deductible, \$1,000 Deductible, Managed Choice and the Preferred Provider Organizations [PPOs]). The 20% Working Spouse Plan is not available to unmarried couples since most other companies' plans would not coordinate benefits with the LS&CO. plans.

Employees will have 31 days within the formation of a domestic partner relationship to add his/her domestic partner to medical, dental and vision plans. If the employee does not add his/her domestic partner within the 31-day period, evidence of insurability is required by Aetna Life Insurance Company.

Most HMOs are not available at this time, however, Kaiser Permanente of Northern California is available.

Coverage is also available under both Aetna dental plans (Indemnity and Preferred) and the Vision Service Plan (VSP).

To enroll (or to waive the coverage now but maintain future eligibility), the employee must sign up as follows:

- For employee and the employee's natural children: Complete the enrollment form included in your LS&CO. FLEX enrollment materials.
- For partners of unmarried LS&CO. employees: Complete the enrollment form on page 5.
- For an eligible dependent child of the partner: Use the form on page 7, Medical Coverage Eligibility Certification for Dependent Children Living with an Unmarried Couple.

Both members of the unmarried couple must sign up for the same plan.

COMMON-LAW MARRIAGES

The following states/locations currently recognize common-law marriages:

- | | |
|------------------------|---|
| • Alabama | • Oklahoma |
| • Colorado | • Ohio (if established before October 10, 1991) |
| • District of Columbia | • Pennsylvania |
| • Georgia | • Rhode Island |
| • Idaho | • South Carolina |
| • Iowa | • Texas |
| • Kansas | • Utah |
| • Montana | |

If you have a valid common-law marriage in one of these states, you may sign up your common-law spouse using the FLEX enrollment form. You do not have to complete the forms in this packet.

It is our understanding that if you entered into a common-law marriage in one of the above states and now reside in another state, the marriage probably will be recognized in the state in which you reside. If this applies to you, you are advised to verify the status of your relationship with your personal legal adviser.

ENROLLMENT FORM

I would like to enroll the following individual as my partner:

Partner's Name Birthdate Sex Date Relationship Formed

Partner's Social Security #

in the following LS&CO. Health Plan(s)

Medical Plan:

- ☐ Aetna \$200 Deductible Medical Plan
- ☐ Aetna \$1000 Deductible Medical Plan
- ☐ Aetna Open Choice PPO
- ☐ ETHIX Southwest PPO
- ☐ Managed Choice Plan
- ☐ Kaiser (San Francisco Bay Area Only)
- ☐ I wish to waive coverage at this time

Dental Plan:

- ☐ Aetna Indemnity Dental Plan
- ☐ Aetna Preferred Dental Plan
- ☐ I wish to waive coverage at this time

Vision Service Plan

- ☐ Employee & Dependents Exam/Materials Option
- ☐ I wish to waive coverage at this time

I hereby certify that the above named person and I meet all of the eligibility requirements as an "unmarried couple" under the LS&CO. Health Plans. I understand that falsely certifying eligibility or failing to inform LS&CO. if we dissolve our status as an unmarried couple could result in disciplinary action, including termination. I also understand that the cost of providing these benefits to my partner is considered taxable income to me. I understand that unless I change my election during the open enrollment period, these elections will continue indefinitely, and I will have deducted from my pay the required contributions set in subsequent years.

Employee's Signature

Date

Print Name of Employee

Telephone Number

PARTNER SURCHARGE FORM

Employee's Name _____ Dept _____

Social Security # _____ Location _____

Telephone Number (_____) _____

Partner's Name _____

PARTNER INFORMATION

THE FOLLOWING INFORMATION WILL BE USED TO DETERMINE WHETHER OR NOT YOU ARE REQUIRED TO PAY THE \$70.00 SURCHARGE PER MONTH (\$35.00 PER PAY PERIOD) TO COVER YOUR PARTNER UNDER AN LS&CO. MEDICAL PLAN.

1. Do you wish to cover your partner under an LS&CO. medical plan?

____ YES (continue to #2)

____ NO (stop here)

2. Is your partner employed?

____ Yes (continue to #3)

____ No (stop here)

3. Please check ONE of the following statements.

THE \$70.00 SURCHARGE WILL BE REQUIRED BECAUSE:

____ My partner is eligible for but not enrolled in his/her own employer's medical plan.

THE \$70.00 SURCHARGE WILL NOT BE REQUIRED BECAUSE:

____ My partner is NOT eligible for coverage through his/her own employer.

____ My partner is currently enrolled in his/her own employer's medical plan.

____ My partner is self-employed.

Employee's Signature_____
Date

MEDICAL COVERAGE ELIGIBILITY CERTIFICATION FOR DEPENDENT CHILDREN
LIVING WITH AN UNMARRIED COUPLE (ONE FORM PER DEPENDENT)

I certify that I have a dependent child meeting the following eligibility requirements for coverage under the Levi Strauss & Co. Health Care Plan. The name, birthdate, relationship of the dependent child, and date child became a dependent are as follows:

Print Name of Child	Birthdate	Relationship	Date Child Became A Dependent
------------------------	-----------	--------------	----------------------------------

I understand the Company periodically may request verification of the eligibility of my dependent child and to review copies of legal documents establishing this relationship.

=====

The Eligibility Requirements are:

- A. The child is primarily dependent upon the employee for support. Primarily dependent upon is defined as "the employee claims the child as an exemption on the most recent income tax return" and
- B. A parent-child relationship exists between the employee and the child based on the following:
 - 1) The child must be unmarried and reside in the same household as the employee. If the child is between 19 and 23 years of age and attending school as a full-time student, the employee's home must be the child's primary place of residence.
 - 2) The employee must assume full parental responsibility and control including any and all debts incurred by the child (i.e. charges for health care services and supplies).
 - 3) When a natural parent lives in the same household, a parent-child relationship will only be considered to exist between the employee and the child when both the natural parent and the child are primarily dependent upon the employee for support.
 - 4) Employee or employee's partner must be the biological parent, the step-parent or grandparent of the child. If not, the employee or the employee's partner must have a court-appointed legal relationship with the child (i.e. guardianship, adoption, foster child).

I HEREBY CERTIFY THAT THE ABOVE-NAMED DEPENDENT MEETS ALL OF THE ELIGIBILITY REQUIREMENTS AND I UNDERSTAND THAT FALSELY CERTIFYING A DEPENDENT'S ELIGIBILITY OR FAILURE TO INFORM LS&CO. WHEN A DEPENDENT NO LONGER MEETS THE ELIGIBILITY REQUIREMENTS COULD RESULT IN DISCIPLINARY ACTION, INCLUDING TERMINATION.

Employee's Signature

Date

Print Name of Employee

Telephone Number

CONTRIBUTIONS FOR COVERAGE

Your contributions for providing benefit coverage to your unmarried partner will be the same as that charged for a spouse. This includes the spousal surcharge if your partner waives coverage under his/her employer's plan (see Partner Surcharge Form). However, current IRS rules require:

- The contributions for your unmarried partner be made on a post-tax basis.
- You may need to pay taxes on "imputed income"--the additional amount LS&CO. contributes toward coverage for your unmarried partner.

Note: The imputed income/feature does not apply if your unmarried partner is your tax dependent. In general, your unmarried partner is your dependent in any calendar year for purposes of the tax laws if he or she: (1) is a citizen or national of the United States or a resident of the United States, Mexico, Canada, the Canal Zone or the Republic of Panama, (2) is a member of your household for the year, had his/her principal place of abode in your home for the year and was not your spouse at any time during the year, (3) engages in the relationship with you and does not violate local laws, and (4) receives over half of his or her support for the year from you. Support includes food, shelter, clothing, medical and dental care, and education. The amount of support you provide should be compared to your partner's support from all sources, including support provided by the partner (e.g. salary). In certain cases your partner may qualify as your dependent even if the support you provide is less than half of the partner's total support. This description of the requirements to claim your partner as a tax dependent is only a summary of current law and is not to be considered specific legal advice. If you are considering claiming your partner as a tax dependent, please see your tax advisor. If you qualify, sign the following statement:

I certify that the previously named person whom I am signing up for coverage is my legal tax dependent under IRC Sec.152. I understand that falsely certifying my dependency status could result in disciplinary action (including termination) from LS&CO., as well as potential charges of tax fraud. I further agree to notify LS&CO. immediately of any change in this tax status.

Employee's Signature

Date

Print Name of Employee

Telephone Number

TABLES

The following tables show the additional bi-weekly post-tax contribution amount and the imputed income amount due for your plan options. Note that the tables reflect current costs and are subject to change in the future.

DOMESTIC PARTNER RATES

EFFECTIVE JUNE 1, 1993

EE + PARTNER

W/O SURCHARGE	CONTRIBUTION	WITH SURCHARGE	CONTRIBUTION
Aetna \$200	\$17.23	Aetna \$200	\$52.23
Aetna \$1,000	\$0.00	Aetna \$1,000	\$35.00
Managed Choice	\$13.45	Managed Choice	\$48.45
PPO	\$14.99	PPO	\$49.99
Kaiser	\$11.65	Kaiser	\$46.65
Indemnity Dental	\$2.00	Indemnity Dental	\$2.00
Preferred Dental	\$1.64	Preferred Dental	\$1.64
Vision Ser. Plan	\$5.89	Vision Ser. Plan	\$5.89

IMPUTED INCOME

Aetna \$200	\$90.44	Aetna \$200	\$55.44
Aetna \$1,000	\$57.76	Aetna \$1,000	\$22.76
Managed Choice	\$76.19	Managed Choice	\$41.19
PPO	\$78.71	PPO	\$43.71
Kaiser	\$61.19	Kaiser	\$26.19
Indemnity Dental	\$11.27	Indemnity Dental	\$11.27
Preferred Dental	\$9.31	Preferred Dental	\$9.31
Vision Ser. Plan	\$0.00	Vision Ser. Plan	\$0.00

DOMESTIC PARTNER RATES EFFECTIVE JUNE 1, 1993

W/O SURCHARGE	CONTRIBUTION	WITH SURCHARGE	CONTRIBUTION
Aetna \$200	\$17.22	Aetna \$200	\$52.22
Aetna \$1,000	\$8.68	Aetna \$1,000	\$43.68
Managed Choice	\$13.53	Managed Choice	\$18.53
PPO	\$14.99	PPO	\$49.99
Kaiser	\$12.22	Kaiser	\$47.22
Indemnity Dental	\$2.01	Indemnity Dental	\$2.01
Preferred Dental	\$1.61	Preferred Dental	\$1.61
Vision Ser. Plan	\$5.89	Vision Ser. Plan	\$5.89

IMPUTED INCOME

Aetna \$200	\$90.45	Aetna \$200	\$55.45
Aetna \$1,000	\$50.03	Aetna \$1,000	\$15.03
Managed Choice	\$76.00	Managed Choice	\$41.00
PPO	\$78.71	PPO	\$43.71
Kaiser	\$64.10	Kaiser	\$29.10
Indemnity Dental	\$11.35	Indemnity Dental	\$11.35
Preferred Dental	\$9.13	Preferred Dental	\$9.13
Vision Ser. Plan	\$0.00	Vision Ser. Plan	\$0.00

DOMESTIC PARTNER RATES EFFECTIVE JUNE 1, 1993

EE + (PARTNER + CHILD(REN))

W/O SURCHARGE	CONTRIBUTION
Aetna \$200	\$27.62
Aetna \$1,000	\$9.68
Managed Choice	\$21.64
PPO	\$24.04
Kaiser	\$19.86
Indemnity Dental	\$3.80
Preferred Dental	\$3.82
Vision Ser. Plan	\$5.89

WITH SURCHARGE	CONTRIBUTION
Aetna \$200	\$62.62
Aetna \$1,000	\$43.68
Managed Choice	\$56.64
PPO	\$59.04
Kaiser	\$54.86
Indemnity Dental	\$3.80
Preferred Dental	\$3.82
Vision Ser. Plan	\$5.89

IMPUTED INCOME

Aetna \$200	\$145.03
Aetna \$1,000	\$81.68
Managed Choice	\$122.65
PPO	\$126.20
Kaiser	\$104.24
Indemnity Dental	\$21.52
Preferred Dental	\$21.64
Vision Ser. Plan	\$0.00

Aetna \$200	\$110.03
Aetna \$1,000	\$46.68
Managed Choice	\$87.65
PPO	\$91.20
Kaiser	\$69.24
Indemnity Dental	\$21.52
Preferred Dental	\$21.64
Vision Ser. Plan	\$0.00

SUMMARY OF BENEFITS FOR UNMARRIED COUPLES

DEFINITIONS: For the purpose of this benefit, Levi Strauss & Co. defines "unmarried couples" as an eligible employee and one other person sharing a committed relationship:

- o Living together
- o Financial interdependence
- o Joint responsibility for each other's common welfare
- o Those who consider themselves life partners

LS&CO. is extending medical and dental benefits to eligible unmarried couples and their eligible dependents for all its domestic-based employees. Note that these covered couples do NOT include roommates, siblings, parents or other relationships.

The couples must consist of two people who are not legally married and must be free to enter into the relationship (no similar relationship with another person). Couples must be free of previous relationships which LS&CO. has recognized for these benefit purposes for at least 12 months.

PLAN PROVISIONS: The benefits plan provisions for unmarried couples are generally the same as for married couples. For example, the same employee contributions, enrollment procedures and coverage limitations apply to everyone.

The surcharge now in place for married couples also applies to unmarried couples. If the non-LS&CO. employee member of the couple is eligible for coverage through their employer but declines that coverage in favor of LS&CO. coverage, there will be a surcharge -- via payroll deduction.

The 12-month, \$2,000 limit on claims for pre-existing conditions also applies to newly-enrolled unmarried couples and their eligible dependents.

SIGNING UP: Employees will receive more information in about 4 - 6 weeks. At that time, employees may request an enrollment form from either the Employee Benefits department or their local Human Resources Manager. By signing the enrollment form, the employee affirms that his or her relationship meets LS&CO.'s definition. If this relationship ends or changes so that it no longer meets LS&CO.'s definition, the employee is required to notify the Employee Benefits department immediately.

Falsification of information on the enrollment form or failure to notify the company of any relevant change in the relationship will subject the employee to disciplinary action including termination.

- continued -

Employees must sign up for this benefit within 31 days of either 1) eligibility of the benefit or 2) the date that the relationship becomes one that meets LS&CO.'s criteria. Failure to sign up within this time frame may require proof of insurability before coverage will be granted at a future date.

During this initial sign up period, employees must sign up on or before July 1, 1992 in order to avoid having to provide proof of insurability at a later date.

If a person in an unmarried relationship with an LS&CO. employee qualifies for this coverage but also has coverage available through his/her own employer's plan, the LS&CO. employee should register this person under the LS&CO. plan but waive coverage. This would eliminate the need to provide "evidence of insurability" if coverage is sought at a later date.

If the unmarried couple relationship ends for any reason, the employee may not enroll with another person in the plan for 12 months.

COVERAGE CONTINUATION: Federal law requires that medical coverage be offered for certain periods of time to married couples and dependents when they become ineligible for the plan.

We will extend medical coverage to unmarried couples and their eligible dependents in the event of an employee's death or lay off. Coverage will not continue if the employee voluntarily resigns or if the relationship changes and no longer meets LS&CO.'s definition.

TAX CONSEQUENCES: In order to comply with certain tax regulations, the cost of providing these benefits to unmarried couples and their qualified dependents is considered taxable income to the employee. The employee will pay income taxes, through regular payroll deductions, based on the value of the coverage extended to his or her partner and eligible dependents. This does not apply in common-law locations such as Texas and Georgia if the couple have entered into a common-law marriage.

Other common-law states include: Alabama, Colorado, Idaho, Iowa, Kansas, Montana, Oklahoma, Pennsylvania, Rhode Island, South Carolina and the District of Columbia.

Commonly-Asked Questions About
Levi Strauss & Co.'s Extension of Health Benefits
To Unmarried Couples

RATIONALE:

Q. Why did LS&CO. extend health benefits to unmarried couples?

A. We extended health benefits to unmarried couples in an effort to align our Human Resources practices with our non-discrimination policy and philosophy.

Q. What other benefits do you extend to unmarried couples?

A. We offer employee assistance program (EAP) services, bereavement leave, TOPP (our time off with pay program) time to care for ill family members or other persons of special significance. We also welcome unmarried couples at company-sponsored social events.

We also offer employees the opportunity to name anyone as a beneficiary to their savings, life insurance and as a survivor under our pension plan.

Q. Who is eligible for this health benefit?

A. We extended these benefits to all eligible unmarried couples, heterosexual, gay and lesbian, in our U.S. work force.

Q. Why do you include heterosexual couples that have an opportunity to marry?

A. Omitting this group of employees, based on marital status, would conflict with our non-discrimination philosophy and policy.

Q. How do you characterize these relationships?

A. For the purpose of this benefit, Levi Strauss & Co. defines "unmarried couples" as an eligible employee and one other person sharing a committed relationship:

- * Living together
- * Financial interdependence
- * Joint responsibility for each other's common welfare
- * Those who consider themselves life partners

Qs & As/2

Q. Does LS&CO. advocate/condone unmarried co-habitation?

A. Levi Strauss & Co. is not making judgments about our employees' lifestyle decisions.

Q. Why aren't parents or other "family" members included in your definition?

A. We extended benefits to unmarried couples to eliminate a discrimination issue. Other family members are not included in the coverage provided for married or single employees either. Employees' dependent children, as generally defined by the IRS, are eligible for health coverage.

Q. What was the impetus for making this benefit change?

A. Levi Strauss & Co. wanted to align its benefits offerings with its non discrimination policy.

Q. A few smaller companies have extended these benefits to unmarried employees, are you the largest company that has done it?

A. We believe LS&CO. is the largest U.S. employer and the first Fortune 500 company to extend health and dental benefits to unmarried couples.

Q. Who created this policy change?

A. We had an internal task force review and make a recommendation on this policy change. The recommendations were approved unanimously by our senior management and received the support of our board of directors.

Q. Who was on this task force?

A. We had representatives from Human Resources, EEO, Communications, and an external employee benefits consulting firm to do research.

Q. How did this benefit change get management approval?

A. The task force conducted an in-depth study, developed a recommendation and presented its findings to our senior executive teams. The recommendation received their support.

Qs & As/4

Q. Will the addition of unmarried couples add to the health care cost for other employees? Why? Why not?

A. We do not believe that adding unmarried couples will have any significant impact on the cost of other employees' health care costs. There are many factors involved in the rising cost of health care. We continually monitor these costs and seek ways to restrain them.

Q. Is LS&CO. self insured?

A. Yes.

REACTION:

Q. What has been the reaction from employees and management?

A. We received approval from the senior management of the company. We received very positive reactions from employees in San Francisco. Some of our other employees did not agree with this change.

Q. What was the consumer reaction to LS&CO. making this benefit change?

A. This change is consistent with our anti-discriminatory policy. We received both positive and negative reactions.

Q. What reaction have you received from the business community about your decision?

A. We have had more than 100 companies call and ask for information about our program. Additionally, we have been asked to speak at four major benefits conferences on this subject. Reaction has been very positive.

FOR MORE INFORMATION CONTACT:

REESE SMITH, DIRECTOR, EMPLOYEE BENEFITS 415-544-6172

October 1992

Qs & As/3

PROGRAM ADMINISTRATION:

Q. How do employees sign up?

A. Employees may sign up on our medical enrollment form by certifying that their relationship meets our definition and is eligible for coverage. We will not require any formal registration or affidavit at this time.

Q. Do you think that by not requiring "registration" that employees will abuse this benefit?

A. No. We believe that our employees are honest. Our employees are aware that any fraudulent claims will be considered falsification of company documents and will lead to appropriate disciplinary action including termination.

Q. To whom is this benefit available?

A. This benefit is available to all the unmarried couples in our U.S.-based work force -- about 23,000 people.

COSTS:

Q. With the cost of health care so high, why did you add people and increasing your health care budget?

A. Sometimes there are costs associated with creating an equitable situation. In this case, we believe the costs associated with extending this benefit to unmarried couples are manageable.

Q. How big a factor is the cost of treating HIV figured into this cost figure?

A. HIV and AIDS were figured into the cost analysis but we do not choose to discuss specific costs. The costs associated with treating other more, prevalent medical conditions such as heart disease, cancer and high-risk pregnancies, play a much bigger role in our total health care budget.

Q. How did you compute the cost of extending this benefit?

A. We computed costs by estimating enrollment, looking at 1992 costs and adjusting them for expected utilization. We also incorporated costs for HIV and AIDS and made adjustments for employee contributions.



BlueCrossBlueShield
of Massachusetts

Public Relations • 100 Summer Street, 14th Floor • Boston, MA 021

Post-It™ brand fax transmittal memo 7571		# of pages • 3
To Kevin Cathcart	From S. Leahy	
Co Lambda	Co BCBSMA	
Dept.	Phone	617 956-2614
Fax 212 995-2306	Fax 617 956-2962	

November 8, 1993

Contact: Susan Leahy
(617) 956-2614

FOR IMMEDIATE RELEASE

**BLUE CROSS AND BLUE SHIELD OF MASSACHUSETTS EXTENDS
INSURANCE COVERAGE TO EMPLOYEES WITH DOMESTIC PARTNERS--**

**FIRST MAJOR HEALTH INSURER TO PROVIDE BENEFITS FOR SAME
SEX AND OPPOSITE SEX COUPLES AND THEIR CHILDREN**

BOSTON-- Recognizing the value of its diverse and changing workforce, Blue Cross and Blue Shield of Massachusetts announced today that it is offering domestic partner coverage to its employees beginning January 1, 1994.

An employee's domestic partner and any eligible dependents will receive coverage like any dependent under Blue Cross and Blue Shield's medical and dental plans.

Arthur Banks, Blue Cross and Blue Shield's Senior Vice President for Human Resources, said that domestic partner coverage is emerging as an important benefit for employers. "By offering this coverage, Blue Cross and Blue Shield is demonstrating to employees that we are committed to supporting the needs of a diverse workforce. Blue Cross and Blue Shield wants to attract and retain the best people to our company. Progressive benefits such as the on-site day care center we opened in September and domestic partner coverage make it easier for us to keep valuable employees, lower turnover and recruitment costs, and improve employee satisfaction and morale," Banks said.

"There was no competitive pressure on Blue Cross and Blue Shield to add this benefit, since so few employers and no major health insurers offer it," he added. "We're offering domestic partner coverage now because it establishes equality and fairness in our benefits package."

Banks said another reason Blue Cross and Blue Shield decided to offer domestic partner coverage is its experience insuring other companies with domestic partner coverage. "In the past two years, we found that this benefit was not administratively complex or costly. Employers and insurance consultants have found the claims experience for domestic partners has been the same as for married or single employees."

-1-

Recognizing that confidentiality is a concern for all employees, Banks said the company has established strict confidentiality procedures for handling of enrollment and claims information.

Locally, Blue Cross and Blue Shield of Massachusetts joins just a handful of businesses and municipalities offering domestic partner coverage to same sex and opposite sex couples. Children's Hospital and the Cities of Boston and Cambridge offer domestic partner coverage to same sex and opposite sex couples. Domestic partner coverage at MIT is offered to same sex couples only. Blue Cross and Blue Shield has worked with these employers to help them establish their domestic partner coverage plans.

Outside Massachusetts, Ben & Jerry's, Borland and Levi Strauss are among the employers who offer domestic coverage similar to Blue Cross and Blue Shield of Massachusetts. Apple Computer, MCA, Stanford University and the Cities of Berkeley, San Francisco and Seattle are among the employers who offer domestic partner coverage to same sex couples only. Other local organizations with domestic partner coverage include Lotus, WGBH and the Greater Boston Hotel Workers.

Blue Cross and Blue Shield of Massachusetts has developed a comprehensive Diversity Strategy to be responsive and sensitive to its diverse workforce and the changing business environment. Banks said the company believes its diversity gives Blue Cross and Blue Shield a competitive advantage. "We understand that employee productivity and retention is inextricably linked to our ability to provide our valued employees with an environment that supports individual initiative, fosters multi-functional teamwork and recognizes valuable contributions no matter where or from whom they come. Since many families today do not fit traditional definitions, our new domestic partner coverage is another example of Blue Cross and Blue Shield's commitment to appreciating and, indeed celebrating diversity."

Banks said Blue Cross and Blue Shield of Massachusetts intends to remain at the forefront of employee benefit development. "When we're recruiting potential employees locally and nationally, we want them to recognize the name Blue Cross and Blue Shield of Massachusetts, and say, 'That's where I want to work.'"

###

BLUE CROSS AND BLUE SHIELD'S DOMESTIC PARTNER POLICY:**WHO'S COVERED?**

* The domestic partner of the same of opposite sex with whom an employee has an exclusive relationship and shares financial interdependence. The domestic partners also must have a joint living relationship, have resided together for at least six months and intend to reside together and share an exclusive relationship indefinitely.

* Dependent children of domestic partners are covered. These children must meet the current eligibility requirements for dependent children under the medical and dental plans with one exception: They don't have to be the employee's children.

* The domestic partner and any eligible dependents must meet all other applicable eligibility requirements, such as the six-month waiting period for coverage under some medical plans.

* Domestic partners are required to sign a notarized affidavit certifying their relationship and provide documentation that they share financial responsibilities.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: IAS PART 9

LESBIAN & GAY TEACHERS ASSOCIATION,
et al.,

Plaintiffs,

- against -

THE BOARD OF EDUCATION OF THE CITY
SCHOOL DISTRICT OF THE CITY OF NEW
YORK, et al.,

Defendants.

STIPULATION OF
SETTLEMENT AND
DISCONTINUANCE

Index No. 43069/88
(Moskowitz, J.)

The parties to this action, by their undersigned attorneys, hereby stipulate and agree to settle this action upon the following terms:

A. EQUALITY OF BENEFITS

1. The City of New York will make health insurance benefits and options available to the domestic partners (and their dependent children) of its active and retired employees that are in every way identical to the health insurance benefits and options offered to married spouses (and their dependent children) of its active and retired employees. Domestic partners (and their dependent children) shall be able to choose the same health coverage, including without limitation, dental care, vision care, SHIP and hospitalization, from each of the same insurers and/or providers as are available to married spouses (and their dependent children).

thirty (30) days of its submission in proper form. Denial of benefits is subject to the grievance procedure provided for in the collective bargaining agreements between the City and its several unions.

4. Applicants who assume responsibility for each other's basic living expenses by signing the sworn Joint Declaration of Financial Interdependence set forth in Exhibit I shall not be required to submit further proof of economic interdependence.

C. CONFIDENTIALITY

1. Subject to the provisions of paragraph C2 below, all records pertaining to an application by domestic partners for health insurance benefits shall be held in strict confidence in a manner consistent with the handling of health benefit records of all City employees.

2. Employees shall be presented with the option of submitting their applications for health insurance benefits for domestic partnerships directly to a central location in lieu of submission at the employee's workplace. Employees shall also be presented with the option that none of their health records be kept at the workplace where either of the domestic partners identified in the application is employed.

D. MISCELLANEOUS

1. For purposes of domestic partnerships under this Stipulation, "living together" shall mean a couple shares a place to live without regard to whether both members of the couple own the residence jointly or appear jointly on the rental lease, whether one or both also has a separate place, or whether one leaves temporarily as long as there is an intention to return (e.g. studies, job assignment elsewhere, family obligations, etc.).

2. Subject to ratification by the members of the Municipal Labor Committee ("MLC"), the health insurance benefits provided for in this Stipulation shall be available effective January 1, 1994.

3. The parties hereby stipulate that this action shall be discontinued effective this day as to each of the following defendants: The Board of Education of the City School District of the City of New York; the Health and Welfare Services Unit of the Board of Education of the City School District of the City of New York; Joseph A. Fernandez, Chancellor of the Board of Education of the City School District of the City of New York, and his successor.

4. Effective January 1, 1994, or upon ratification by the MLC of the extension of health insurance benefits as contemplated in this Stipulation, whichever occurs later, plaintiffs hereby voluntarily discontinue this action with prejudice with each side bearing its own costs and fees, including attorneys fees, and pursuant to Rule 3217 of the Civil Practice Law and Rules.

Dated: New York, New York
October 29, 1993

LAMBDA LEGAL DEFENSE &
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O. PETER SHERWOOD
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By: 

Evan Wolfson

By: 

O. Peter Sherwood

SO ORDERED:

J.S.C.

EXHIBIT I

JOINT DECLARATION OF FINANCIAL INTERDEPENDENCE

We, the undersigned domestic partners, are economically interdependent. We agree to be responsible for each other's basic living expenses, if one partner is unable to provide for these expenses during our domestic partnership. We also agree that anyone who is owed these expenses can collect from either of us.

"Basic living expenses" means the cost of basic food and shelter. It also includes any other expense which is paid by a benefit you or your partner gets because of the partnership. For example, if you get health insurance from your job, and the insurance covers your partner, you will be responsible for medical bills which the insurance does not pay. You don't have to split basic living expenses to be domestic partners. You just have to agree to provide these things for your partner if he or she can't provide for him or herself.

Signing this affidavit may have legal implications affecting the signators beyond the extension of health benefits for which it is intended. If you desire further information concerning the possible legal consequences of executing this declaration, please consult an attorney.

Declared to be true and correct under penalty of perjury:

Print Name

Print Name

Signature

Signature

Sworn to before me this
day of , 199.

NOTARY PUBLIC

EXHIBIT II

ALTERNATIVE AFFIDAVIT OF DOMESTIC PARTNERSHIP¹

STATE OF)
) SS.:
 COUNTY OF)

The undersigned, being duly sworn, depose and declare as follows:

We are both eighteen years of age or older and unmarried.

We are not related by blood in a manner that would bar marriage under the laws of the State of New York.

We have a close and committed personal relationship.

We have been living together on a continuous basis prior to the date of this affidavit.

One of us is a retired employee of the City of New York.

Neither of us has been registered as a member of another domestic partnership within the last six (6) months.

 Print Name

 Print Name

 Signature

 Signature

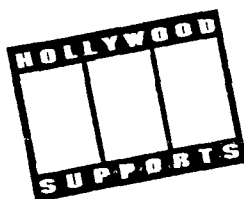
Sworn to before me this
 day of _____, 199.

 NOTARY PUBLIC

¹ To be completed and submitted if an Affidavit of Domestic Partnership is not submitted.

Entertainment
 Project Using
 Services of AP/LA
 and GLAAD/LA

4 Sunset Blvd
 Suite 102
 Los Angeles CA
 (213) 962-3118
 Fax (213) 962-3023



HOLLYWOOD SUPPORTS DOMESTIC PARTNER TASK FORCE

MODEL DOCUMENTS FOR EXTENDING GROUP HEALTH COVERAGE TO EMPLOYEES' DOMESTIC PARTNERS

As you know, employees of MCA INC.; Viacom, Inc.; Home Box Office and Warner Bros. now have the option of including their same-sex partners as dependents under their employer's group health plan. This option also provides coverage for the same-sex partner's eligible dependent children, if any. To exercise the option, employees must file an affidavit like the one enclosed stating that their partner is their "spousal equivalent." Employees then have 31 days from the date of filing the affidavit to enroll in one of the company's health care plans that permit coverage of spousal equivalents. The documents each of these companies is using to establish eligibility and to enroll the spousal equivalent into the health plan are based on the enclosed Hollywood Supports model documents.

These documents were drafted by Hollywood Supports' domestic partner task force for use by entertainment industry employers and unions interested in extending benefits either to employees' same-sex partners only, or to employees' domestic partners in general, including same-sex partners. Each document was drafted so as to be equally usable in establishing eligibility for dependent coverage for married partners and unmarried partners. The documents could be easily altered, however, for use in establishing eligibility only for spousal equivalents. In addition, the documents contain a number of optional provisions and optional time periods (variable by employer), which are indicated by brackets. The model documents contained in this packet are as follows:

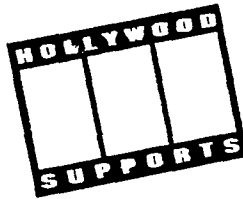
- (1) Health Coverage for Employees' 'Spousal Equivalents': Overview of Model Plan;
- (2) Spouse/Spousal Equivalent Health Care Coverage Information Sheet;
- (3) Affidavit of Marriage/Spousal Equivalency;
- (4) Health Care Enrollment Statement (including exhibits summarizing continuation of coverage benefits and tax consequences); and
- (5) Statement of Disenrollment, Legal Separation, Divorce, Death or Termination of Spousal Equivalency.

The Hollywood Supports domestic partner task force included Susan Goodwin, Manager of Group Benefits at MCA; Lynn Franzoi, Vice President, Benefits, at Fox Inc.; Glenn Carlson and Janice Phoenix of Price Waterhouse; Mike Powers of William M. Mercer Incorporated; AIDS Project Los Angeles insurance expert Jacques Chambers; Hollywood Supports Executive Director Richard Jennings and GLAAD/LA board member Will Halm.

Please call Hollywood Supports at (213) 962-3118 if you have questions regarding these documents. Hollywood Supports is available to arrange meetings between task force members and interested individuals to explain and discuss the issues involved in implementing this coverage.

David Allen
 Jeffrey Anderson
 Ben Astor
 Patrick Baskin
 Bob Baskin
 John Baskin
 John Baskin
 Shem Baskin
 Norman Bell
 Steve Bell
 Alan Bell
 Norman Littlefield
 Steve MacLean
 Sam Martin
 Penny Martin
 Steve Martin
 Ken McCullough
 Mike Medavie
 Dale Men
 Bob Meyer
 Ron Meyer
 Betty Meyer
 Sam Meyer
 Robert Meyer
 Steve Meyer
 Mike Meyer
 Jack Meyer
 Edward James O'Connell
 Mo O'Connell
 Michael O'Connell
 Charles S. O'Connell
 Steven O'Connell
 Tom O'Connell
 Bruce O'Connell
 Summer O'Connell
 Del O'Connell
 Jan O'Connell
 Joan O'Connell
 Nick O'Connell
 Nick O'Connell
 Jeff O'Connell
 Luke O'Connell
 Arnold Schwarzenegger
 Terry O'Connell
 Robert O'Connell
 So O'Connell
 Fred O'Connell
 Joe O'Connell
 Sharon O'Connell
 Steven O'Connell
 Sylvester O'Connell
 David O'Connell
 Oliver O'Connell
 Barbara O'Connell
 Patrick O'Connell
 Brandon O'Connell
 Elizabeth O'Connell
 A O'Connell
 Tom O'Connell
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 Tom O'Connell
 Luke O'Connell
 Jack O'Connell
 Keenen O'Connell
 Tom O'Connell
 David O'Connell
 Tom O'Connell
 Robert O'Connell
 Robert O'Connell
 John O'Connell

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 Ron Meyer
 Betty Meyer
 Sam Meyer
 Robert Meyer
 Steve Meyer
 Mike Meyer
 Jack Meyer
 Edward James O'Connell
 Mo O'Connell
 Michael O'Connell
 Charles S. O'Connell
 Steven O'Connell
 Tom O'Connell
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 Summer O'Connell
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 Joan O'Connell
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 Robert O'Connell
 Robert O'Connell
 John O'Connell



Group Health Coverage for Employees' Same-Sex Partners

I. Policy/Moral Considerations

A. The issue is fairness.

1. Most major entertainment companies have adopted, or are in the process of adopting, policies of nondiscrimination on the basis of sexual orientation, and California now bars "discrimination or different treatment in any aspect of employment" on the basis of sexual orientation.
2. Lesbians and gay men have a strong claim that their long-term, committed relationships should be treated with the same respect as marriage for purposes of an employer's benefits program.
3. Basing benefits on marriage is not mandated by law, and a benefit that recognizes marriage as the only vehicle for extending benefits to employees' partners creates a criterion that not all employees can meet.
4. Denial of benefits to employees with long-term, marriage-equivalent partnerships on the basis that they are not married creates resentment on the basis that such employees do not receive equal pay for equal work.
 - a. Benefits are a significant percentage (roughly 30%) of total compensation, and health insurance is the major component.
 - b. While there is a similar case to be made for heterosexual domestic partners in long-term, committed relationships, it is considerably weaker:
 - i. Heterosexual unmarried partners have the option to marry.
 - ii. Heterosexual partnerships face little social stigma, whereas extension of benefits to gay and lesbian employees provides much-needed symbolic support.

B. The policy of most large employers in the entertainment industry is to provide benefits that are competitive with others offered in the industry, to enable the employer to recruit and retain valuable employees.

Besides the plans at MCA, Viacom, HBO and Warner Bros., other entertainment companies and guilds reportedly considering extending this benefit include Disney, Sony, Paramount Pictures, the Writers Guild, and the Directors Guild.

C. Providing this coverage improves employee morale and productivity; it's a forceful statement that lesbian and gay employees are full and valued members of the workforce.

II. Practical Considerations

A. Workable documents to implement the plan already exist.

A Hollywood Supports task force that included insurance experts, tax counsel and entertainment industry representatives has drafted model documents (now being used by MCA, Viacom, HBO and Warner Bros.) and the necessary definitions (see below). The model documents provide further information on the tax and continuation of benefit (COBRA) issues.

B. Cost:

1. Relatively few employees will opt for the coverage.

a. A Stanford study of existing plans (recommending that the University extend all benefits to employees' same-sex partners), estimates that only about 0.3 to 0.7 % of a company's employees are likely to elect the coverage, since both members of same-sex couples are typically employed and able to obtain medical coverage less expensively through their own employers.

b. The actual experience so far in the entertainment industry has been that the percentage of eligible employees opting for the coverage is even smaller.

2. The cost is insignificant based on the experience of other employers.

a. Surcharges that insurers initially imposed on early plans adopted for city employees in Berkeley and Seattle were subsequently dropped.

b. Private employers that have had plans long enough to have cost experience -- Ben & Jerry's, Montefiore Hospital and Village Voice -- all report no increase in health plan costs.

c. Couples opting for coverage are much more likely to be under 40 and much less likely to be over 50, and younger people incur fewer expensive medical costs.

d. The risks of adverse selection -- less healthy spousal equivalents enrolling at a higher rate than healthy spousal equivalents -- have proven to be no greater than in the case of married spouses.

C. Insurers have begun writing this coverage on a fully insured basis

While most of the companies that initially provided the benefit have been large, self-insured companies, it is increasingly becoming possible for smaller companies with insured plans. (Insurers offering coverage on a fully insured basis now include CIGNA, Aetna, Prudential, Blue Cross and Vision Service Plan.)

D. Studies show that people in long-term relationships live longer, healthier lives.

By providing this benefit, employers support relationships that, in turn, will ensure that employees remain healthy and live longer.

III. Public Relations Considerations

A. Extension of these benefits is fast becoming an industry standard, and each new announcement has helped to motivate similar action at other companies.

B. In addition to the competitive and employee morale benefits described above, adoption of the benefit is warmly received by the gay and lesbian community nationwide, and their families and friends -- major consumers of entertainment products.

IV. Additional Notes

A. Other Employers/Unions:

Over 60 employers have either extended, or agreed to extend, health coverage to employees domestic partners, including same-sex partners, or to same-sex partners only. These employers include Albert Einstein College of Medicine; American Civil Liberties Union; American Friends Service Committee; American Psychological Association; Apple Computers; ASK Corporation; Children's Hospital; City of Atlanta, GA; Bay Area Rapid Transit System; Ben & Jerry Ice Cream; City of Cambridge, Massachusetts; City of Berkeley; Berkeley Unified School District; Beth Israel Medical Center, NY; Borland International Inc.; City of East Lansing, MI; Clark University; Crum and Forster Insurance Corp.; Frame Technology; Gardener's Supply Company (Burlington, VT); Greater Boston Hotel Employees Local 26; Greenpeace International; Home Box Office; Human Rights Campaign Fund; Interleaf; International Data Group, Boston; City of Laguna Beach; Lambda Legal Defense Fund; Levi Strauss; Los Angeles Philharmonic; Lotus Development; Massachusetts Institute of Technology; MCA Inc.; Microsoft; Milbank, Tweed, Hadley and McCloy; Minnesota Communications Group; Montefiore Medical Center; New York Times, Inc.; NEXT Computer, Redwood City; NGLTF Policy Institute; NOW; City of Oakland, CA; Orrick, Herrington & Sutcliffe; Para Transit, Inc. (Sacramento); Planned Parenthood; City and County of San Francisco; City and County of Santa Cruz; Santa Cruz Metropolitan Transit District; City of Seattle; Silicon Graphics; Stanford University; Starbucks, Inc.; Sun Microsystems; Supermac Technology; Swarthmore College; Sybase; University of Chicago; University of Iowa; Viacom; Village Voice; Walker Art Center; Warner Bros.; City of West Hollywood; and Ziff-Davis Publications.

B. Definition:

1. "Two adults of the same sex who have chosen to share their lives in an intimate and committed relationship, reside together, and share a mutual obligation of support for the basic necessities of life."

2. Employees must provide proof that they and their spousal equivalent (a) reside together, and (b) are financially interdependent.

3. Eligible employees also affirm that they and their spousal equivalent:

a. Are not related by blood to a degree of closeness that would prohibit legal marriage

- b. Are mutually responsible for the cost of basic living expenses
- c. Are both at least the age of consent in the state in which they reside
- d. Reside together and intend to do so permanently
- e. Are not married to anyone else



HEALTH COVERAGE FOR EMPLOYEES' 'SPOUSAL EQUIVALENTS' OVERVIEW OF MODEL PLAN

HOW DOES AN EMPLOYEE QUALIFY FOR THIS BENEFIT?

- If an employee and his or her partner are "spousal equivalents," they can qualify for this benefit by filing an Affidavit of Marriage/Spousal Equivalency with the Company Plan Administrator or designated representative.
 - "Spousal equivalents" are defined in the model affidavit as "two adults [of the same sex] who have chosen to share their lives in an intimate and committed relationship, reside together, and share a mutual obligation of support for the basic necessities of life."
 - Specifically, the model affidavit asks employees seeking this benefit to acknowledge that they and their spousal equivalent are not related by blood to a degree of closeness that would prohibit legal marriage; are mutually responsible for the cost of basic living expenses; are both at least the minimum age of consent in the state in which they reside; reside together and intend to do so permanently; and that neither is married to anyone else.
- After the affidavit is filed, the employee has 31 days to enroll for coverage of the spousal equivalent and his or her eligible dependents, if any. Enrollment is accomplished by filing a Health Care Enrollment Statement.
 - The Health Care Enrollment Statement must be accompanied by some proof that the employee and the spousal equivalent reside together and that they are financially interdependent:
 - Proof of residing together can include driver's licenses or passports showing the same address, mortgage documents or a deed.
 - Proof of financial interdependence can include a joint checking account, credit cards with the same account number in both names, designations of each other as authorized signatories on safe deposit boxes, joint wills, or powers of attorney for health care.
 - If the employee does not enroll the spousal equivalent and eligible dependents for this coverage within the 31-day time period, evidence of insurability of the spousal equivalent and eligible dependents, if any, may be required, unless the spousal equivalent has lost his or her existing employee health coverage, as defined under the terms of the underlying plan(s).
- If an employee chooses to exercise this option, he or she will be able to choose from health care plans offered by insurers that have agreed to coverage of spousal equivalents. (This may not include all of the company's health insurance plans; for example, as of yet, most of MCA's HMO plans have not chosen to provide this coverage for spousal equivalents.)

WHAT HAPPENS TO THE SPOUSAL EQUIVALENT'S COVERAGE WHEN THE EMPLOYEE LEAVES EMPLOYMENT OR DIES?

- Although a spousal equivalent does not have the right to COBRA coverage under existing federal law, the model documents contemplate that the employer will offer continued coverage in certain cases in which COBRA coverage is not available. Specifically, the model documents provide a covered spousal equivalent, and his or her dependents, if any, to continue coverage at the COBRA rate applicable to the plan following:
 - The employee's termination of employment, until the expiration of the employee's COBRA coverage, for up to 18 months.
 - The death of the employee, up to 36 months.
- Except in the event of the employee's death, the spousal equivalent shall not be permitted to continue coverage beyond the date of the termination of the spousal equivalent relationship, or beyond the date that the spousal equivalent becomes eligible for coverage under Medicare.

WHAT ARE THE TAX CONSEQUENCES OF THIS BENEFIT?

- Unless the spousal equivalent is also considered the employee's dependent for tax purposes under Section 152 of the Internal Revenue Code, the Internal Revenue Service currently treats as imputed income to the employee the value of the health coverage provided spousal equivalents and their dependents, if any, less any contribution paid by the employee for this coverage.
- To calculate an employee's income attributable to the spousal equivalent coverage, the task force suggests the following formula:

$I = F - S - C$, where
F = applicable COBRA rate (less the 2% administrative fee) for family coverage;
S = applicable COBRA rate (less the 2% administrative fee) for single coverage;
C = additional after-tax contribution to cover nondependent(s); and
I = imputed income to employee with respect to nondependent(s) coverage.
- Employees are advised to review the consequences of electing this benefit with their own tax advisors.

ARE THERE ANY OTHER LEGAL CONSEQUENCES?

- Employees wishing to opt for this benefit are advised to consult an attorney regarding the possibility that the filing of the Affidavit of Marriage/Spousal Equivalency may have other legal consequences, including the fact that it may, in the event of termination of the spousal equivalent relationship, be regarded as a factor leading a court to treat the relationship as the equivalent of marriage for the purpose of establishing and dividing community property, or for ordering payment of support.

SPOUSE/SPOUSAL EQUIVALENT HEALTH CARE COVERAGE EMPLOYEE INFORMATION SHEET

Coverage for Spouses - General Instructions

- Before you can elect to cover your Spouse under Company's group health care coverage, you must file an Affidavit of Marriage/Spousal Equivalency.
- To extend coverage to your Spouse and eligible dependents, if any, you must complete the Health Care Enrollment Statement and provide a copy of the marriage certificate.
- [Evidence of insurability of your Spouse will be required unless you opt to extend coverage to your Spouse and eligible dependents, if any, within 31 days of the date of marriage, or unless your Spouse subsequently loses employee health coverage, as defined under the terms of the underlying plan(s) ("Plan").]

Coverage for Common Law Spouses - General Instructions

- Before you can elect to cover your Common Law Spouse under Company's group health care coverage, you must file an Affidavit of Marriage/Spousal Equivalency.
- To extend coverage to your Common Law Spouse and eligible dependents, if any, you must complete the Health Care Enrollment Statement and provide documentation demonstrating that you and your Common Law Spouse have established a valid common law marriage.
- [Evidence of insurability of your Common Law Spouse will be required unless you opt to extend coverage to your Common Law Spouse and eligible dependents, if any, within 31 days of filing the Affidavit of Marriage/Spousal Equivalency, or unless your Spouse loses employee health coverage, as defined under the terms of the underlying plan(s) ("Plan"), after an Affidavit of Marriage/Spousal Equivalency has previously been filed.]

Coverage for Spousal Equivalents - General Instructions

- Before you can elect to cover your Spousal Equivalent, as defined in the Affidavit of Marriage/Spousal Equivalency, you must first file the Affidavit of Marriage/Spousal Equivalency.
- To extend health care coverage to your Spousal Equivalent and eligible dependents, if any, you must complete the Health Care Enrollment Statement and provide the required documentation as outlined in the Statement, and as further explained below. The Health Care Enrollment Statement includes attachments listing the plans available and explaining the estimated value of the benefit for tax purposes, as well as the continuation of coverage benefit in the event you are terminated from employment or die.
- [Evidence of insurability of your Spousal Equivalent and eligible dependents, if any, will be required unless you opt to extend coverage to your Spousal Equivalent and eligible dependents, if any, within 31 days of filing the Affidavit of Marriage/Spousal Equivalency, or unless the Spousal Equivalent loses employee

health coverage, as defined under the terms of the Plan, after an Affidavit of Marriage/Spousal Equivalency has previously been filed.]

Affidavit of Marriage/Spousal Equivalency

- An Affidavit of Marriage/Spousal Equivalency is required if you wish to opt for group health coverage for your Spouse, including a Common Law Spouse, or Spousal Equivalent on or after _____, 19__.
- For married employees, the name of the Spouse and the date and place of marriage must be completed.
- For employees who have established a valid common law marriage in one of the 15 states listed in the Affidavit of Marriage/Spousal Equivalency, the name of the Common Law Spouse must be completed.
- For a Spousal Equivalent relationship, the Spousal Equivalent's name must be completed. For purposes of the definition of "Spousal Equivalents," the following terms have the following meanings:
 - "Reside together" means that the two individuals share the same residence. It is not necessary that the legal right to possess the residence be in both of their names (i.e., the lease or deed need not be in both names). The two may "reside together" even if one or both have additional living quarters as long as they generally share the same residence. Spousal Equivalents do not cease to reside together if one temporarily leaves the shared residence but intends to return.
 - "Basic living expenses" means the cost of basic food and shelter. The individuals need not contribute equally or jointly to the cost of these expenses as long as they agree that both are responsible for the costs.

[In addition, if you and your Spousal Equivalent reside in a jurisdiction that permits registration of domestic partners, including Spousal Equivalents, you will have to provide evidence that you and your Spousal Equivalent have registered as domestic partners within 31 days of the filing of the Affidavit of Marriage/Spousal Equivalency. The jurisdictions in which registration of domestic partners is currently permitted, as of July 1, 1992, are: Berkeley, Laguna Beach, San Francisco and West Hollywood, California; the District of Columbia; Ann Arbor and East Lansing, Michigan; Minneapolis, Minnesota; Ithaca, New York; and Madison, Wisconsin. The only exception to this requirement is if the public nature of the registration would create a hardship for either you or your Spousal Equivalent, in which case a statement as to the nature of the hardship must be submitted to Company's Plan Administrator or designated representative.]

- For a Spousal Equivalent relationship, you cannot file a subsequent Affidavit of Spousal Equivalency for a new Spousal Equivalent until at least six months after a Statement of Disenrollment, Legal Separation, Divorce, Death or Termination of Spousal Equivalency has been filed. To allow for reconciliations of Spousal Equivalents, however, there is no waiting period required for filing a second Affidavit of Spousal Equivalency with respect to a partner as to whom you previously filed both an Affidavit and a Statement of Disenrollment, Legal Separation, Divorce, Death or Termination of Spousal Equivalency.

Health Care Enrollment Statement

- A Health Care Enrollment Statement is required if you wish to opt for group health coverage of your Spouse, Common Law Spouse, or Spousal Equivalent on or after ____, 19__.
- Married employees are asked to provide a copy of the marriage certificate.
- Employees with common law marriages are asked to provide documentation that they have entered into a valid common law marriage
- Employees with Spousal Equivalent relationships are asked to provide the following documentation:
 - Proof that you and your Spousal Equivalent reside together - e.g., driver's licenses or passports showing the same address, mortgage documents or a deed.
 - Proof of financial interdependence - e.g., a joint checking account, credit cards with the same account number in both names, designations of each other as authorized signatories on safe deposit boxes, joint wills, or powers of attorney for health care.
- If you elect to enroll your Spouse, Common Law Spouse or Spousal Equivalent in Company's group health coverage, the Spouse or Spousal Equivalent's eligible dependents, if any, will also receive coverage, if requested. Eligible dependents are defined as:
 - An unmarried child who is dependent upon you for support and who is not employed on a regular, full-time basis. An eligible child may be covered until his/her 19th birthday, or in the case of the child who is a full-time student in an accredited university or college, until his/her 23rd birthday.
 - An unmarried child for whom the employee assumes full parental responsibility and control including any and all debts incurred by the child (i.e., charges for health care services and supplies).
 - When a natural parent lives in the same household, a parent-child relationship will only be considered to exist between the employee and the child when the child is primarily dependent upon the employee for support.
- Coverage of your Spouse, Common Law Spouse or Spousal Equivalent, and eligible dependents, if any, will end, according to the terms of the particular plan(s) in which they are enrolled, when you file a Statement of Disenrollment, Legal Separation, Divorce, Death or Termination of Spousal Equivalency with the Plan Administrator; when you and your Spouse are legally separated or receive a final decree of divorce; when the criteria for a Spousal Equivalency relationship, listed in the Affidavit of Marriage/Spousal Equivalency, are no longer met; or when your Spouse or Spousal Equivalent dies.

Statement of Disenrollment, Legal Separation, Divorce, Death or Termination of Spousal Equivalency

- If you enrolled your Spouse, Common Law Spouse or Spousal Equivalent in Company's group health coverage, you are obligated to file a Statement of Disenrollment, Legal Separation, Divorce, Death or Termination of Spousal Equivalency with the Plan Administrator within [30] days of the death of your Spouse, Common Law Spouse or Spousal Equivalent.
- In the case of married employees, the Statement must also be filed within [30] days of the date on which you are divorced or legally separated.
- In the case of employees in Spousal Equivalency relationships, the Statement must also be filed within [30] days of the date on which the criteria of a Spousal Equivalency relationship, listed in the Affidavit of Marriage/Spousal Equivalency, are no longer met.
- The Statement may also be filed at any time you wish to disenroll your Spouse, Common Law Spouse or Spousal Equivalent, and eligible dependents, if any, from Company's group health coverage.

AFFIDAVIT OF MARRIAGE/SPOUSAL EQUIVALENCY

I, _____, submit this Affidavit of
(Name of Employee)

Marriage/Spousal Equivalency to establish _____
(Name of Spouse or Spousal Equivalent)

as my Spouse/Spousal Equivalent (as those terms are defined below) for the purpose of any benefits that Company may extend to employees' Spouses or Spousal Equivalents.

I, _____, declare and acknowledge as follows:
(Name of Employee)

For Marriage

I and _____ were legally married to each other on
(Name of Spouse)
_____ at _____ and are now married. For purposes
(Date of Marriage) (Place of Marriage)

of this affidavit, "Spouse" means the person to whom I am currently lawfully married under the laws of the state in which we reside, and from whom I am neither divorced nor legally separated.

For Common Law Marriage

I and _____ have met the criteria for a valid common-law
(Name of Spouse)

marriage in one of the following states where we both currently reside: Alabama, Colorado, District of Columbia, Georgia, Idaho, Iowa, Kansas, Montana, Oklahoma, Ohio (relationship established before Oct. 10, 1991), Pennsylvania, Rhode Island, South Carolina, Texas and/or Utah.

-OR-

I and _____ entered into a valid common-law marriage in one
(Name of Spouse)

of the states listed above, and now reside in another state which, according to our personal legal advisor, recognizes the validity of such marriages established under the laws of one of the states listed above.

In either case, I further acknowledge that my Spouse and I continue to reside together and that we are neither divorced nor legally separated from each other.

For Spousal Equivalent Relationship

I and _____ are Spousal Equivalents. "Spousal
(Spousal Equivalent's Name)

Equivalents" means two adults [of the same sex] who have chosen to share their lives in an intimate and committed relationship, reside together, and share a mutual obligation of support for the basic necessities of life.

Specifically, I declare and acknowledge that I and my Spousal Equivalent named above meet the following criteria:

- We reside together and intend to do so permanently.
- We are not related by blood to a degree of closeness that would prohibit legal marriage.
- We are mutually responsible for basic living expenses.
- We are both at least the age of consent in the state in which we reside.
- Neither of us is married to anyone else.

[In addition, if we live in a jurisdiction which permits registration of domestic partners, including Spousal Equivalents, I declare and acknowledge that I and my Spousal Equivalent have registered, or will register within the next 31 days, as domestic partners in that jurisdiction. The jurisdictions in which registration of domestic partners is currently permitted, as of July 1, 1992, are: Berkeley, Laguna Beach, San Francisco and West Hollywood, California; the District of Columbia; Ann Arbor and East Lansing, Michigan; Minneapolis, Minnesota; Ithaca, New York; and Madison, Wisconsin. I further understand that this requirement may be waived if the non-confidential nature of the registration (which is usually a matter of public record) would create a hardship for me and/or my Spousal Equivalent. To request a waiver of this requirement, a statement regarding the nature of the hardship must be submitted to Company's Plan Administrator or designated representative.]

For Marriage/Spousal Equivalent Relationships

I acknowledge that:

- I cannot file another Affidavit of Spousal Equivalency for a new Spousal Equivalent until at least six months after a Statement of Termination of Spousal Equivalency has been filed.
- If health care coverage is requested, I will provide to Company's Plan Administrator or designated representative a completed Health Care Enrollment Statement along with documents establishing the existence of my Marriage/Spousal Equivalency relationship.
- I understand that I would be well advised to consult an attorney regarding the possibility that the filing of this Affidavit may have certain legal consequences, including the fact that it may, in the event of termination of the Spousal Equivalent relationship, be regarded as a factor leading a court to treat the relationship as the equivalent of marriage for the purpose of establishing and dividing community property, or for ordering payment of support.

- I have an obligation to file a Statement of Disenrollment, Legal Separation, Divorce, Death or Termination of Spousal Equivalency with Company's Plan Administrator or designated representative within [30] days of the earliest of (a) the death of my Spouse or Spousal Equivalent; (b) the date of legal separation; (c) the date of the divorce decree; or (d) the date on which any of the criteria of a Spousal Equivalency relationship is no longer met. I further understand that the effective date of the end of the Spouse/Spousal Equivalency relationship is the earliest of (a) the death of my Spouse or Spousal Equivalent; (b) the date of legal separation; (c) the date of the divorce decree; or (d) the date on which I file a Statement of Disenrollment, Legal Separation, Divorce, Death or Termination of Spousal Equivalency with Company's Plan Administrator or designated representative.
- I understand that I am responsible for reimbursement of any expenses incurred as a result of any false or misleading statement contained in this Affidavit of Marriage/Spousal Equivalency.

I affirm, under penalty of perjury, that the statements in this Affidavit are true to the best of my knowledge.

DATED: _____

(Signature)

(Name)

(Address)

(City, State, Zip Code)

[Please Note: If you wish to enroll your Spouse/Spousal Equivalent for group health coverage, you must complete and return the Health Care Enrollment Statement, along with the documents establishing the existence of the marriage/spousal equivalency relationship, to the Company Plan Administrator or designated representative within 31 days of the earliest of: (a) the date of marriage; or (b) the date of filing this Affidavit of Marriage/Spousal Equivalency. If the Health Care Enrollment Statement and the required documents are not filed within this time period, evidence of insurability of the Spouse/Spousal Equivalent and eligible dependents, if any, will be required, unless the Spouse/Spousal Equivalent has lost his or her existing employee health coverage, as defined under the terms of the underlying plan(s), after an Affidavit of Marriage/Spousal Equivalency has previously been filed.]

**STATEMENT OF DISENROLLMENT, LEGAL SEPARATION, DIVORCE,
DEATH OR TERMINATION OF SPOUSAL EQUIVALENCY**

I, _____, make and file this Statement of
(Name of Employee)

Disenrollment, Legal Separation, Divorce, Death or Termination of Spousal Equivalency in
order to cancel the Affidavit of Marriage/Spousal Equivalency previously filed.

I, _____, declare and acknowledge as follows:
(Name of Employee)

For Marriage (fill in appropriate line)

I wish to cancel, effective immediately, the Health Care Enrollment Statement previously
filed with respect to _____.
(Name of Spouse)

-OR-

I and _____ were legally separated on _____.
(Name of Spouse) (Date of Separation)

-OR-

I and _____ dissolved our marriage on _____.
(Name of Spouse) (Date of Divorce)

-OR-

My Spouse, _____, died on _____.
(Name of Spouse) (Date of Death)

For Spousal Equivalent Relationship (fill in appropriate line)

I wish to cancel, effective immediately, the Affidavit of Marriage/Spousal Equivalency
previously filed with respect to _____.
(Name of Spousal Equivalent)

-OR-

The Spousal Equivalent relationship between me and _____
(Name of Spousal Equivalent)
ended on _____.
(Date of Termination)

-OR-

My Spousal Equivalent, _____, died on _____.
(Name of Spousal Equivalent) (Date of Death)

For Termination of Group Health Coverage of Spouse/Spousal Equivalent

I understand that, if my Spouse or Spousal Equivalent has previously been covered by Company's group health coverage, the effect of filing this Statement of Disenrollment, Legal Separation, Divorce, Death or Termination of Spousal Equivalency is that my Spouse or Spousal Equivalent, and his or her eligible dependents, if any, will no longer be covered by Company's group health coverage, in accordance with the terms of the underlying plan(s) ("Plan"), subject to any provisions in such Plan permitting the continuation of coverage in the event of legal separation, divorce, death or termination of the Spousal Equivalency relationship.

I further acknowledge that it is my responsibility to mail a copy of this signed statement to my surviving Spouse/Spousal Equivalent, or former Spouse/Spousal Equivalent, named above.

I affirm that the statements in this Statement are true to the best of my knowledge.

DATED: _____

(Signature)

(Name)

(Address)

(City, State, Zip Code)

HEALTH CARE BENEFITS
for
SAME SEX DOMESTIC PARTNERS

December, 1992

Introduction

Milbank Tweed is offering a program of same sex domestic partner health care benefits called the Domestic Partner Program (the "Program"). The Program broadens the definition of a qualified dependent for the purposes of determining eligibility for coverage under the Milbank Tweed Hadley & McCloy Medical Comprehensive Expense Benefit Plan the "Plan" administered by the Prudential Insurance Company. Under the Program, medical coverage will be available to the Qualified Domestic Partner of an active employee of Milbank Tweed beginning on January 1, 1993.

This document summarizes the benefits which may be available to you and your same sex domestic partner under the Program.

If you and your same sex domestic partner qualify for the Program and you decide to participate, the benefits available to other covered dependents under the Medical Plan will be available to your same sex domestic partner under the Program.

To help you understand how your same sex domestic partner medical benefits work, it is important for you to know the following terms and definitions as they are used under the Program.

Eligible Employee - means an active, full-time employee or Partner (more than 21 hours per week) of Milbank Tweed who is enrolled in one of the Prudential Medical Plans, and who does not have a spouse or former spouse who is or could be covered as a dependent under the Medical Plan.

Qualified Domestic Partner - means a person who:

- is an unmarried adult of the same sex as the eligible employee
- has cohabited with an eligible employee for at least 12 consecutive months prior to his or her enrollment in the Program in such a relationship that is meant to be of lasting duration; and
- is otherwise not a qualified dependent under the Plan.

You can enroll only one Qualified Domestic Partner of the same sex in the Program.

Proof of Cohabitation - means two forms of supporting documentation to show that you and your same sex domestic partner have cohabited together for 12

consecutive months prior to his or her enrollment in the Program. Acceptable Proof of Cohabitation including but not limited to copies of your domestic partner's voter registration card, driver's license, signed lease, billing statement (utility bill, bank account, credit card), payroll stub, tax filings or unemployment insurance documents.

Imputed Income - means any premiums paid by Milbank Tweed for same sex domestic partner coverage under the Program if your domestic partner is not a dependent for federal tax purposes. Imputed Income is subject to ordinary federal income taxation and to social security taxes (FICA), which are withheld through payroll deductions.

Proof of Insurability - means proper completion of a health statement provided by the Prudential Insurance Company to show that your same sex domestic partner is in good health at the time of enrollment as determined by Prudential. No Proof of Insurability need be provided if your domestic partner is enrolled in the Program within the applicable 31-day enrollment period.

Who is Eligible and When

Under the Program, your Qualified Domestic Partner is first eligible for coverage on the later of:

- (1) January 1, 1993 if you are an eligible employee on that date;
- (2) The date you become an eligible employee if you become an eligible employee after January 1, 1993; or
- (3) The first date your Same Sex Domestic Partner becomes a Qualified Domestic Partner if on the date you become an eligible employee your same sex domestic partner is not a Qualified Domestic Partner (i.e., you and your same sex partner have not yet cohabitated for 12 consecutive months).

How to Enroll in the Program

If you wish to cover a Qualified Domestic Partner under the Program, you must properly complete and return an enrollment form. Your enrollment form is not complete if you do not submit Proof of Cohabitation and an Affidavit of Spousal Equivalency. You must return the enrollment form within 31 days of the day in which your Qualified Domestic Partner is first eligible for coverage. If you do not submit the enrollment form within the 31-day period, you will be required to submit Proof of Insurability which must be approved by Prudential Insurance Company in order for coverage to be effective.

The Form requires you to:

- elect dependent coverage for your domestic partner
- provide dependent data, including name, address, social security number, etc.
- authorize Milbank Tweed to make payroll deductions for coverage
- indicate if your domestic partner meets the Internal Revenue Code (IRC) definition of a dependent for exemption from taxes on Imputed Income
- indicate that you understand that your domestic partner is not a "qualifying beneficiary" under COBRA rights and is not entitled to these rights.
- co-sign the form with your domestic partner
- return the form to Sal Di Liberti, Benefits Department, room 4617.

Enrollment forms including the Milbank "Affidavit of Spousal Equivalency" must be submitted no later than December 31, 1992 or 31 days after the eligibility requirement of the Domestic Partner Program are met.

Cost

As with the cost of dependent coverage provided under the Medical Plan, the cost of covering your Qualified Domestic Partner under the Program will be shared by Milbank Tweed and you. Your portion of the cost will be deducted from your paycheck. The amount deducted from your paycheck will be the same as the amount

you would pay to cover a dependent under the Medical Plan, and will depend on the type of coverage you elect for your Qualified Domestic Partner.

Federal tax law and regulations generally provide for favorable tax treatment of the cost of covering a "dependent" under this type of health care program. Federal tax rules and regulations generally define a dependent as a member of your household who receives more than one-half of his or her support from you during the year. Further, your home must be the principal place of residence for the dependent during the year. An individual is not a member of your household for federal tax purposes if, at any time during the year, your relationship with that individual violates the law of the state in which you and your domestic partner live.

If your domestic partner does not qualify as a dependent for federal tax purposes, the amount you pay to cover your Qualified Domestic Partner under the Program may not be deducted from your paycheck on a pre-tax basis under the Milbank Tweed Flexible Compensation Program. Payroll deductions for your portion of the cost of domestic partner coverage will be made on an after-tax basis. In addition, you will be taxed on Imputed Income for the portion of the benefit cost paid by Milbank Tweed. You should consult a tax advisor to determine whether your domestic partner is a qualified dependent for federal tax purposes and, if not, how the tax on Imputed Income may affect you.

Coverage Under the Program

Qualified Domestic Partners who are covered under the plan receive the same coverage as dependents under the Prudential Medical Plan Options.

Termination of Coverage

Coverage for your Qualified Domestic Partner will terminate the earlier of:

1. the date your Same Sex Domestic Partner is no longer a Qualified Domestic Partner;
2. the date as of which the Program is discontinued by Milbank Tweed; or
3. the date on which your coverage under the Plan is terminated.

Continuation of Coverage

It is important to note that a Qualified Domestic Partner is not a "qualified beneficiary" under the Consolidated Omnibus Reconciliation Act of 1985 ("COBRA"). As a result, the continuation of medical coverage under COBRA is not available to a Qualified Domestic Partner.

Conversion of benefits

You may have the right to convert your group medical insurance to an individual policy if your coverage under any of the Prudential Medical Plan Options terminates. This individual policy may, subject to Prudential's rules, cover your Qualified Domestic Partner in addition to you and your eligible children. Note, however, that termination of your Qualified Domestic Partner's coverage under the Program due to the Program's termination or for any other reason will not entitle your Qualified Domestic Partner to conversion privileges.

Termination of Coverage

Coverage under the Program is available to your same Qualified Domestic Partner only as long as you continue to meet the requirements of an eligible employee and your partner continues to meet the requirements of a Qualified Domestic Partner. Failure to meet the eligibility requirements of the Program will result in loss of coverage under the Program.

Appeals Procedure

Timely submission of a completed enrollment form does not guarantee that your same sex domestic partner will be covered under the Program. Likewise, coverage under the Program does not guarantee that all claims for benefits will be approved. Should your application for coverage or a claim for benefits under the Program be denied, you would be entitled to follow the Plans' appeal procedure.

ENROLLMENT FORM FOR THE DOMESTIC PARTNER PROGRAM

For Employees of Milbank Tweed

If you have a Qualified Domestic Partner whom you would like to cover under one of the Milbank Tweed Hadley & McCloy Medical Comprehensive Benefit Plan, please complete this form. Remember, you can enroll only one Qualified Domestic Partner.

Part I. Benefit Coverage

I wish to enroll my domestic partner for coverage under the:

_____ Prudential High Option
_____ Prudential Medium/PruCare Option
_____ Prudential Low Option

Part II. Domestic Partner Information

Please provide the following information about your domestic partner:

Name: _____
Address: _____
Sex: Male _____ Female _____
Date of Birth: _____
(month/day/year)
Domestic Partner's
Social Security No. _____

Part III. Certification of Domestic Partner as Dependent

You should consult tax and legal experts before you certify that your domestic partner is a dependent as defined by the Internal Revenue Code. Keep in mind that if your domestic partner does not meet the IRC dependent definition, you will be taxed on Imputed Income from the dependent coverage premiums paid by Milbank Tweed and you will not be eligible to have domestic partner medical premiums deducted on a pre-tax basis.

I hereby certify that my _____ (name) Qualified Domestic Partner is my "dependent" as that term is defined in Section 152 of the Internal Revenue Code of 1986 as amended.

Employee Signature

Part IV. Authorization of Payroll Deductions

I authorize Milbank Tweed to deduct contributions as determined by Milbank Tweed, from my pay on an after-tax basis for Qualified Domestic Partner health care coverage.

I authorize Milbank Tweed to deduct contributions on a pre-tax basis if I have certified, in Part II above, that certify my Qualified Domestic Partner as a dependent in Part III above.

I also understand that if my domestic partner's coverage under this Program ends for any reason, my Qualified Domestic Partner does not have COBRA rights to continuation coverage.

Part V. Your Signature

Please sign your name and have your domestic partner sign his or her name.

Employee Signature/Date

Domestic Partner Signature/Date

Please review your enrollment form and make sure you have filled it out accurately and completely. Return this form with photocopies of two acceptable forms of Proof of Cohabitation and Affidavit of Spousal Equivalency no later than December 31, 1992, or within 31 days after your Qualified Domestic Partner is eligible for coverage pursuant to the Domestic Partner Program to: Sal Di Liberti, Benefits Department, room 4617.

MILBANK, TWEED, HADLEY & McCLOY

AFFIDAVIT OF SPOUSAL EQUIVALENCY

I. DECLARATION:

We, _____ and _____ certify that
employee (print) spousal equivalent (print)

we are spousal equivalents in accordance with the following criteria and eligible for benefits coverage as spousal equivalents under Milbank's benefits program:

II. STATUS:

1. We are each other's sole spousal equivalent and intend to remain so indefinitely.
2. We are of the same sex and neither one of us is married.
3. We are at least eighteen (18) years of age and mentally competent to consent to contract.
4. We are not related by blood to a degree of closeness than that which would otherwise prohibit legal marriage in the state in which we legally reside.
5. We reside together in the same residence and intend to do so indefinitely.
6. We are committed to each other's common welfare.

III. CHANGE IN SPOUSAL EQUIVALENCY:

1. We agree to notify the Milbank Benefits Department if there is any change in our status as spousal equivalents as attested to in this Affidavit which would change our eligibility for Milbank benefits (for example, if we cease to reside together or if we are no longer each other's sole spousal equivalent). I, _____, (member or employee) will notify Milbank within thirty-one (31) days of such change by filing a Statement of Termination of Spousal Equivalency ("Statement of Termination"), affirming that the spousal equivalency status is terminated as of its date of execution and that a copy of the Statement of Termination has been mailed to the other party by the party authorizing such action.
2. After such termination, I, _____, (member or employee) understand that a subsequent Affidavit of Spousal Equivalency cannot be filed until 6 months after a Statement of Termination has been filed with the Milbank Benefits Department. The six month waiting period will be waived only if another Affidavit is filed for the same spousal equivalent who is a signatory to this Affidavit.

IV. ACKNOWLEDGEMENTS:

1. We understand that any person/employer/company who suffers any loss due to any false statement contained in this Affidavit may bring a civil action against either or both of us to recover their losses, including reasonable attorneys' fees.
2. We have provided the information in this Affidavit for use by Milbank's Benefits Department for the sole purpose of determining our eligibility for spousal equivalency benefits. No third parties shall have any rights under this Affidavit.
3. We affirm, under penalty of perjury, that the assertions in this Affidavit are true to the best of our knowledge.

Property Implications: Please be advised that some courts have recognized non-marriage relationships as the equivalent of marriage for the purpose of establishing and dividing joint property.

member or employee signature

member or employee address

spousal equivalent signature

spousal equivalent address

MILBANK, TWEED, HADLEY & McCLOY

STATEMENT OF TERMINATION OF SPOUSAL EQUIVALENCY

I, _____ (member or employee) being duly sworn, deposes and say that:

1. _____ (spousal equivalent) and I are no longer spousal equivalents.
2. I make and file this Statement of Termination to cancel the Affidavit of Spousal Equivalency filed by me with Milbank, Tweed, Hadley & McCloy on _____.
3. I mailed my former spousal equivalent a copy of this notice at _____ on _____.

I declare, under penalty of perjury, that the above statements are true and correct.

Signed: _____

Print: _____

Address: _____

Date: _____