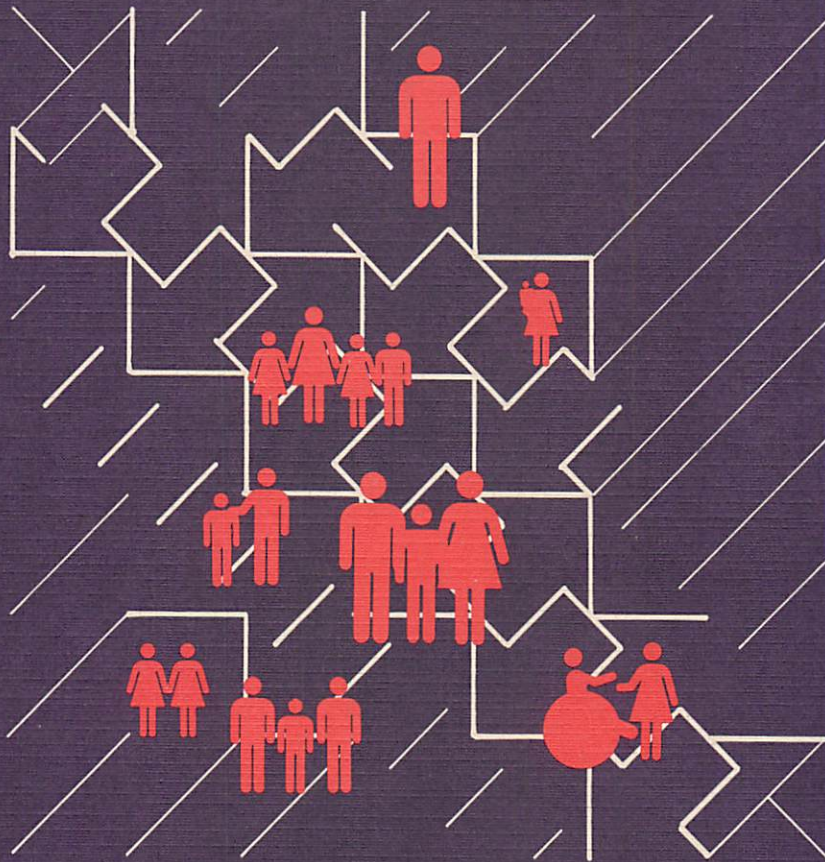


# Task Force on Family Diversity

*City of Los Angeles*



**Supplement**  
*(Part Two)*

**Student Research Papers**

**Councilman Michael Woo**  
*Convenor*

**Thomas F. Coleman**  
*Special Consultant*

**Christopher McCauley**  
**Nora Baladerian**  
*Co-Chairpersons*



**TASK FORCE ON FAMILY DIVERSITY**

City of Los Angeles

**SUPPLEMENT**

(Part Two)

**STUDENT RESEARCH PAPERS**

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**ABOUT THE SUPPLEMENT**

to the

**REPORT OF THE TASK FORCE ON FAMILY DIVERSITY**

The Supplement to the Report of the Task Force on Family Diversity contains background papers prepared by Task Force members and student researchers on topics related to the work of the Task Force. The Supplement is published in two separate documents -- Part One (Team Reports) and Part Two (Student Research Papers).

**Supplement: (Part One) pages 1 - 563**

Part One of the Supplement contains topical reports prepared by Task Force members. The reports are listed in the Table of Contents.

**Supplement: (Part Two) pages 564 - 917**

Part Two of the Supplement contains research papers prepared for the Task Force by law students at University of Southern California Law Center and by sociology students at California State University, Northridge. The papers are listed in the Table of Contents.

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**Disclaimer**

The views stated in the topical reports and research papers contained in the Supplement are the views of the authors of those reports and papers and do not necessarily reflect the views of the Task Force as a whole. The findings and recommendations of the Task Force as a whole are contained in the Report of the Task Force on Family Diversity published under separate cover.

## ACKNOWLEDGMENTS

### Member Research Teams

The Task Force is grateful to each of its members who served on the individual Research Teams whose reports are contained in the Supplement (Part One). The process of research, discussion, synthesis, and writing of these topical reports proved useful to both participating team members and the larger Task Force. The Task Force found these reports helpful in its deliberations and in many cases adopted the suggested recommendations, either in whole or in part.

### Student Researchers

The Task Force received research assistance from law students at University of Southern California Law Center, sociology students at California State University Northridge and psychology students at California School of Professional Psychology. These contributions enabled the Task Force to expand its research effort to additional areas of inquiry. The Task Force is grateful both to these students and their cooperating faculty and academic institutions. Some of the student papers are contained in the Supplement (Part Two).

### General Telephone Company of California

The Task Force is especially pleased to acknowledge the participation of General Telephone Company of California for its generosity in publishing the Supplement (Parts One and Two) to the Report of the Task Force on Family Diversity as well as the production of the final Report of the Task Force on Family Diversity. This contribution has made it possible for the extensive writings of the Task Force to reach a wide and significant audience.

## TASK FORCE ON FAMILY DIVERSITY

### Mandate

WHEREAS, the family, as an institution, has played and continues to play an important role in the development of our city, state, and nation; and

WHEREAS, "family" is a broad and expansive concept, capable of encompassing a wide range of committed relationships; and

WHEREAS, most individuals, in furtherance of their inalienable rights to life, liberty, privacy, and pursuit of happiness, have formed and continue to form family relationships; and

WHEREAS, our city is rich in family diversity; and

WHEREAS, government should encourage the formation and development of family relationships; and

WHEREAS, government itself should not foster discrimination against families, nor should it tolerate unfair private discrimination against families; and

WHEREAS, in furtherance of our commitment to family life and individual freedom, the City of Los Angeles and its affiliated political entities should adopt reasonable measures to address the legitimate needs of families; and

WHEREAS, government authority to remedy family problems is vested in various levels and branches of government;

NOW, THEREFORE, I, Los Angeles City Councilman Michael Woo, by virtue of the power vested in me as a member of the Los Angeles City Council and as Chairman of the City Council's Intergovernmental Relations Committee, do hereby convene a TASK FORCE ON FAMILY DIVERSITY:

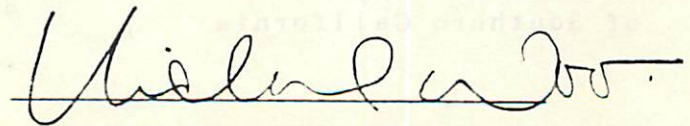
1. Said Task Force shall consist of two co-chairs and up to 38 other members appointed by me.

2. The co-chairs and members shall serve without compensation.

3. The Task Force shall study the nature and extent of family diversity in the City of Los Angeles and shall investigate any evident problems experienced by variable family groups, such as single-parent families, unmarried couples, immigrant families, gay or lesbian couples, or families with senior or disabled members.

4. The Task Force shall issue a final report by April, 1988, documenting its findings, noting demographic and legal trends, and making recommendations for legislative, administrative, educational, or other appropriate actions which should be undertaken within the public or private sectors to address the special problems of families in Los Angeles.

Dated: April 9, 1986



COUNCILMAN MICHAEL WOO

**TASK FORCE ON FAMILY DIVERSITY - Members and Advisors**  
(Revised March 16, 1987)

Dr. Nora Baladerian (Co-chair)  
Mental Health Consultant

Russell Blackstone  
Governmental Consultant  
Afriat & Blackstone Consultants

Ivy Bottini  
Fred Sands Realtor Associate

Father Robert Brown  
St. James Episcopal Church

Michelle Buehler  
S.C.I.U. Local 347

Lee Campbell  
Associate Dean  
U.S.C. Law Center

Dr. Elizabeth Clark  
U.C.L.A. Research Psychologist

Professor Jan Costello  
Associate Dean  
Loyola Law School

E.H. Duncan Donovan  
Vice-President,  
Southern California A.C.L.U.

Sandra Dyson  
Office of Vocational  
Rehabilitation  
City of Los Angeles

Kathy Escobedo  
Associate Director  
Health Professions  
Resource Center

Rabbi Allen Freehling  
President,  
Board of Rabbis  
of Southern California

Dr. Carol Gill  
County Commission  
on Disabilities

Dr. Terry Gock  
Los Angeles County  
Mental Health Department

Commissioner Diane Goodman  
City of Los Angeles  
Commission on the Status of Women

Katherine Hamilton  
Board Member,  
Southern California  
Women for Understanding

Diane Himes  
Board Member,  
Municipal Elections Committee  
of Los Angeles (M.E.C.L.A.)

Karen Ishizuka  
Director of Development  
Pacifica Foundation

Mary Kelly  
Director,  
Hilltop Nursery School

David Link  
Legion Lex  
U.S.C. Law Center

Celia Mata  
Administrative Assistant  
U.S.C. Medical Library

Luis Maura Jr.  
AIDS Project Los Angeles

Christopher McCauley (Co-chair)  
Senior Consumer Affairs  
Representative for  
Southern California Gas Company

Julie Morton  
Law Student  
U.S.C. Law Center

Mario Perez  
Assistant Personnel Analyst  
Southern California R.T.D.

Professor Wayne Plasek  
Sociology Department  
C.S.U. - Northridge

Dr. Lisa Porche-Burke  
California School of  
Professional Psychology

Dr. Linda Poverny  
Board Member,  
Gay and Lesbian  
Community Services Center

Frank Ricchiazzi  
Board Officer  
Log Cabin Republican Club

Elaine Siegel, M.S.W.  
Licensed Clinical Social Worker

Adele Starr  
President, Parents and Friends  
of Lesbians and Gays

Paula Starr  
Family Life Program Director  
Los Angeles Indian Health Center

Chris Uszler  
Executive Director  
Alliance for Gay  
and Lesbian Artists  
in the Entertainment Industry

Louis Verdugo  
Deputy Attorney General

Jeff Vopal  
Vice-President  
National Business  
Insurance Agency

Betty Hanna Witherspoon  
Rosa Parks Rape Crisis  
Intervention Center

Dr. Elaine Wood  
California School of  
Professional Psychology

#### Advisors

Thomas F. Coleman, Esq.  
Special Consultant

Roslyn Carter  
Deputy Legislative Analyst

Lewis Gutierrez  
Deputy City Attorney

Jay M. Kohorn, Esq.  
Report Consultant

#### Council Liaison

H. Eric Schockman, Ph.D.  
Field Deputy,  
Office of  
Councilman Michael Woo



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For Further Information  
or  
For Copies of Documents  
Contact:

Spectrum Institute  
Family Diversity Project  
Post Office Box 65756  
Los Angeles, CA 90065  
(213) 258-8955

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**CONTENTS OF THIS DOCUMENT: Supplement (Part Two)**

| <b>Topic of Student Paper:</b>  | <b>Student:</b>                  | <b>Page:</b> |
|---|----------------------------------|--------------|
| Securing Benefits for the Domestic Partners of Los Angeles City Employees | David Ross                       | S-564        |
| Defining "Family"   | Matthew Elliott Green            | S-600        |
| One-Person Households   | Rummell Mor Bautista             | S-619        |
| Runaway and Homeless Youth in Los Angeles County                          | Richard Prince                   | S-645        |
| Family Life Education   | Dean Weddall                     | S-658        |
| Teen Pregnancy and Teen Parenting in Los Angeles: Gaps in Services        | A. L. Movel                      | S-677        |
| Immigrant Families  | John Opel                        | S-703        |
| Seniors Issues  | Brett Rawitz                     | S-720        |
| Child Care Needs in the City of Los Angeles                               | Julia B. Morton                  | S-746        |
| Domestic Violence   | George Castello                  | S-775        |
| Status of Gay and Lesbian Couples   | David Link                       | S-832        |
| The Philosophical Definition of "Family"                                  | M.R. McDonald                    | S-851        |
| Insurance Discrimination  | Ada Kan                          | S-871        |
| Runaways: A Social Problem  | Leticia Mendez<br>Twinkle Werber | S-889        |
| Seniors Issues  | Lori Hasemann                    | S-890        |
| City Employee Benefit Survey  | Steven A. Brooks                 | S-904        |
| Family Diversity and Television   | Michael S. Jones                 | S-909        |

*Securing Benefits for the Domestic Partners  
of Los Angeles City Employees*

*David Ross  
USC Law Center  
Rights of Domestic Partners*

The Supreme Court of the State of California has stated that "family" may

"mean different things under different circumstances. The family, for instance, may be... a particular group of people related by blood or marriage, or not related at all, who are living together in the intimate and mutual interdependence of a single home or household...." This court has recognized that "the family is the basic unit of our society, the center of the personal affections that ennoble and enrich human life. It channels biological drives that might otherwise become socially destructive; it ensures the care and education of children in a stable environment; it establishes continuity from one generation to another; it nurtures and develops the individual initiative that distinguishes a free people."

(Citations omitted)  
MacGregor v Unemployment Ins.  
Appeal Board (1984) 37 Cal 3d  
205, 207 Cal Rptr. 823, 689  
P2d 453.

"The basic unit of our society" may include people "not related at all, who are living together in the intimate and mutual interdependence of a single home." This radical insight by the court has hardly been institutionalized. In the area of concern of this memorandum, the provision of benefits by the City of Los Angeles to its employees, the court's idea of family might never have been articulated, for the city's benefit system does not extend beyond the traditional blood/marriage/adoption idea of the family. As a result, some family members of city employees are denied the benefits that are extended to family members of other employees. At present, there are neither legal impediments

to the extension of benefits to cover members of all immediate families nor are there the legal means to compel such an extension. The issue, then, is purely a matter of policy in which the City Council is free to act as it sees fit. In making its decision, the Council must balance the competing claims of equity and need against the problems of cost, definition, inertia and, perhaps, political resistance. The recommendation of this memorandum is that the Task Force should recommend to the City Council that they act to extend the Family Sick Leave, Bereavement Leave and Health Benefits to non-traditional family members and that the Task Force study further the economic and political problems of extending the retirement and child care benefits. The extension of retirement benefits would be the most costly to the city and also would be difficult to effectuate because it would require the amendment of the City's charter to do so. Amendment requires the voters' approval.

For the purposes of the memorandum, I shall accept the definition of family cited above, a group of people "living together in the intimate and mutual interdependence of a single home." I shall exemplify the non-traditional family with three instances: 1) a hetero-sexual couple, not married, she having a child by another relationship, and he being the city employee;

2) a homosexual couple, one or both of whom are city employees;

3) A single woman, a city employee, who is the de-facto mother of a child to whom she is not related by blood or adoption.

In all of these cases, the family member(s) other than the employee would be denied health and retirement benefits, and the employee would be denied leave to care for these family members if they became ill or for bereavement if they died.

#### THE CURRENT STATE OF THE LAW

At the outset it must be stressed that the concept of family as articulated by the Supreme Court in MacGregor has not found general recognition in California state law. There have been several modest extensions of the idea of family in cases such as Marvin, (recognition of the right of co-habiting, non-married adults to contract with each other) Adamson, (the right of a group of unrelated people to live together in a home zoned for single family residence) and in MacGregor (extension of unemployment benefits to a woman who quit work to move out of state with her family partner who was also the father of her child.)

These decisions, and the legislation described below, have made no comprehensive change in the law's conception of the family. Therefore, much of the extension that has occurred has taken place at the level of municipal government, most notably in Berkeley and West Hollywood, which do recognize non-marital, long-term relationships as

familial. The leadership in this movement has come from the homosexual community, essentially because California law prevents same sex marriage: "Marriage is a personal relation out of a civil contract between a man and a woman..." Civil Code §4100. Homosexual familial relationships, therefore, by definition, are non-marital and, therefore, lack the rights and privileges that attach to marriage. One of the aims of gay activism has been to remedy this inequity and, therefore, the homosexual community has taken the lead in the struggle for the recognition of an idea of family that encompasses all people "who are living together in the intimate and mutual interdependence of a single home." In *Gay Law Students Assn. v. Pacific Tel. and Tel*, 24 Cal 3d 464, 156 Cal Rptr. 14, 595 P2d 592, the California Supreme Court stated that:

the struggle of the homosexual community for equal rights, particularly in the field of employment, must be recognized as a political activity. Indeed, the subject of the rights of homosexuals incites heated political debate today, and the 'gay liberation movement' encourages its homosexual members to attempt to convince other members of society that homosexuals should be accorded the same fundamental rights as heterosexuals. The aims of the struggle for homosexual rights, and the tactics employed, bear a close analogy to the continuing struggle for civil rights waged by blacks, women and other minorities.

Gay, Cal Rptr at 32

Much of the precedents, ground work and energy have been, and will continue to be, provided by the gay community.

However, it is important to note that while that community will also benefit from the recommendations, if enacted, of this memorandum, they are not the only, nor perhaps even the primary beneficiaries. It may turn out that the greatest beneficiaries will be either children who are not connected in traditional family ties, or unmarried, cohabiting heterosexual couples. Therefore, even though the gay community may be the focus of much attention and may provide much energy in resolving the problems of discrimination against diverse family forms, it is the family itself, "the center of personal affections" that is the focus of the recommendations of the memorandum.

Because of the fact that homosexuals are prevented from marrying each other, the struggle to prevent discrimination on the basis of sexual preference necessarily implies some recognition of alternate family structures. Because of this, and the willingness of homosexuals to fight for such recognition, it is necessary to consider the status of the law regarding sexual preference, particularly in relation to employment.

On April 4, 1979, the Governor of California issued Executive Order 54-79 as follows:

Whereas, Article I of the California Constitution guarantees the inalienable right of privacy for all people which must be vigorously enforced; and

Whereas, government must not single out sexual minorities for harassment or recognize sexual orientation as a basis for discrimination; and



Whereas, California must expand its investment in human capital by enlisting the talent of all members of society;

Now, therefore, I, Edmund G. Brown Jr., Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this order to become effective immediately:

The agencies, departments, boards and commissions within the Executive Branch of state government under the jurisdiction of the Governor shall not discriminate in state employment against any individual based solely upon the individual's sexual preference. Any alleged acts of discrimination in violation of this directive shall be reported to the State Personnel Board for resolution.

This Order has not been revoked by the current administration and, in fact, the present Governor, when he was Attorney General, issued his Opinion No. 80-511 on July 3, 1980, holding that Executive Order 54-79 "does not constitute an improper infringement upon legislative authority with respect to the state civil service." However, it must be noted that the order has no effect on the actions of the city, is limited to discrimination on the basis of sexual preference, does not specifically reach the broader questions of discrimination on the basis of membership in a non-traditional family, and may have no effect, even in the state system, on the distribution of employment benefits. However, in spite of the limitation on the scope and effect of the order, I set it forth here as an expression of the public policy of the State of California. Arbitrary discrimination, in state employment, on the basis

of sexual preference runs counter to the idea of privacy embodied in the State Constitution.

This policy of preventing discrimination in the conditions of employment extends also distinctions based on marital status.

It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions or privileges of employment.

Government Code §12940

The public policy of the State of California is to protect and safeguard the civil rights of all individuals to seek, have access to, obtain, and hold employment without discrimination because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex, and age for individuals over forty years of age. Employment practices should treat all individuals equally, evaluating each on the basis of individual skills, knowledge and abilities and not on the basis of characteristics generally attributed to a group enumerated in the Act. The objectives of the California Fair Employment and Housing Act and these regulations are to promote equal employment opportunity and to assist all persons in understanding their rights, duties and obligations, so as to facilitate achievement of voluntary compliance with the law.

2 Administrative Code §7286.3 describing the policy and purposes behind the Fair Employment and Housing Commission.

The list of criteria according to which it is improper to discriminate is more extensive than given in CC §51, the Unruh Civil Rights Act, which stated that "all persons... of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, or national origin are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

In *re Cox* (1970) 3Cal3d 305, 474 P2d 992, 90 Cal Rptr. 27, the court interpreted that list to be illustrative and not to be inclusive. Therefore, the Unruh Civil Rights Act is read to prohibit discrimination on the basis of sexual orientation or membership in a non-traditional family. Unruh, though, does not apply to the area of employment. (*Alcorn v Anbro Engineers, Inc.* (1970) C3d 493, 468, 2d 216, 86 Cal Rpts 84). Employment is reserved to the above statutes. In *Gay Law Student's Association v. Pacific Telephone and Telegraph*, 24 Cal 3d 464, 595, P2d 592 156 Cal Rpt 14, the court held that the lists in Govt. Code 12940, and therefore in Admin. Code 7286.3 were inclusive and not illustrative. The court gave as its reason for distinguishing its case, from *Cox* that Unruh codified past common law, but that these lists were a creature of the legislature and, therefore, it would be inappropriate for the court to extend them.

Therefore, even though, in terms of the conditions of employment, under current California statutes, it is impermissible to discriminate on the grounds that the employee is single, married, male or female, the legislature has not seen fit to prevent discrimination in employment on the basis of sexual preference, living arrangements, or family structure.

Governor Brown's executive order 54-79 prohibits discrimination on the basis of sexual orientation in state employment only. The state legislature, as the statutes are currently interpreted, has failed to extend this protection to employees generally within California. However, in *Gay Law Students Association v. Pacific Tel & Tel*, the California Supreme Court anchored the protection offered in the executive order in the California Constitution and extended<sup>ed</sup> its application to all governmental employment, including that by a public utility or a city. Article 1, Section 7, Subdivision (a) of the California Constitution states that "A person may not be deprived of life, liberty or property without due process of law or denied equal protection of the laws." The California Supreme Court has refused to hold that "the provision was intended to apply broadly to all purely private conduct." *Gay*, Cal Rptr at P20. It has, however, applied the provisions to city government and therefore government employers "may not exclude homosexuals as a

class from employment opportunities without a showing that an individual's homosexuality renders him unfit for the job from which he has been excluded." Cal Rptr pl9. Such discrimination would constitute arbitrary employment discrimination and, as such, would violate the State Constitution's guarantee of equal protection under the laws. Although I have found no cases at this level of generality prohibiting discrimination against other classes of alternate family members, it seems clear that the California Constitution protects all people from arbitrary discrimination in access to governmental employment because of their membership in an identifiable and unpopular group.

Attempts have been made to extend the general rule of law in two directions: to extend it to all employers and to extend it to the granting of employee benefits. <sup>again</sup> After the lead in this effort has been assumed by the gay community.

The attempt to extend the protection against arbitrary discrimination both outwardly to all employers and more narrowly to the area of employment benefits focused on the prohibition against discrimination on the basis of marital status embodied in Government Code §12940 and 2 Administrative Code §7286.3, both quoted above. In *Hinman v Dept. of Personnel Administration*, 167 Cal App 3d 516, the plaintiff, Boyce Hinman, argued that the state's refusal to enroll his family partner in the state employee dental plan violated the equal protection clause of the

State Constitution, the prohibitions on marital status discrimination and Governor Brown's executive order. His argument was that since he and his partner could not marry, the classification of eligible people (spouses) was discriminatory on the basis of marital status and also since such status depended on sexual orientation, the classification discriminated on the basis of sexual orientation as well. In making his equal protection claim, he argued that he and his partner of over 12 years were similarly situated to married couples and that the denial of benefits to them violated equal protection.

Justice Regan dismissed the claim as follows:

The distinction plaintiffs argue here is one between heterosexual families and homosexual "families." We are unable to establish the nature of a homosexual "family" on the basis of any natural, intrinsic or legal foundation. The DPA policy, as outlined above, makes a distinction solely on the basis of married and unmarried employees or annuitants, not between heterosexual or homosexual ones. Thus, the threshold premise here, i.e., that there is any classification at all which is the subject of discrimination, eludes us.

In short, the court held that there was no such thing as a homosexual family, and that the plaintiff was simply single.

Then the court went on to consider the concept embodied in the following language of Government Code §12940, that it shall be illegal for "an employer, because of...marital status...to discriminate against the person in compensation,

or in terms, conditions or privileges of employment." Justice Regan pointed out that denial of statutory benefits on the basis of marital status does not violate the fundamental rights of unmarried people and, therefore, the court need only find a rational relation between the distinction and some legitimate state purpose to sustain the distinction and its resulting denial of benefits. The court found that the state's interest in promoting marriage was a legitimate interest. Conferring benefits on the married while denying them to the unmarried people furthers this purpose. Therefore, the court held that homosexual partners were not a family and that denial to them of family benefits was therefore not discriminatory, since the state could give benefits to married people it denied to single people in order to foster marriage. The court's decision, then, eviscerated any protection offered against marital status discrimination. Families, not bound by marriage, cannot compel employment benefits under Govt. Code §12940 or the equal protection clause of the California Constitution.

In articulating its decision, the court referred to two California Supreme Court decisions regarding unemployment benefits. In both cases, an employee quit work to follow her fiance and was denied benefits on the ground that she did not have good cause to leave her job. In the earlier case, *Norman v Unemployment Insurance Appeals Board* (1983), 34 Cal 3d 1, 192 Cal Rptr 134, 663 P2d 904, the court refused to

find good cause based solely on a non-marital relationship in which marriage was not imminent. In the later case, MacGregor v Unemployment Ins. Appeals Board (1984) 37 Cal 3d 205, 207 Cal Rptr 823, 689 P2d 453 "we reaffirm the principle that the lack of a legally recognized marriage does not prevent a claimant from demonstrating that compelling familial obligations provided good cause for leaving employment." 37 ~~205~~ Cal 3d 213. The factor that tipped the scale in MacGregor was that the couple had a child and that the policy of supporting family could outweigh the policy of supporting marriage. It is important to note, however, that the court did not state what factors, other than having a child, might provide sufficient evidence of compelling familial obligations to outweigh the state's interest in supporting marriage. Especially in view of findings such as those by Justice Regan, that there is no such thing as a homosexual family, people in non-traditional family relationships without children will make little or no headway in proving discrimination on the basis of marital status <sup>or in balancing their interests against that state in promoting m.</sup> in attempting to secure employment benefits.

The position of Justice Regan has some statutory support. Govt. Code 12940 (a) (3) reads:

Nothing in this part relating to discrimination on account of marital status shall prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.



2 Admin. Code 7292.6 which interprets the above statute,  
reads:

Terms, Conditions and Privileges of Employment

(a) Fringe Benefits.

(1) The availability of benefits to any employee shall not be based on the employee's marital status. However:

(A) Bona fide fringe benefit plans or programs may provide benefits to an employee's spouse or dependents:

(B) Such bona fide fringe benefit plans or programs may decline to provide benefits to any individual who is not one of the following: an employee of the employer, a spouse of an employee of the employer, or a dependent of an employee of the employer.

I do not know the Legislature's reasoning behind these passages, but it appears that the purpose of the Government Code section is to authorize the extension of health benefits beyond the employee to his dependents, and not to limit benefits. The Administration Code, however, goes further in that it both applies to all benefit plans and does justify the limitation of benefits. However, it must be noted that even the Administrative Code provision is permissive and not absolute. One "may" so limit the benefit plans, but need not do so.

The California Supreme Court has refused to review the Hinman decision and, therefore, the present law in California regarding the extension of employment benefits to the members of a city employee's non-traditional family are that it is permissible to do so, but there is no means by which the employee could compel such an extension. The decision on

whether or not to do so is entirely within the discretion of the local government.

This position is also consistent with the state's insurance law. The relevant sections of Title 10, Article 15 of the <sup>CAL. ADMINISTRATIVE</sup> ~~Insurance~~ Code read as follows:

2560.1. Purpose. The purpose of this Article is to eliminate unfair discrimination based upon sex, marital status or sexual orientation in the terms and conditions of insurance contracts and in the underwriting criteria of insurance carriers.

2560.2. Definition of Contract. For the purpose of this Article, the term "contract" includes any insurance policy, plan, certificate, subscriber agreement, statement of coverage, binder, rider or endorsement offered by any person or entity engaged in the business of insurance in this State.

2560.3. Prohibited Practices. No person or entity engaged in the business of insurance in this State shall refuse to issue any contract of insurance or shall cancel or decline to renew such contract because of the sex, marital status or sexual orientation of the insured or prospective insured. The amount of benefits payable, or any term, condition or type of coverage shall not be restricted, modified, excluded or reduced on the basis of sex, marital status or sexual orientation of the insured or prospective insured. (However, marital status may be considered for the purpose of determining eligibility for dependents or family coverage.) Examples of the practices prohibited by this section include, but are not limited to:

(a) Denying, cancelling or refusing to renew coverage, or providing coverage on different terms, because the insured or prospective insured is residing with another person or persons not related to him or her by blood or marriage;

Benefits cannot be denied to a city employee because of his family structure. However, that structure may be a factor in extending benefits to the family member. Again, we must note that the operative word is "may" and not "must."

Since coverage in this state is available which does extend benefits to non-married family partners (Blue Cross does so for the Berkely Unified School District) it is clear that the Insurance Commission does not read this section as prohibiting the extension.

Local policy statements and law mirror those on the state level.

Article 12 of the Public Welfare Code in the Municipal Code of the City of Los Angeles is entitled "Discrimination On the Basis of Sexual Orientation." Pertinent sections read as follows:

Sec. 49.70 Statement of Policy:  
Discrimination based on sexual orientation exists in the City of Los Angeles. Such discrimination foments strife, unrest and discord and deprives the City of the fullest utilization of its resources and capacity for development and advancement. Such discrimination poses a substantial threat to the health, safety and welfare of the community and existing state and federal restraints on arbitrary discrimination are inadequate to meet the particular problems of this City.

Sec. 49.72 Employment

a. Unlawful Employment Practices

1. Employers - Discrimination. It shall be an unlawful employment practice for an employer to fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions or privileges or employment on the basis (in whole or in part) of such individual's sexual orientation.

Sec. 49.78

d. Exceptions

It shall not be unlawful discriminatory practice for an employer to observe the conditions of a bona fide employee benefit system, provided such systems or plans are not a subterfuge to evade

the purposes of this Article; provided further that no such system shall provide an excuse for failure to hire any individual.

Essentially, the position of the city is the same as that of the state. It is illegal to discriminate on the basis of sexual orientation for the purpose of hiring and firing, but once an employee is on the job, if he or she is homosexual and/or part of an alternate family, it is then legal to discriminate on those bases in the distribution of benefits. There are three grounds for the benefits exceptions: the problem of line drawing (if you pass the clear lines of blood, marriage, adoption, where do you stop); cost; and a powerful (politically and emotionally) fear that the recognition of alternate families somehow threatens the existence of traditional families. I will return to a discussion of these grounds later. Now, however, I just wish to focus on the point that in Los Angeles, as well in California, there is a general policy not to discriminate against individuals on arbitrary criteria such as sexual orientation, marital or family status. However, an exception to the policy is permitted, though not compelled, in the extension of employee benefits to the employee's family members. The decision on whether or not to discriminate is entirely within the discretion of the employer, in this case, the City of Los Angeles. The decision, therefore, is one purely of policy and politics. It is beyond the scope of this paper to consider the political

ingredients of such a decision, but there are two policy issues which, I believe, compel the extension of benefits. They are based on equity and need. Benefits were originally granted as a part of employee compensation because of their value to the workers who need certain benefits. A mother needs time off from work to care for a severely ill child, whether or not that child was born to the woman and whether or not the legal relationship between the two has been regularized by adoption. Similarly, one's need for family health benefits does not change upon the "normalization" of one's family. The need itself does not vary. What does change is the ability to administratively recognize the need. That difficulty, as we shall see, can be resolved, and should be resolved in lieu of committing the serious harm of failing to recognize the need simply because of administrative difficulty.

A situation in which some families receive benefits while others do not is inequitable. If we assume, with Justice Regan, that many forms of alternate families simply don't exist, then we might as well resign and go home, because there is no problem. However, if we assume that people in long term, intimate and mutually interdependent relationships live with families, whether or not they are defined by blood, marriage or adoption, then the equal protection of those groups is compelled.

LOS ANGELES CITY EMPLOYEES BENEFITS

Aspects of only four of the benefits currently available to city of Los Angeles employees, could be extended to their non-traditional family members. These are the allowances for Leave of Illness of Family; Allowances for Leave Because of Family Deaths, Health benefits and Retirement benefits.

## Allowance for Leave for Illness in Family

Any employee who is absent from work by reason of the illness or injury of a member of his immediate family and who has accrued and unused sick leave at full pay shall upon the approval of the appointing authority or the agent thereof designated to determine such matter, be allowed leave of absence with full pay for not to exceed in the aggregate five working days in any one calendar year, provided such employee shall furnish a satisfactory doctor's certificate or other suitable and satisfactory proof showing the nature and extent of the injury or illness sufficient to justify such absence. "Immediate family" shall include the father, mother, brother, sister, spouse, child, grandparents, grandchildren, step-parents, or step-children of any employee of the City.

The aggregate number of days of absence for which pay may be allowed under this section shall be included in the number of days for which sick leave with full pay is allowed under Sec. 4.126 of this Code.

## Allowances for Leave Because of Family Deaths

(a) Except as otherwise provided by Memoranda of Understanding and implemented by the City Council, in addition to all other sick leave allowed under this article, any employee who is absent from work by reason of the death of a member of his immediate family shall, upon the approval of the appointing authority or the agent thereof designated to determine such matters, be allowed leave of absence with full pay for a maximum of three working days

for each occurrence of a death in the employee's immediate family. Such employees shall furnish a death certificate or other satisfactory proof of the death to justify the absence. "Immediate family" shall include the father, father-in-law, mother, mother-in-law, brother, sister, spouse, child, or any relative who resided in the employee's household. For the purpose of this section, simultaneous, multiple family deaths will be considered as one occurrence.

(b) The definition of "immediate family" shall include grandparents, grandchildren, step-parents and step-children for non-represented employees.

City of L.A., Administrative Code  
§4.127, 4.127.1.

These benefits, and the others discussed herein, do not apply to School Board Employees, Uniformed Employees, and those in the Department of Water and Power, each of which have their own benefit system which is separately defined and administered. In this memorandum, I have chosen to focus only on the primary civilian employee benefit system because of my limited time, because it is the city's largest system (serving about 18,000 people), because it is centrally administered by the city's Employee Benefit office and because the chief administrator of that office, Henry Hurd, is sympathetic to the extension of benefits. He has been helpful to me and has offered to testify before the Task Force, should he be needed.

The extension of these benefits could be effected at a negligible cost to the city. The paid leave for illness in family provides no more paid leave than sick leave already allowed and the death leave allows only

three days, with pay, per event. It might be useful for the Task Force, if possible, to project some figures to describe the probable cost of inclusion in the definition of "immediate family" a phrase such as "designated family member." I shall suggest some limiting qualifications on that term below, but here, no matter how it is defined, its inclusion would be of minimal cost to the city.

Article 5 of the Administrative Code §4.303, authorizes the city to establish and expend monies for a health system for its employees "and dependents if any." In rough outline the system for the benefit plan for the Civilian Labor force works as follows: the city's basic policy decisions are set by the City Council, or an executive committee thereof, and the Mayor. The City Administrative Officer then carries out this policy in his negotiations with the unions, each of which have its own policy agenda, to establish various Memoranda of Understanding which, when approved by the Council, take effect. These Memoranda fix such terms as the amount of the city's contribution to the benefit plan. For example, some of the unions have been able to compel the city to provide, at no cost to their members, spousal and dependent coverage whereas the members of other unions must contribute, by means of pay deduction, various percentages of the cost of that health coverage. All employees who choose the Conn. General plan or to use Maxi-Care must contribute some, but the percentage varies with the union.



When the terms of the compensation packages are agreed upon, the Employee Benefits Administrator negotiates with the health carrier to provide the required coverage. In summary, the basic policy decisions for the city are made by the Council and Mayor. Since the position advocated in this paper represents an extension of benefits to the union members, it is hard to imagine resistance coming from that quarter, even though only one union, about five years ago, has ever brought a similar proposal to the table.

Then, the union representing the City Attorneys, proposed in its negotiations with the City Administrative Officer that health benefits be extended to its members' domestic partners, if any. That suggestion was passed on to the Executive Committee of the Council, whose members include the Mayor, Chairpersons of the Personnel and Finance Committees, and the President of the City Council. They, at that time, rejected the proposal.

In conjunction with this earlier proposal, the Employee Benefits Administrator, Mr. Hurd, asked each of the providers of health insurance services to the city if they could and would provide such coverage. All but one, Kaiser, responded that if the class were clearly defined, they would provide the coverage. Mr. Hurd, as the negotiator between the providers and the city, is convinced that Kaiser, as a provider of services to over 60% of the city employees, upon a threat by the city to cease contracting with Kaiser,

would change its position. Also, even though Connecticut General answered in the affirmative five years ago, recently in informal conversations with me, a representative of the company stated that they had "no intention of offering such coverage at this time." However, in response to further questions, the representative conceded that this position was not absolute. Conn. General provides the city's health liability insurance, covering about 25% of the workers. They are in direct competition with Blue Cross who is anxious to bid on a contract with the City of Los Angeles. According to Joan Page, the Blue Cross account executive who would be responsible for any account with the city, Blue Cross is prepared to offer such coverage now. This offer, therefore, appears to provide either leverage to get Conn. General to shift its policy, if leverage is needed, or an alternative to Conn. General.

It appears, then, that there shall be no significant resistance from the carriers. Therefore, it only remains to consider the arguments against extension: cost, definitions, fear.

I do not have the resources to accurately determine the potential cost to the city of extending health, sick leave and death leave benefits to alternate family members. In any such projection, the following factors should be considered: a) It is probably the heterosexual employees living with partners who would be the greatest beneficiaries

of this extension. How many such people are there? What percentage of such people will be willing to publicly state their living arrangements? What percentage will be able to meet the criteria outlined below (especially since the criteria might impose Marvin v Marvin-type liability on the partners)? What percentage of these people surreptitiously already have their partners on the health plans, having labeled them "spouses?" What percentage of the partners have coverage from their own employment, and therefore would require only secondary coverage from the city?

b) Homosexual employees living with their partners would probably be the second largest class of beneficiaries, although this class would probably be rather small. In considering the questions listed above, I would expect, because of the social risks involved, many otherwise eligible people would refuse to declare the relationship and, therefore, to claim the benefit. Also, it is unlikely any homosexual partners are now able to enroll their partners as their spouses.

One further concern here is that the risk of AIDS would greatly increase the cost to the city. However, in addition to the limitations suggested above, the population affected here would not be at high risk for AIDS for, of course, many of the homosexual partners would be lesbian. Secondly, this memorandum is aimed at the extension of benefits to family members and gay men who have long-term stable relationships are not particularly at risk for AIDS.

Therefore, even though I have not provided figures in response to the above questions, it appears that the risks to the insurance companies, and therefore the costs to the city and the numbers involved, would not be large.

A major concern of the health service supplier and the administrators of any program extending benefits to alternate family members is how to define the class. If the criteria were so loose as to allow employees, at will, to give coverage to sick friends, the idea of family would be meaningless here and the program would be defeated.

The means which has most commonly been employed to solve this problem is to have the employee and family member(s) sign an affidavit, under penalty of perjury, attesting to various criteria. The affidavit then is filed with the appropriate agency, here the Employee Benefit Division of the Personnel Department is appropriate. The advantages of this mode of certification are that it is voluntary, ritualistic, and subjects the signers to sanctions for lying. A copy of the affidavits used by the Berkeley Certified School District and by the City of Berkeley are attached. These samples were drafted only with the intent of providing benefits to co-habiting adults and, therefore, are more narrow in their scope than one aimed at providing benefits to all alternate family members, but they are still useful forms. Using the School District Form as a guide, tentative modifications

to our purposes might be:

1) The parties reside together and share the common necessities of life;

2) The parties are not married to each other, not related by blood closer than would bar marriage in the state of California;

(Note: I omitted the absolute bar on marriage because we would not want the fact of a mother's present marriage to bar protection going to a child who is not hers, but to whom she acts, in fact, as mother).

3) The parties declare that they have assumed a moral or legal obligation for support and care between them.

(This modification is to recognize not only mutual obligations, but also those that run only from one party to the other, as in a parent-child relationship.)

4) The parties agree to notify the L.A. City Personnel Office if there is a change in circumstances attested to in the affidavit.

5) Omit.

6) It has been at least six months since either of the two parties has filed a statement of termination of a previous alternate family affidavit with the Personnel Office.

(This list should be accompanied by a termination form, to be filed upon dissolution of the family structure. The purpose of the waiting period is to prevent the emergency enrollment of a sick friend.)

The significance of such an affidavit is two-fold in that it is a means of defining the terms of family structure to be recognized, and, by the legal consequences of the document, <sup>it is</sup> ~~are~~ intended to prevent frivolous enrollment. Perhaps the most significant consequence is that it may be used to evidence a contract for support between the parties and would most likely establish a legal obligation for division of property and support upon dissolution. Also it establishes grounds for perjury. Regarding the indices of family in my sample, I have tried to remain at a broad level of generality to allow for a rich diversity of families. As the Task Force identifies particular varieties of family that do exist in Los Angeles, these indices may be found to be inadequate.

After the questions of cost and limitation of the class, the last objection to face, and perhaps the hardest to counter, is the fear that a recognition of alternate families somehow threatens the traditional families. Little can be done to eradicate the fear except, perhaps, education as to need and a focus on the idea that it is the need of the individuals involved, not the groups.

Changes may be affected in the health benefits system, and in the family sickness and bereavement benefits by the Council itself and at relatively low cost to the city. Neither of these points hold for a modification of retirement benefits, specifically these benefits which extend to a

surviving spouse of a city employee. These benefits are described in the City Charter §508.2. Because they are in the Charter, they can be amended only by election. Therefore, for the Task Force to recommend a modification of these benefits, it must consider something beyond the scope of this paper, the political impact of such an election.

The charter defines "Eligible Spouse" as "the surviving spouse of a retired eligible member to whom such member is married at time of retirement and has been so married for at least one year prior thereto." The Charter then gives the employee an opportunity to purchase, for a modest deduction in his salary, benefits to the spouse to be paid for his or her lifetime beyond the life of the employee. If there is no longer an eligible spouse at retirement, the employee is either reimbursed for the amounts put into the spouse's plan or that amount is considered as additional contributions to the employee's annuity. Section 509 provides for variations on the basic plan, at the employees choice, which would allow payment on the employee's death "to the member's surviving spouse, or to his minor children, in the event there be no surviving spouse; or to his dependent parents, in the event there be no surviving spouse or minor children; provided that, in the case of a minor child, the same shall terminate with the monthly payment next preceding the date on which said child attains the age of eighteen years."

The employee may designate a beneficiary only to receive the amount of his accumulated contributions to the plans which

are unpaid at the time of his death. He may not designate a beneficiary for his survivor's benefits nor for any portion of the monies contributed by the city to his retirement plans.

The costs involved in incorporating the idea of a Domestic Partner into the concept of "Eligible Spouse" would have to be calculated by multiplying the cost to the city by the estimated number of new participants in the program. I don't have these figures, but they would be necessary to develop before deciding to present the issue to the city's voters. From the point of view of an observer, it would be an interesting election which I would enjoy following. From the point of view of a proposal of the extension of benefits, I don't know if now is an appropriate time to submit such a question to the voters.

NOTE:

Before concluding, I would like to draw attention to the method the city of West Hollywood has chosen to extend health plan benefits to domestic partners of its city employees. They have employed what is known as a cafeteria plan, allowing all employees to choose one of five benefits as a supplement to their common benefit package. The city would pay the cost, or a portion thereof, of child care, legal fees, continuing education, dues, health club membership or health insurance for spouses, children and/or



domestic partners, (see attached sheets). This plan has one equitable advantage in that, since all employees may choose a supplemental benefit, it does not discriminate against single employees. However, since it is such a marked departure from the benefit structure in place in Los Angeles that, unless the city appeared willing to provide additional benefits to all employees, I think that the institutional resistance to such a plan then would be overwhelming.

It may be, though, that if the Task Force considers the problem of day care for the children of city employees as within its jurisdiction, then this new benefit, coupled with the extension of the other benefits described herein may form the basis a cafeteria plan for new benefits. As Professor Thomas Coleman has pointed out to me in conversation, the extension of child care benefits to employees is an idea whose time has come. Since such care would aid families, particularly those which vary from the traditional model of the husband who is employed and the housewife/mother who stays at home, the Task Force on Family Diversity might be the appropriate vehicle to realize this benefit for city employees, thereby providing a model for private employers.

#### CONCLUSION

The decision whether or not to extend employee benefits to the members of alternative families of city employees

depends on policy position and political attitude. Need crosses traditional boundaries, and, therefore, equity compels that benefits based on need also cross those boundaries. Such benefits include child care, health care, family illness leave, bereavement leave and, if politically possible, surviving partner's benefits.

*David Ross*

## CONFIDENTIAL

CITY OF BERKELEY  
AFFIDAVIT OF DOMESTIC PARTNERSHIP

1. Thomas Brougham, certify that  
Name of Employee (Affiant)
1. Thomas Brougham, and Barry Warren  
Employee (Principal) Domestic Partner (Principal)  
reside together at 2139 Grant St, #6, Berkeley, CA 94708 and  
Address share the common necessities of life;

2. We affirm that the effective date of this domestic partnership is  
September 15, 1975  
Date

3. We are not married to anyone.
4. We are at least eighteen (18) years of age or older.
5. We are not related by blood closer than would bar marriage in the State of California and are mentally competent to consent to contract.
6. We are each other's sole domestic partner and are responsible for our common welfare.

7. We agree to notify the City if there is any change of circumstances attested to in this Affidavit within thirty (30) days of change by filing a Statement of Termination of Domestic Partnership. Such termination statement shall be on a form provided by the City and shall affirm under penalty of perjury that the partnership is terminated and that a copy of the termination statement has been mailed to the other partner.

8. After such termination I, Thomas Brougham, understand that  
(Employee)  
another Affidavit of Domestic Partnership cannot be filed until six (6) months after a statement of termination of the previous partnership has been filed with the Risk Management Office.

9. We understand that any persons/employer/company who suffer any loss because of a false statement contained in an Affidavit of Domestic Partnership may bring a civil action against us to recover their losses including reasonable attorney's fees.

10. We provide the information in this Affidavit to be used by the City for the sole purpose of determining our eligibility for domestic partnership benefits. We understand that this information will be held confidential and will be subject to disclosure only upon our express written authorization or pursuant to a court order.

11. We affirm, under penalty of perjury, that the assertions in this Affidavit are true to the best of our knowledge.

March 17, 1985  
Date

Thomas Brougham  
Signature of Employee

March 20, 1985  
Date of Birth

March 17, 1965  
Date

Barry Warren  
Signature of Domestic Partner

December 13, 1945  
Date of Birth

|               |                        |               |
|---------------|------------------------|---------------|
| Employee Name | Social Security Number | Work Location |
| Home Address  | Home Phone             | Work Phone    |

|                              |                        |               |            |
|------------------------------|------------------------|---------------|------------|
| Domestic Partner Name        | Social Security Number | Date of Birth | Sex        |
| Name and Address of Employer |                        |               | Work Phone |

|                         |               |     |                                      |                            |
|-------------------------|---------------|-----|--------------------------------------|----------------------------|
| Eligible Dependent Name | Date of Birth | Sex | Full Time Student?<br>Yes ___ No ___ | Name and Address of School |
| Eligible Dependent Name | Date of Birth | Sex | Full Time Student?<br>Yes ___ No ___ | Name and Address of School |
| Eligible Dependent Name | Date of Birth | Sex | Full Time Student?<br>Yes ___ No ___ | Name and Address of School |

**DOMESTIC PARTNERSHIP POLICY AND DEFINITIONS**

A Domestic Partnership shall exist between two persons regardless of their gender and each of them shall be the domestic partner of the other if both complete and sign this affidavit and attest to the following:

1. The two parties reside together and share the common necessities of life;
2. The two parties are not married to anyone, not related by blood closer than would bar marriage in the State of California, and are mentally competent to consent to contract;
3. The two parties declare that they are each other's sole domestic partner and they are responsible for their common welfare;
4. The two parties agree to notify the appropriate Berkeley Unified School District Personnel Office if there is a change of the circumstances attested to in this affidavit.
5. All dependents under Domestic Partnership coverage shall have permanent residency in the Domestic Partnership household and shall meet all other dependent coverage criteria.
6. It has been at least six months since either of the two parties has filed a statement of termination of a previous domestic partnership affidavit with the appropriate District Personnel Office.

I declare under penalty of perjury that all the foregoing information provided by me is true and correct and that all provisions of the Domestic Partnership eligibility and policy have been met.

|  |      |                            |      |
|--|------|----------------------------|------|
| Employee Signature                         | Date | Domestic Partner Signature | Date |
| Witness Signature, District Representative |      | Date                       |      |

TERMINATION OF DOMESTIC PARTNERSHIP: I affirm, under penalty of perjury, that the Domestic Partnership Affidavit attested to and signed by me on \_\_\_\_\_ shall be and is terminated as of this date and that I shall call notice of this termination by mailing via the United States Postal Service a copy of this signed statement to aforesated partner.

|   |      |
|---|------|
| Signature                                   | Date |
| Witness Signature - District Representative | Date |

## CAFETERIA PLAN

The City of West Hollywood offers a supplemental benefit package which is tailored to meet specific individual needs of our employees. This package is commonly referred to as a "Cafeteria Plan," as employees are allowed to examine the choices and make a selection, much as they would in a lunch line. The plan is offered as a supplement to more standard form of benefits such as insurance, holidays, vacation and sick leave. Each year, you are allowed to select one of the benefits offered below:

- a) Child Care - for dependent child care while employee is working.
- b) Legal Fees - To cover costs for any legal service the employee desires except litigation against the City.
- c) Continuing Education - To cover tuition or fees for any work related continuing education courses at an accredited institution of higher learning (i.e., colleges, universities, trade technical schools) that have been approved by the department director.
- d) Dues for Professional or Technical Organizations - To cover membership dues for bonafided professional or technical organizations that have been approved by the department director.
- e) Health Club Membership - As part of the City's policy to encourage fitness and health, the cafeteria plan includes dues for health club membership.
- f) Health Insurance for Dependent(s) - includes insurance premium payment for spouses, children and/or domestic partners.

Benefits (a) through (e) are subject to a \$350.00 annum limitation per employee, based on the City's fiscal year end, which is June 30th. Full time permanent or provisional employees who have not completed a full year's service, will be prorated on cafeteria plan benefits. There is a 30 day waiting period for new employees, and employees need to make their selection prior to June 1 of the fiscal year.

Items (a) through (e) are implemented as employee reimbursements, and receipts should be submitted to personnel for processing. Where payments to an organization are made in increments, receipts should be kept and submitted on a quarterly basis.

~~Cafeteria Plan (cont'd)~~

Dependent insurance premium coverage, option (f), permits either of the following circumstances:

- a) 50% of spousal and/or other state recognized dependents' health insurance premiums to be paid by the City,
- b) 100% or \$960.00 per year of domestic partner health insurance premiums, whichever is less, to be paid by the City.

It should be noted that our current insurance carriers make definite distinctions between spouses and domestic partners. Only dependents recognized by state law (i.e. - spouses, children, etc.) are allowed as part of our group Blue Cross Health and Dental Plan. Since the City is billed directly for these services, the employee half of dependent coverage will be deducted through payroll.

Domestic partners may receive health care coverage through the Blue Cross Prudent Buyer Plan (details on page 10). The plan is an individual plan written in the name of the domestic partner, and payments are due from the subscriber on a quarterly basis. The City will reimburse the employee up to \$960.00 per year or 100% of premium cost for one year, whichever is less. Domestic partners may choose an alternate policy if the Prudent Buyer Plan does not suit their needs, and the City will still offer that domestic partner up to \$960.00 or 100% of premium cost per year, whichever is less.

There is a thirty day enrollment waiting period for new employees. Although most cafeteria plan options can go into effect as soon as the waiting period has elapsed, dependent insurance coverage will not go into effect until the 1st of the month following the enrollment waiting period.

Domestic partner coverage is implemented as a reimbursement (on a quarterly basis) and receipts should be forwarded to personnel for processing. In order to use the domestic partner benefit, the couple must have a statement of domestic partnership on file with the City Clerk's Office. The policies available under the cafeteria plan will lapse upon employee separation from the City.

Employees will be allowed to choose one cafeteria plan option per year.

If you have any other questions concerning cafeteria plan options, please contact personnel.

DEFINING FAMILY

by

Matthew Elliott Green

for

RIGHTS OF DOMESTIC PARTNERS  
December 1, 1986

## GENESIS

The objective of this paper is to set forth some initial factors for consideration by government policymakers and analysts in formulating and/or reformulating legal definitions of "family" for the purpose of extending certain benefits, services and privileges to groups and individuals in situations deemed equitable.

With an awareness of the increasing diversity of family relationships within the city and the corresponding necessity of altering policy to meet these changing needs, the City of Los Angeles has mandated that an indepth study be conducted to identify some of these problem areas and to illicit possible recommendations for resolving them.

Since this issue is universal and a proposed, sweeping resolve could prove volatile, the suggested, initial program contained herein attempts to restrict and limit the issues and to channel them within an acceptable political framework, all with the hope that an initial, successful penetration could be followed, eventually, by a much broader attack. For this reason, the legal definition of "family" becomes one of the major focal points, with bereavement, family sick leave the restricted issues of penetration as well as the focal point for recommendations and strategy.

The legal definition of "family" is sometimes used in various contexts for determining city employee entitlements. I use the term "legal" because definitions of "family" can be divided, generally, into two categories: 1) taxpayers



definitions, and 2) legal definitions.<sup>1</sup> A layman's definition of "family" is usually not based on what a family is but, in general, what a family should be. Such definitions speak to ideals, not to what families actually may be in terms of observable, social conduct and social organization. These definitions may have no purpose other than to promote a given set of morals. Although a legal definition of family is also value-laden, it is only indirectly so, as a means of achieving particular political ends. For a definition of "family" to effectively act as a vehicle that promotes certain political policy it must be based on the true nature of a society as it exists, not as it should be.

Emphasizing this distinction when proposing different definitions of a commonly used term such as "family" is of crucial importance, as otherwise, one is likely to run into potentially overwhelming opposition that's base is truly groundless. An example of such opposition is espoused by Christopher Lasch in his attack on any "expanded" definitions of the term "family" (Lasch's conception of "expanded" definitions of "family" are those that are more inclusive than the "nuclear" definition of family). Lasch writes that any such "anaemic, euphemistic definition of the family reminds us of the validity of George Orwell's contention that it is a sure sign of trouble when things can no longer be called by their right names and described in plain forthright speech."<sup>2</sup> Lasch shares a fundamental misconception with many others who do not perceive the dichotomy of purpose between the layman and the legal forms of definition of "family."

Another affront to expanding the definition of "family" has a theological base. In a popular religious publication, Jeff Calkins attacks expanded definitions of "family" by noting that "God's definition of family is marriage between man and woman," and that "heterosexual marriage is the minimum requirement for a family, based on the revelation that God gave the first human beings after the creation of mankind. 'Therefore shall a man leave his father and his mother, and shall cleave unto his wife : and they shall be one flesh.'"(Genesis 2:24; Matthew 19:15).<sup>3</sup> Such moral pronouncements are irrelevant in a legal context; not only do they have little nexus with today's societal realities, thereby, constituting a poor vehicle for advancing specific policy goals, but are, in fact, an illegitimate consideration due to the Constitutional demand of separation of church and state. At all times, it must be remembered that legal definitions of "family" are not an attack on morality or religion in any way and that both the legal and layman's definitions of "family" can and do co-exist without overlap.

To more clearly illustrate the non-conflicting nature of the relationship between layman's definitions of "family" and those created for the legal process, one can survey various judicial decisions. These holdings define "family" not as an ends in itself, but only as a means of advancing specific legal policies. In Florida, a group of religious novices, living under the direction of a mother superior, were considered to be a "family" for the purposes of a zoning ordinance. Dannel v. City of Miami Beach, Fla. App., 198 So.2d, 643,644,645. The ruling was not intended to give this group, "family" status for all legal

and moral purposes, but only to hold that the actual living arrangements of these people were not divergent enough from that of other more traditional families to exclude them from living in a zone specified for single family use. In re Joyce's Estate, 183 A. 2d 513., a single man living alone in his own home was held to constitute a "family" into which an illegitimate child could be adopted. Obviously, a court would not attempt to justify such a definition of "family" in isolation of context. Layman's definitions can be justified without regard for context. In Leroux v Edmundson, 148 N.W. 2d. 812., the Court said, "the meaning of the word 'family' necessarily depends on the field of law in which word is used, purpose intended to be accomplished by its use, and facts and circumstances of each case." The Court went on to say, "that 'family' has as many popular meanings and legal definitions as there are fields of law in which it is used," and that "it is dangerous to define 'family' without regard to the purpose intended to be accomplished by the sentence or clause in which the word is used." Id., at 814.

How the term "family" is legally defined in administrative contexts is also illustrative of how legal definitions diverge from layman's and are based on the policy considerations of various context. A 1982 study in California found that many definitions of "family," for various programs within the state, were custom-tailored to the particular needs and particular requirements of those programs.<sup>4</sup> For example, the definition of "family" used by the San Diego County Health Department's Community Disease Control Program was specifically designed to

identify characteristics most relevant to infectious disease containment (eg., physical proximity and degree of interaction)<sup>5</sup> If such an agency were to use a layman's definition of "family" such as those persons related only by blood or marriage, the program would fail in its essential purpose, as disease has no such criteria when it chooses what "families" to infect.

#### I. FUNCTIONS OF THE FAMILY

When formulating legal definitions of "family" for the purpose of extending benefits, analysts must first consider what are the policy goals to be served are by programs supporting such families. The analysis should begin by examining the potential, positive functions of the family unit within society. The main functions of the family can be divided into six categories; 1) family transmission of biological heritage, 2) transmission of cultural heritage, 3) an economic function, including production, consumption and maintenance, 4) a protective function, 5) a controlling function, (control of behavior of members), 6) an affective function.<sup>6</sup> Some scholars have argued that the expansion of government benefits to families actually hinder these functions since the rising tax burden and/or the rising inflation from deficit spending constrains the economic flexibility of the very families whose health and well-being we would prefer to be promoting.<sup>7</sup> However, it is clear that such a theory fails in practical application because, as noted by President Jimmy Carter "if we want less government, we must have stronger families, for government steps in by necessity when families have failed."<sup>8</sup> Carter's message,

by implication, shows that if government pulls away the family's social support networks to save money, it will be forced to step in to spend even greater amounts for problems that have been allowed to exacerbate.

More specifically, in addition to the fact that families have long cared for society's dependent members; children, the elderly, the disabled, the sick and the poor, families and family relationships have been considered major elements of a meaningful life. If fewer people live in family arrangements, a source of meaning and satisfaction are lost, leaving people disoriented and alienated.<sup>9</sup> "The family provides a place of haven and a source of renewal for their members who go forth regularly to participate in our present society."<sup>10</sup> However, if needed government benefits are withheld, the family can become destabilized and, potentially, an additional source of stress, acting as a further problem for which government must expend funds. Such destabilization can be cited as a major, contributing cause to almost all of society's ills. Furthermore, the costs to treat these problems far exceed the costs of prevention that are involved in strengthening the family. The costs of crime control, alcohol and substance abuse, mental health clinics, family violence intervention, and family counseling centers are just a few of the many costly burdens that show dramatic increases because the family unit is no longer stable enough to carry out its vital functions of protecting, educating, controlling and loving its members. As was read by Senator Howard Baker in the 1980 Republican Campaign platform, "The family is the foundation of our social order. Its

daily lessons- cooperation, tolerance, mutual concern, responsibility, industry, are fundamental to the order and progress of our Republic."<sup>11</sup> Therefore, a government analyst must be concerned with the creation of a stable unit which the community can depend upon to perform critical functions that would otherwise have to be borne by society in general.

## II. THE USE OF DEMOGRAPHICS IN DEFINING "FAMILY"

After considering the actual functions of the family, and the policy directions that are worthwhile pursuing, the policymaker must look at the nature of society to formulate a definition of "family" that can effectively realize these policy goals. For example, to answer the question of if a definition of "family" used in the criteria of a childcare benefits program that is broad (allowing more individuals to take advantage of the program), or a narrow definition (yielding fewer recipients), will strengthen the family unit depends on the structure of the community. The policymaker must know such statistical data as the percentage of working woman with young children in the population that will be affected. Without such numbers, it could be argued that public child care is pro-family because it offers women an opportunity to combine family and work or anti-family because it invites second-class childrearing. Knowing that 53% of the working women in the United States have children under the age of two<sup>12</sup>, constrains the analysis, as it is obvious that the reality of women working is a foregone conclusion. Therefore, in the United States, a

theory that a more expansive definition of "family" that would allow more "families" to partake of a child care service would weaken the family unit by luring women into the labor force, away from providing higher quality child care, is not plausible. Infact, a statistic such as the one given should lead an analyst into choosing the broader definition as helping to alleviate working mother's worries about child care, thereby, reducing stress on the family unit and making it more capable in handling its other functions.

In general, and for the purpose of benefit entitlements, the changing structure of society in the United States should direct the legislative policy trend away from the "nuclear" definition of "family" and towards more expansive definitions. These changes in the structure of the family are due to many factors, including decreases in the marriage rate, increases in the rates of separation and divorce, increases in the number of cohabitating couples, increases in the number of children born out of wedlock, increases in the number of female-headed single-parent families and decreases in the birth rate and size of families.<sup>13</sup> Acknowledging the new family forms that have emerged, as well as those that continue to emerge, is essential to fully realize the benefits of any governmental policy. If these units can perform the same functions that have been cited as crucial for the family to maintain, then they should be included in definitions of "family" and be entitled to supportive benefits. This pattern of reasoning has already been utilized in the judicial realm.

In Moore v City of East Cleveland, 431 US 494, 97 S. Ct.

1932 (1977), the United States Supreme Court held there to be a constitutional right for "extended family" (as opposed to "immediate" family) members to live together, and articulated certain values which make the traditional family worthy of protection under the federal right to privacy. In a recent case in California, City of Santa Barbara v. Adamson, 27 Cal. 3d 123 (1980), the California Supreme Court went one step further and held that the State Constitution protects the right of unrelated persons to live together in an area zoned for single family residence and recognized that the values which make a traditional family worthy of protection are involved in one's decision to live in an alternate family. In Moore, it was stated that it is through our family life that our "most cherished values, moral and cultural," are preserved, (Moore at 504.) shared and passed on. It is from our personal life style choices that we derive both economic and emotional support ( Moore at 508 (Brennan, J., concurring)). Where these same functions can be performed by "alternate" type families, as we have seen, their support is obviously in the community's best interests.

#### IV. WHY RE-FORMULATE DEFINITIONS OF "FAMILY" FOR THE EXTENSION OF BENEFITS AND ENTITLEMENTS IN LOS ANGELES?

More than sixty years ago, the California Supreme Court stated that, "family' may mean different things under different circumstances. The family, for instance, may be...a particular group of persons related by blood or marriage, or not related at all, who are living together in the intimate and mutual interdependence of a single home or household." Moore



Shiobuilding Corporation v. Industrial Accident Commission, 185 Cal. 200, 257. Such a pronouncement apparently yields wide latitude to California policymakers in defining "family" for various contexts. However, even though the structure of society has changed drastically, there being a propagation of diverse family forms, definitions of "family" have remained relatively narrow, consequently excluding a tremendous number of "families" from benefits and services that would otherwise benefit the entire community.

With a mandate from the Los Angeles City Council to explore this issue and make recommendations, it would seem that the best place to begin to effectuate change would be with the City itself. A perfect opportunity for the City to set forth a model of good policy making in defining "family" is in the area of city employee's benefits.

City employee's allowances for family sick leave and bereavement leave are set forth by the City of Los Angeles Administrative Code sections, 4.127 and 4.127.1;

Any employee who is absent from work by reason of the illness or injury of a member of his immediate family and who has accrued and unused sick leave at full pay shall upon approval of the appointing authority or the agent thereof designated to determine such matter, be allowed leave of absence with full pay for not to exceed in the aggregate five working days in any one calendar year... "Immediate family" shall include the father, mother, brother, sister, spouse, child, grand-

parents, grandchildren, stepparents, or step-children of any employee of the City.

(a) Except as otherwise provided by Memoranda of Understanding and implemented by the City Council, in addition to all other sick leave allowed under this article, any employee who is absent from work by reason of the death of a member of his immediate family shall, upon the approval of the appointing authority or the agent thereof designated to determine such matters, be allowed leave of absence with full pay for a maximum of three working days for each occurrence of a death in the employee's immediate family..."Immediate family" shall include include the father, father-in-law, mother, mother-in-law, brother, sister, spouse, child, or any relative who resided in the employee's household...

(b) The definition of "immediate family" shall include grandparents, grandchildren, step-parents and step-children for non-represented employees.

Upon initial study, it might seem that the best way of extending these type benefits to a widely diverse group would be to delete the definitions of "immediate family" within these statutes and leave these matters to particular administrators, enabling them to tailor some specific remedy to a given situation that could not, perhaps, be foreseen in its specific form and content. However, the problem with this approach is

uncertainty. If the availability of the remedy is to depend simply on the idiosyncrasy of the administrator acting in accordance with his or her perception of a need to ameliorate a situation involving an injustice, and who does so without the certainty of enacted prescription, then unless these administrators come to act in such a way as a matter of predictable habit and, thereby, charting a new law, the injustice cannot be said to have been removed. The other weakness inherent in relying on administrative initiative is the delay to which it is apt to subject the progress of law reform. If a particular injustice is being customarily remedied by the courts or by administrative action, without legislative prescription then, arguably, the legislature may consider action on its own part superfluous and, perhaps, even having the potential of creating a political liability.

The issue of uncertainty also holds potential constitutional problems. The Due Process Clause of both the State and Federal Constitutions require defining of a class of that class is going to be assigned either benefits or burdens. Due process also requires that such a definition have specificity so that the average person could understand it and so that it gives advance notice to those likely to be affected. Its goal is to avoid discriminatory enforcement by making sure that decisionmakers have objective standards by which to make their determinations. With this in mind, it would seem that legislative modification is the only viable alternative if one hopes to expand the coverage of the entitlement to more "families."

In determining if these statutes should be changed, the City might also want to consider the possibility of a constitutional attack based upon the equal protection clause which demands that people similarly situated be treated similarly under the law. If "families" not included within the statutory definition of "immediate family" are found to be similarly situated to those who are included, the statutes could be determined unconstitutional. A legislative amendment to the Administrative Code could avoid this type of judicial intervention.

However, even if these benefit-providing statutes are immune to constitutional attacks, are there compelling policy arguments in favor of expanding the definitions of "family" which they contain? It has been argued that when government provides any kind of economic or social security support (which historically has been a principle function of the family), this tends to render the family less significant and increases family instability.<sup>14</sup> However, such arguments have no basis in fact. In truth, the more family members are relieved of external pressures, the stronger the family structure becomes. For example, when one humanizes the workplace through certain benefit programs like those in question, there is a reduction of stress, as individuals do not have to worry as much about such things as who will care for their sick partners in times of crisis. The alleviation of such worries allows employees to emerge from their workday with more energy, enhancing their ability to participate in loving, intimate relationships strengthening the family unit. This strengthened unit is better

able to perform the functions that would otherwise have to be performed by government. These employee benefits which promote the health and well-being of the individual, in addition to contributing to family harmony, inevitably promote better work performance and lower turnover rates, and, thus, benefit the City as employer. Such policy arguments mandate an expansion of the definitions of "family" within these statutes.

There are many important considerations that must be taken into account when formulating the legal definition itself. As mentioned earlier, the definition must reflect a certain degree of specificity or it will not hold up under due process scrutiny. The definition must also be based on the societal realities of "community" in Los Angeles to be an effective vehicle for achieving the policy goal of creating stable units upon which the government can depend to perform "familial" functions. Therefore, since it has been estimated by the Southern California Association of Governments that twenty-five percent of Los Angeles households consist of unrelated adults or single-parent households the definition must be broader than the "blood, marriage, adoption-type" definition, that is now included in the statutes, to be effective. A final consideration is that the criteria used within the definition be verifiable so that the problem of fraud does not arise. A definition of "family" to satisfy these requirements should include the criteria that "family" members have had to: 1) cohabitate for a period of at least six months, 2) display economic interdependence or 3) have an express agreement, written or oral naming each other as "family partners."

## V. THE STRATEGY

Political strategies which are utilized to bring about even minor policy changes must be thoroughly investigated. Upon learning that the Los Angeles City Council has the power to amend the Administrative Code, it might be tempting for a policymaker to end his research, and recommend that the Council amend sections 4.127 and 4.127.1 to include more expanded definitions of "family." However, further analysis would show that such action would be ignoring significant current political realities and might result in failure to achieve the desired results.

The usual procedure employed by the City of Los Angeles for extending benefits to its employees involves the City Council working in conjunction with the Mayor's office to set certain policy positions. The City Administrative Officer then negotiates with the City's various bargaining units trying to incorporate these policy goals into a Memoranda of Understanding. When such an agreement is achieved, it must be approved by the City Council and then it takes effect. In the opinion of the Los Angeles City Attorney's office, if the City Council were to take unilateral action, and amend the Administrative Code without respecting the normal procedure, the City's bargaining units would most likely file an action in court claiming unfair labor practices. Infact, it is unlikely at this time that the City Council would make such a politically unwise move as it is currently involved in a similar controversy that involves City Council's action with regards to the City Charter arbitrarily diminishing the access of Los Angeles Police

Department personnel to grievance proceedings.

The City Attorney's Legislative Analyst's Office has informally recommended another strategy for expanding the definition of "family" in these statutes (Ros Carter and Michael Karsch are presently working on a full investigation of the problem and will subsequently make a formal recommendation of strategy to the Task Force). Their recommendation includes having the Task Force propose the amendments to the Council to see if the member's support could be garnered. If the Council did offer support, they would then have the City Administrative Officer contact the City's bargaining units to see if they would sign a short consent agreement offering their support for the proposed changes. The Executive Director of the American Federation of State, County and Municipal Employees John Winose was contacted and said he had no problem with the principal behind the changes and that he would offer his support if the City Attorney's proposed procedure was followed.

## VI. CONCLUSION

Although we have only touched the tip of a volatile iceberg, inequities in city employee benefits exist based upon our ever-changing family structures. Policies responsive to these changes must be artfully brought about. This is but a start.

## ENDNOTES

<sup>1</sup> Donald W. Ball, "The Family as a Sociological Problem: Conceptualization of the Taken-for-Granted As Prologue to Social Problem Analysis," Social Problems Vol. 19, No. 3, (1972): 295-307.

<sup>2</sup> Christopher Lasch, "What's Wrong with the Right?" p.24.

<sup>3</sup> Jeff Calkins, "The Movement to Destroy the Family," Plain Truth (1982) p.11.

<sup>4</sup> 'Family' and 'Household' Use Survey: How Government Agencies Use These Terms in Operating Their Programs," Report of the California Commission on Personal Privacy, Supplement One (State of California, 1982) : 23.

<sup>5</sup> Ibid.

<sup>6</sup> Avlis Aarnio, "Changing Concepts of the Family and the Reform of Family Law in Finland," in John M. Eekelaar and Sanford N Katz, Marriage and Cohabitation in Contemporary Societies: Areas of Legally Social and Ethical Change: An International and Interdisciplinary Study (Butterworth & Co. (Canada) Ltd., 1980) : 25.

<sup>7</sup> John J Dempsey, The Family and Public Policy : The Issue of



the 1980's (Paul H Brookes Publishing Co., Inc. Baltimore, Maryland 1981) : 133.

<sup>8</sup> Ibid, p. 463.

<sup>9</sup> George Masnick and Mary Jo Bane, The Nation's Families: 1960-1990 Joint Center for Urban Studies of MIT and Harvard University (1980) : 332.

<sup>10</sup> Joe Diaz and Judith Johns Hubner Ph.D., "Family Life in California: Report on the California State Conference on Families (1980:San Diego, California)," (September 1981) : .5

<sup>12</sup> Beverly Beyette, "Conference Looks at Nuclear Family in Ferment," Los Angeles Times, (Friday, May 9, 1986) : Part U., p.1.

<sup>13</sup> Shiela B. Kamenman and Alfred J. Kahn, Family Policy Government and Families in Fourteen Countries (Columbia University Press New York 1978) : 461.

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**ONE-PERSON HOUSEHOLDS**

**prepared by**

**Rummel Mor Bautista**

**Domestic Partnership, Fall 1986  
Prof. Thomas Coleman  
USC Law Center**

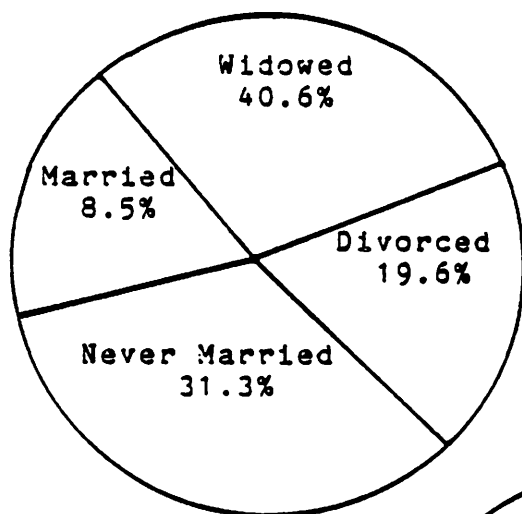
TABLE OF CONTENTS

SUBJECT MATTER: ONE-PERSON HOUSEHOLDS.....1  
PROBLEMS OF ONE-PERSON HOUSEHOLDS.....4  
PRIORITY #1 PROBLEM: EMPLOYEE BENEFITS.....8  
    SOLUTION: FLEXIBLE BENEFITS PROGRAM.....10  
    IMPLEMENTATION.....13  
    RECOMMENDATION.....14  
PRIORITY #2 PROBLEM: VICTIMIZATION OF  
ONE-PERSON HOUSEHOLDS.....16  
    SOLUTION: CRIME PREVENTION.....17  
    IMPLEMENTATION.....18  
    RECOMMENDATION.....18  
CONCLUSION.....19  
NOTES  
BIBLIOGRAPHY

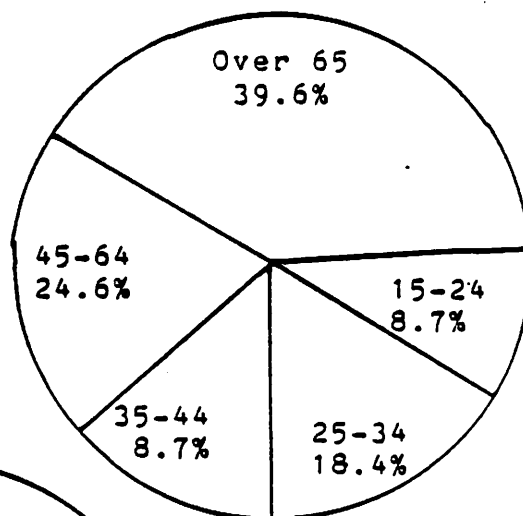
## SUBJECT MATTER: ONE-PERSON HOUSEHOLDS

At first glance, the topic of One-person Households seems to have very little to do with the concept of Family Diversity. However, according to a mid-decade report on American household characteristics issued in November 1985, the average household size continues to decline and the number of people living alone is up dramatically. Between 1970 and 1985, the share of married couples among the nation's 86.8 million households fell from 70.5% to 58%, replaced by an explosion of single people living alone. Some 20.6 million Americans now live by themselves, a 90% jump in one-person households over 15 years, an increase of 385% since 1950.<sup>1</sup> The following shows just who these people are:<sup>2</sup>

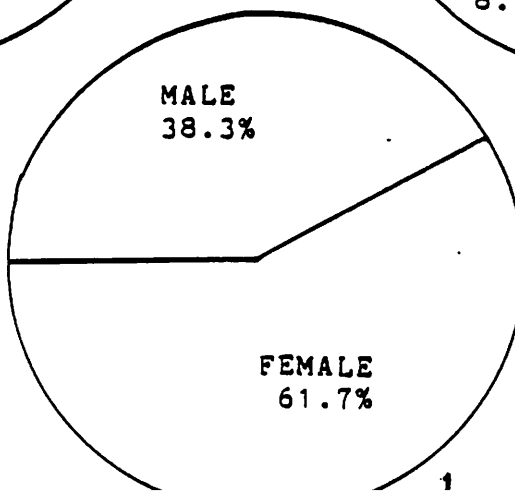
MARITAL STATUS



AGE



SEX



The dramatic changes in family demographics is one of the reasons why this Task Force was convened. It is therefore important that the increase in the number of individuals living alone be incorporated in this study. Being a large metropolitan city, Los Angeles has one of the highest percentages of one-person households in the nation. According to the 1980 census, 31.5% of the population of Los Angeles is composed of one-person households. The 1984 City of Los Angeles Population Estimate conducted for the Planning Department estimated the City population to be 3,070,710 as of October 1, 1984. If the one-person household percentage is still applicable, this would bring the total number of individuals living alone in Los Angeles to approximately 967,273!

There are two approaches by which the one-person household may be characterized:

1. One-person household = a sub-unit of a family.

Today's family is seldom under one roof, children go away to school, take their own apartments and in case of divorce or death, parents become alone. Although both child and parent now live separately and alone, they are still members of the same family unit. There are also those couples married or unmarried who live in separate households for varied reasons, mostly economic. They too are members of the one family unit—these are referred to as "apartners."<sup>3</sup> Society still does not accept that a couple have a socially valid relationship unless they have joined their households

together. Yet the couples who live apart do establish long-term relationships with the same kind of commitment to each other exhibited by those who choose to live together. It's just that it's twofold: They are as committed to their own freedom as they are to their apartners. They want to feel independence and respnsibility for their own lives, and having separate residences both symbolizes and fulfills this need. In the 1980's, men's and women's expectations of each other and their ability to give to each other seem to be in inverse proportion. Many people find marriage, or even living together, too demanding and stressful. On the other hand, one-night stands and brief flings are empty and unsatisfying. Apartnerships provide an alternative because "apartners are supportive but not domineering, loving but not overbearing, giving but not demanding. An apartnership offers each person love and companionship, and independence."<sup>4</sup>

2. One-person household = a family unit.

Individually, a person living by himself is a family unit. Many individuals feel that one person can be a family unit. In most cases biological families are no longer alive or live far away. There are also those individuals who chose to sever ties with natural families. Friends are the realistic family for these individuals. Holidays and birthdays are often celebrated with these friends/family.

Although young singles and their lifestyles may grab most of the attention, widows and widowers make up the biggest segment of Americans living alone. Among these 7.7 million

older people who are on their own, women age 65 and above are in the vast majority—outnumbering their male counterparts by almost six to one.<sup>5</sup>

## PROBLEMS OF ONE-PERSON HOUSEHOLDS

### 1. Societal attitudes against singles.

The good news is that as a society we are changing our attitude about those who live alone. Twenty years ago there was a stigma attached to anyone over 30 who was widowed, divorced or single. At best, you were eccentric—unable or unwilling to fit in. At worst, you were a predator looking to snag someone, whether they were available or not. But, in reality, shifting societal attitudes have helped ease the way for singles. "Today's young adults, many of them products of the 'me' generation, grew up at a time when 'do your own thing' was the prevailing philosophy. They enjoy the freedom and flexibility that single living offers," says sociologist Peter Stein of William Paterson College in Wayne, N.J.<sup>6</sup>

### 2. Alone means lonely, especially for the elderly.

But, increasing numbers of Americans are living alone and liking it. Many observers predicted that changing lifestyles during the last four decades would cause people who live alone to become socially isolated and suffer from health problems. Not so, says sociologist Duane F. Alwin, who found that people living alone are not necessarily isolated. They sometimes

have more active lives than married couples.<sup>7</sup> Rather than experiencing social isolation, many people who live alone show signs of a "compensation" factor, having many more contacts outside the household than do people who live with others. "People can be alone without feeling lonely," says Judy Rollins, associate professor of family and child development at Kansas State University.<sup>8</sup>

And, as for the elderly, studies show that the older we get, the better equipped we seem to be to cope with being alone. In a 1978 survey of 27,000 people, the highest rating of loneliness was found in those between the ages of 18 and 25.<sup>9</sup> This data suggests that the ability to cope with loneliness increased with age. Psychologists have found that older people living by themselves generally endure loneliness better than their young counterparts. After a nationwide survey, psychologist Phillip Shaver of the University of Denver concluded that loneliness declines with age. Tora Bikson, a Rand Corporation psychologist, says that although "a lot of the elderly want to be within easy access of their families, they prefer to live by themselves. They don't like the idea of being put in someone's guest room and being in a situation where they don't know what their role is."<sup>10</sup>

Studies show that, of all people living alone, those who have recently experienced the rupturing of a relationship—typically through divorce or death—are the most likely to be lonely. But people who have a network of friends and live alone by choice are usually content.<sup>11</sup>



### 3. Housing needs.

Most public policies on housing, and most public housing programs, have been directed towards the needs of the traditional nuclear family. However, the structure of the American family has undergone significant changes in recent years. Current housing policies, programs and regulations generally do not address the special housing requirements of one-person households.

For example, urban renewal programs which began in the 1960's in the downtown areas of major cities in the U.S. caused displacement of thousands of low income tenants of single room occupancy (SRO) hotels.<sup>12</sup> Such living arrangements are especially useful to the elderly who refuses and hate the idea of nursing homes, this option allows them to remain independent.

The solution to housing problems for the one-person household is a complicated one, it will encompass the federal housing programs as well as the state and local municipalities, and it might bring in the police powers of the City in changing its zoning and land use policies. Since this will take inter-governmental cooperation in order to find a solution, this paper will not address this problem as a priority since further independent study should be made.

#### 4. Criminal Victimization Among One-Person Households.

This problem is prevalent among one-person households and especially among the elderly living alone. Since crime prevention is generally under the jurisdiction of the Los Angeles Police Department, the City has direct powers to solve this particular problem. This paper will give this problem priority, not only because of its urgency and daily concern, but crime has always been a topic in most elections, action or inaction by Councilman Woo regarding this problem is therefore vital.

#### 5. Employee Discrimination.

Since most employee benefits are designed to meet the needs of the traditional nuclear family, one-person household employees have long been discriminated against since they are generally without dependents. Since living alone has theoretically been viewed as more expensive per capita, employee benefit discrimination cannot be rationally supported. The City does not have plenary powers to regulate private employment practices. But, in reality, the concept of equalizing employee benefits through the use of flexible plans is fast becoming the latest thing in private sectors, indeed, it is the government employer that has lagged behind.

This problem is also to be given priority because, although it would only affect City employees, circumstances presently at hand make it ideal for the City to implement a solution beneficial to one-person households. The City is

presently entertaining the idea of a flexible benefits program for its employees, the timing is perfect.

#### PRIORITY #1 PROBLEM

#### EMPLOYEE BENEFITS

It wasn't too long ago that 45-50% of the workforce in the United States was composed of working males who had female spouses at home. Therefore, employee benefits were geared towards satisfying the needs of a male head of household, non-working spouse, and two children.<sup>13</sup> However, as earlier figures indicate, the changing makeup of today's families have left this model outdated and grossly inequitable to most employees, especially those living alone. For example, the City, depending on the health insurance, will subsidize up to two-hundred forty dollars in order to include an employee's dependents. Since the single employee might not have any dependents, this is a benefit in which the single employee may not share nor apply towards other benefits.<sup>14</sup>

Although this is a problem in the general workforce, absent influencing state labor laws, the City of Los Angeles is powerless in correcting this inequity in the private sector. However, the City of Los Angeles has an estimated 30,000 employees. Applying the 1980 Census of 31.5% for one-person households, a liberal estimate of the City's one-person household employees could be somewhere near 9,450. However, out of the 31.5% one-person households, it is estimated that 30% of these are singles 50 and older.<sup>15</sup> Since 55 is the

eligible retirement age for City employees, a very conservative estimate of one-person household employees would be 9,450 less 30% — 6,615. Although the City Council has no power to dictate labor laws in the private sector, the City of Los Angeles has plenary powers when it comes to its own employees.

The Government Code of the State of California, Chapter 6, Article 1, Section 12940(a) states that it is unlawful to discriminate in an employee's compensation or privileges of employment due to the employee's marital status. Subsection (a)(3) of the Code also states, in pertinent part that:

Nothing in this part relating to discrimination on account of marital status shall...prohibit bona fide health plans from providing addition or greater benefits to employees with dependents than to those employees without or with fewer dependents.

Thus, under this article, which was added by statute in 1980, the City would not be in violation of the Government Code if it continued to offer greater health coverage to employees with dependents and not to one-person household employees. However, City employee compensation encompasses more than just health plans. The following proposed solution, flexible benefits, would allow employees to choose from an array of benefits and not just health benefits.

## PRIORITY #1 SOLUTION

### FLEXIBLE BENEFITS PROGRAM

Since current benefit plans are primarily designed for the typical family of a working husband, non-working wife, and two or more children, providing employees with an opportunity to choose their own benefits is not only one of the most popular new approaches to benefit planning today, but would be an equitable remedy towards meeting the single employee's particular needs. In fact, it would be an equitable remedy for all employees. The majority of workers today are single, two-income couples, singles and dependents, and older employees. Even the traditional' family of four benefits if both parents are working. Each spouse can tailor their respective benefits in order that they may efficiently compliment each other instead of duplicating them. However, the benefits of a flexible program would certainly be more appreciated by the single employee who for years have had to live with a pre-packaged benefit program designed to meet family needs of a family of four.

A flexible benefit plan would allow employees to choose some or all of their benefits whether it be among different levels of one type of benefit (e.g. different health plans), or among different types of benefits (e.g. life insurance, dental coverage and cash). The City may then subsidize all, or only a portion, of the benefits selected by the employee. The City basically has a flexible plan since it currently offers a choice of five different health plans (e.g. Conn

General, Cigna, Kaiser, Maxicare, and Ross Loos), and two dental plans (e.g. Conn General and Safeguard). However, the new trend in flexible benefits is the cafeteria' style plan. As the name implies, the employee would choose from a vast array of benefits in order to suite his or her particular need. Those flexible benefit plans that offer a choice between cash (or other permissible taxable benefits) and non-taxable benefits can be called cafeteria plans. These benefits may include the following:<sup>16</sup>

- Cash
- Health Benefits
- Dental Benefits
- Group term life insurance
- Dependent term life insurance
- AD&D insurance (accidental death and dismemberment)
- LTD Coverage (longterm disability)
- Weekly indemnity coverage
- Dependent care reimbursement
- Vision insurance
- Group automobile insurance
- Vacation
- Group legal benefits
- 401(k) savings plan contributions.

As one can see, the combinations are endless. The single employee can now choose benefits that were previously unavailable, since family oriented packages would have precluded most of these benefits.

Most cafeteria plans are designed as one of three broad types. First, is the Modular design. This design presents the employee with a choice of pre-packaged benefits. Each package contains a fixed combination of benefits grouped together to meet the needs of a particular segment of the employee group. Instead of having to live with a family

designed package, the single employee may enlist in a package designed to fit the needs of an employee living alone.

Second, is the Flexible Spending Account (FSA) module. This is a type of cafeteria plan that gives employees a choice between taxable cash and pretax payment of nontaxable expenses. The FSA operates like a personal checking account with respect to deposits and disbursements. Deposits enter the account as plan sponsor contributions. In general, plan sponsor contributions are made through salary reduction agreements. A separate sub-account is established for each benefit chosen at the beginning of the benefit year. When a covered expense is incurred during the year, the employee will then submit a receipt and is reimbursed from the appropriate FSA sub-account. However, recent tax changes will limit the availability for an employee to move pretax contributions.

Third is the Core-Plus-Options Plan. A core-plus-options plan is more flexible than either FSA or a flexible benefit modular plan. It allows employees to make selections among various options that complement a fixed core of benefits which serves as a minimum level of coverage plan the City would require for their employees. This would also assure employees that flexibility would not inadvertently cause them a loss of benefits, typically medical, dental, and life insurance. The options then would either increase the benefits in the core or offer additional benefits.

## PRIORITY #1 IMPLEMENTATION

The Personnel and Labor Relations Committee has instructed the City Administrative Officer and the Personnel Department to investigate flexible benefit programs and recommend the steps necessary to implement such a program for City employees. Many considerations come into play in the implementation of a cafeteria plan. For example, the City's present payroll system cannot accommodate an extensive flexible program. Since, theoretically it would mean the administration of a separate benefit program for each individual employee, it would mean the administration of some 30,000 plans. The City has already hired a private consultant to design a new human resources system which would include a new payroll system compatible with a flexible benefits program. This is scheduled to be operational by 1988.

Another factor to consider is cost. However, the cost of implementing and administering a flexible benefit program cannot be determined until decisions are made regarding plan design, option costs, and most importantly the amount the City would contribute to the plan. Additional City contribution could be paid for with lower future salary increase dollars through a negotiated trade-off.

Finally, any proposal to change the City's employee benefits plan must be discussed with employee organizations in the meet-and-confer process. Complicating this process is the fact that several employee groups already receive life and vision care insurance through separate agreements. Whether



these benefits would continue as a separate benefit for specific bargaining units or become options in a flexible benefit plan would have to be determined through negotiations.

While there are many private sector companies who have implemented flexible programs, they are still rare in the public sector. The Personnel Committee has recommended that the City hire an expert in the field of flexible benefits to assist the City in evaluating the pertinent factors and their potential long-range impact on the City's finances. At present, the Personnel Committee is reviewing six consulting firms bidding for the job. A recommendation will be presented to the City Council on December 1, 1986 on which firm to hire.

After this, the consultant will assist City staff in evaluating the City's benefit plan objectives, identifying the income security needs of City employees, and determining whether a cafeteria plan could meet those objectives and needs more readily than the existing benefits program. Inquiries will be made as to who would be eligible for the program, what options would be offered and legal compliance.

#### PRIORITY #1 RECOMMENDATION

The timing of the City's interest in the flex program could not have been more ideal for the Task Force On Family Diversity. The City has until 1988 when the new payroll system will be operational in order to decide on the Flex program. Since the Final Report of the Task Force will be presented to Councilman Woo by July of 1987, the needs of the

different groups studied by the Task Force can be incorporated into the flex program, especially those of single person households.

It is recommended that Councilman Woo approve a consultant willing to look into the needs of some 9,450 City employees living alone and not just into traditional family-type benefits.

Most important is to note that a flex program would be utterly useless if it results in the availability of only limited choices among benefits. A flex program must be implemented in order that each employee may determine for himself or herself the benefits best suited for the particular need. Meeting the needs of the one-person household is the best indicator by which the City can determine the amount of new benefits previously unavailable. It is therefore strongly recommended that Councilman Woo require that the new flex program be exactly that, flexible. Non-family style benefits should be readily available.

Since the system should allow the individual employee to spend his or her allocated benefit dollars towards a particular lifestyle, there should not be the constraint of being able to claim only those individuals living with the employee as dependents. Remember that the one-person household is a sub-unit of a family, even though the family members all live separately. The employee who would like to use her earnings to extend protection to a relative (e.g. spouse, mother, brother, children), or significant other (e.g.

ex-spouse, lover, best friend) not living with the employee, should be allowed to do so. This would protect those living in apartner relationships as described earlier.

Through its employee benefits programs, the City can insure that its employees are not treated unfairly for living alone, especially since many are not living alone by choice.

#### PRIORITY #2 PROBLEM

#### VICTIMIZATION OF ONE-PERSON HOUSEHOLDS

According to a national crime survey report by the Department of Justice, the overall rate for violent crimes was highest for divorced or separated persons and persons never married. For personal crimes of theft, persons never married had the highest rate of victimization, followed by persons divorced or separated.<sup>17</sup>

Since police reports do not inquire into a victim's lifestyle, there are no accurate statistics available for the City of Los Angeles or the State of California. Unless crime reports incorporate household number questions, these statistics will be very hard to obtain. But, another key evidence to the above average victimization of the one-person household lies in the fact that 39.6% of this population is 65 years old and older.<sup>18</sup> So prevalent is the victimization of the elderly that Congress assembled a committee to research this problem.<sup>19</sup>

## PRIORITY #2 SOLUTION

### CRIME PREVENTION

As a general solution, crime prevention is the most effective. And the most effective means of prevention is through education. The public is still ill-informed when it comes to proper prevention. In order to be effective, a means of informing the public needs to be implemented. The neighborhood watch group meetings which are administered by the LAPD are very effective, but most citizens neither have the time to attend these meetings nor the proper information as to the time and place of such meetings. There are numerous ways by which a single person can prevent victimization.<sup>20</sup> The LAPD has dozens of information pamphlets.

Crime prevention services are also available. Eight years ago, the City Council instituted a Home Secure program by which citizens may have deadbolts, window and patio locks, peepholes and even grab bars for bathroom safety, installed free of hardware or installation charge. A great program, yet not enough citizens are taking part. There is an income restriction on who may qualify. To add insult to injury, those who need it most, one-person households, have a lower qualifying income ceiling in order to participate in the program. There should not be any difference in the number of persons living in one household.<sup>21</sup>

PRIORITY #2

IMPLEMENTATION

Basically, the information needed is already available through the Home Secure Program, Neighborhood Watch Program, and the LAPD's Crime Prevention Unit. The LAPD puts out pamphlets in several languages and trains volunteers to administer neighborhood watches. In short, the information is already out there.

PRIORITY #2

RECOMMENDATION

The LAPD has hundreds of literature. It is highly recommended that Councilman Mike Woo mail out these information materials to his constituents. There will be no printing costs since the LAPD would be more than happy to print out all the materials the 13th District will need. According to Harlene Settles of the Crime Prevention Unit, they would be more than happy to give all the materials necessary, infact, they wouldn't mind if the Council members labeled them as their own programs.<sup>22</sup> And the same recommendation applies towards the Home Secure Program.

The criminal victimization of persons living alone is a problem which must be dealt with directly by the Councilmember. Its election impact is crucial, crime problems and insensitivity towards the issue by failing to do the minimum task of mailing out information will be blamed on the Councilmember.

It is also recommended that statistical information be acquired by broadening the scope of police reports.

#### CONCLUSION

The dramatic increase in the nation's one-person households is too large a subject to be encompassed in a study on family diversity. It is also recommended that the City study the exact numbers of one-person households in its workforce, accurate estimates are not presently available. As dramatic as the recent decade's increase may have been, it is nothing compared to the further increase in one-person households which will inevitably surface once the "baby boom" generation reaches its older years. Since the great bulk of one-person households are composed of the elderly, the older this generation becomes, the larger the percentage of the population living alone. A flexible program must allow for individualized retirement plans. Pre-retirement specialist Judy Salwen, in counseling singles between 45 and 64, states that there is a huge pre-retirement population that is alone—statistics show one in five are widowed or divorced or never married. That's 14.3 million single Americans.<sup>23</sup> The ability of the City of Los Angeles to better its employees' security both in terms of benefits and protection from crime will make a marked difference in how effectively they can withstand a life of living alone.

Most importantly, if the City is to define family or pass domestic partnership legislation, cohabitation should not be a

prerequisite since this would deny the existence of families as they are today—mobile and usually with family members living separately. One-person households are sub-units of families, this is the most important message this paper has to offer.

NOTES

1. David Beckwith, "Solo Americans," Time, December 2, 1985, p. 41.

2. Alvin P. Sanoff, "19 Million Singles: Their Joys and Frustrations," U.S. News & World Report, February 21, 1983, p. 54.

3. Phyllis Grodsky and Arthur Weinberger, "Apartners: Not Quite Living Together and Loving It." New York, December 13, 1982, pp. 65-68.

4. Grodsky, p. 68.

5. Sanoff, p. 56.

6. Sanoff, p. 53.

7. Stanley Lehrer, "More Americans Living Alone—and Liking It," USA Today, August 1985, p. 1.

8. Lehrer, p. 8.

9. Les Lindeman, "On Your Own," 50 Plus, November 1985, p. 26.

10. Sanoff, p. 56.

11. Sanoff, p. 57.

12. Dept. of Housing and Urban Development, The Housing Needs of Non-Traditional Households, Washington D.C., 1979, p. 19.

13. Richard Johnson, "Flexible Benefit Plans," Employee Benefits Journal, September 1986, p. 3.

14. Henry Hurd, Director, City of Los Angeles Employee Benefits, Personal Interview, Los Angeles, California, November 18, 1986.

15. Lindeman, p. 25.

16. Johnson, p. 2.

17. U.S. Department of Justice, Criminal Victimization in the United States, 1983. Washington D.C., August 1985, p. 2, 21.

18. Sarnoff, p.54.



19. U.S. Congress, House, "Select Committee on Aging," Part 1, Pub. No. 95-122, Washington D.C. January 31, 1978, p. 5. The Chairman of that committee, James H. Scheuer stated: "We feel that these hearings are terribly important, because as a single group, a small slice of the population pie, the elderly are far more vulnerable physically, psychologically, and financially than any other group in our society. They are so much more vulnerable to violent crimes."

20. For example:

- a. List only your last name and initials on your mailbox and in the phone directory to avoid advertising that your are alone. Don't indicate your address in the telephone directory.
- b. Protect your neighbors as well as yourself. Never mention to a stranger that a neighbor lives alone, is home alone, or is away on vacation.
- c. If confronted by a burglar or intruder, call out a name in order to convince the intruder that you are not alone.
- d. Dogs are the best protection, if you can keep one, think seriously of obtaining one.

21. Barbara Weiner, Administrative Assistant to Home Secure. Personal Interview. Los Angeles, California, November 24, 1986.

22. Harlene Settles, LAPD Crime Prevention Unit. Personal Interview. Los Angeles, California, November 18, 1986.

23. Beverly Beyette, "Retirement Planning Makes Singles' Golden Years Shine," Los Angeles Times, September 25, 1986, Part V pp. 1; 21.

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RUNAWAY AND HOMELESS YOUTH IN LOS ANGELES COUNTY

Richard Prince

Thomas Coleman

December 1, 1986

This paper examines runaway and homeless adolescents in Los Angeles County. Its purpose is to identify problems in the way this group of status offenders is currently handled and to propose solutions or alternatives to the status quo which will bring us closer to a realization of the goals and ideals that the social welfare system is intended to bring about. These goals are not simple: they range from providing the basic necessities of life (food, shelter, medical care, etc.) to maintaining the "family unit" to ensuring emotional wellbeing. Only through a conscious, determined, coordinated, and resource intensive effort will the State overcome current inadequacies and move closer to widespread attainment of these goals.

A comprehensive profile of runaways and homeless youth is an essential starting point for understanding why current services are inadequate. According to Louis Tandy, Executive Director of Aviva Center, almost half of the youngsters seen by Los Angeles County agencies are forced out by their parents. This large number of pushouts/throwaways contrasts sharply with previously held notions about why children leave home, and has important implications for the kinds of services that are needed.

The runaway and homeless youth population is characterized by below average physical and mental health. Gary Yates, Co-Director of the High Risk Youth Project, reports that the most common ailments among youngsters coming to his free clinic include sexually transmitted diseases, alcohol and drug abuse,

infections, and malnourishment.

Phil Carter, Program Director of the Hollywood Options House, labels most of his clientele "emotionally troubled". Common problems include poor self-esteem, depression, self-destructive/suicidal behavior, and psychotic tendencies.

Most young people leave home because of "communication difficulties" with parents according to Tina Shaps, Program Director of the Homeless Youth Project. Other common explanations include divorce/separation of parents, physical and/or sexual abuse, and unwanted pregnancy.

If one common strain emerges from a profile of runaway and homeless youth it is the lack of a common strain. This population of status offenders is anything but homogeneous. Differences in age, sex, sexual orientation, health, social/religious/ethnic backgrounds, and reasons for leaving the home are just some of the factors leading to diversity and complexity.

Current social service programs are administered through the private or public sector, though it sometimes becomes difficult to separate the two because many private organizations are governmentally subsidized to a certain extent. Public sector agencies include the Los Angeles County Sheriff's Department, Los Angeles County Probation Department, Community Development Program, and Department of Social Services.<sup>1</sup>

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<sup>1</sup> J. Rothman and T. David, Focus on Runaway and Homeless Youth, Status Offenders in Los Angeles County: A Study and Policy Recommendations (1985).

The Sheriff's Department maintains local communication networks and computerized systems such as the Juvenile Automated Index and the National Crime Information Center to disseminate and index information. It also administers a direct counseling service.<sup>2</sup>

The Probation Department runs the Status Offender Detention Alternatives Program (SODA). This Program was begun in 1975 as a pilot project to experiment with non-secure detention of status offenders. It is a central screening device for referrals from law enforcement agencies and maintains approximately 28 beds in 14 licensed foster homes. It also provides crisis intervention services and general counseling.<sup>3</sup>

The Community Development Agency administers emergency shelter facilities, job training and placement services, and family and individual counseling services.

The Department of Social Services operates in four program areas which provide either direct or indirect services to runaway and homeless children. These areas are Child Welfare Services, Child Abuse Prevention Services, Community Care Liscensing, and the Greater Avenues for Independence Program.<sup>4</sup>

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<sup>2</sup> Id. at 67.

<sup>3</sup> County of Los Angeles, Children's Services Task Force. Report to the Board of Supervisors Concerning Recommendation to Improve the Delivery of Services to Abused and Neglected Children in Los Angeles County. Los Angeles: County of Los Angeles, 1984.

<sup>4</sup> L. McMahon speaking at Public Hearing on Provision of Children's Services in California, September 25, 1986.

Private community-based programs constitute the remainder of presently available resources for status offenders in Los Angeles County. There are just 32 licensed shelter beds in the 4 private programs that provide this service. Three of these programs (Options House, Steppingstone and 1736 Project) are federally subsidized through the Federal Runaway and Homeless Youth Act. The fourth, the Aviva Respite Center, is supported entirely by private donations.<sup>5</sup>

The Traveler's Aid Society runs Teen Canteen, a project specializing in helping out-of-area runaways. It also maintains an office in the downtown bus terminal and a storefront counseling office in Hollywood.<sup>6</sup>

Children of the Night and Angel's Flight are two programs that specialize in street-level outreach. They find young people in need, provide immediate physical and emotional support, and make referrals to other programs.

A more comprehensive resource utilized by all of the others is the High Risk Youth Project of Children's Hospital and the Los Angeles Free Clinic. It provides medical care and counseling to runaways and runs a training program to teach professionals and volunteers to deal with the unique health care needs of this population.<sup>7</sup>

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<sup>5</sup> See Rothman, Supra note 1.

<sup>6</sup> Telephone interview with Bob Butler, Executive Director of Teen Canteen.

<sup>7</sup> Telephone interview with Gary Yates, Co-Director of the High Risk Youth Project.



Current social service programs-both public and private-are failing to meet the increasing needs of Los Angeles County's status offender population for a wide variety of reasons. Lack of adequate financial resources is by far the most pervasive problem. But simply pouring more money into the system will not solve the problems. Other equally crippling factors, many of them systemic, are also hindering effective delivery service. These include a lack of rational planning, inadequate communication among agencies, minimal coordination of effort, lack of long-term preventative strategies, and an apparent deemphasis on the family as both an instrument of prevention and a vehicle for solving existing problems.

A recent community survey of juvenile social welfare experts conducted by the UCLA School of Social Welfare reveals that virtually all consider inadequate funding a major cause for concern.<sup>8</sup> But seemingly more important to effective service delivery than insufficient resource allocation is intelligent resource management and distribution. It is always easy to say "give us more and more and more". But it is exceedingly difficult for an established bureaucracy to look inward and fundamentally restructure itself by radically altering resource distribution. An extreme example will illustrate this point vividly: on any given night there are available less than 70 emergency beds for thousands of adolescents in Los Angeles County while, in fiscal year 1985, the Los Angeles County Department of

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<sup>8</sup> See Rothman, Supra note 1.

Children's Services spent between \$68,000 and \$74,000 per child in administering the MacLaren Children's Hospital.<sup>9</sup>

Intelligent fiscal management in the delivery of social services to Los Angeles County's youthful population will come about only when chronic coordination and communication problems among service agencies and programs are solved. When asked by a UCLA research team to what degree is there communication and coordination among the various groups providing social services, nearly half of the 28 youth services experts responded that there is little or none.<sup>10</sup> Part of the problem is a strong tradition of support in American social welfare for voluntary action in addition to organizational freedom and autonomy among agencies. The other part of the problem is that agencies are sometimes competing with one another for available resources. The result is a social welfare system that is peculiarly fragmented, competitive and wasteful.

To improve the current level of communication and coordination, a highly organized, rational, integrated, system of service management and delivery must be developed. Many of the respondents in the UCLA survey suggest a leading role for an appropriately staffed Department of Children's Services. The DCS could administer a network of several regional intake, screening,

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<sup>9</sup> Telephone interview with Nathan Shapell, Chairman of the Commission on California State Government Organization and Economy (the "Little Hoover Commission").

<sup>10</sup> See Rothman, Supra note 1 at 84.

diagnostic, and dispositional centers. These regional centers would in turn work closely with the numerous "field level" agencies and programs. Improved interagency coordination and cooperation can be brought about through regular periodic meetings of key officials from different agencies, a social service publication distributed among status offender service agencies, collective work on joint endeavors, etc.

Logical, cohesive strategies for long-term prevention of runaway and other status offenses should be an integral part of the "master plan". Yet long-range goals are either ignored completely or at best take a back seat to more immediate objectives according to a recent study.<sup>11</sup> A system ill prepared to deal with the most pressing of problems can hardly be expected to formulate long-range goals. But it must if we hope to ultimately conquer the myriad of problems associated with status offenders. Long-term strategies should include increased reliance of schools; education of parents; earlier intervention; and increased use of community helping networks.

The school system is a vehicle through which virtually all children can be influenced because it provides intimate contact with all children. In addition, it offers the most accessible setting in which to identify children with problems. Teachers should be trained to identify emerging difficulties before they develop into chronic problems.

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<sup>11</sup> H. L. Hufford, Child Runaway problem in Los Angeles County, May 10, 1983.

Early intervention can then be implemented through the school system. This is especially important since most juvenile welfare experts agree that status offender-type problems begin early and do not just suddenly develop at age 12 or 13.<sup>12</sup>

Parenting education is another strategy for long-term prevention of status offender problems. Programs should be developed for both parents and children that address such themes as self-esteem, coping skills, communication, issues of parental control, and the special stresses surrounding single-parent families.

Increased use of community helping networks-churches, neighborhood organizations, YMCAs and YWCAs-should also be a part of long-term strategy. These organizations provide opportunities to discuss problems in an informal setting and can be used to exert a positive influence on youngsters at an early age.

A deemphasis of the family is an anomaly in a society that professes to place the highest of value on the family unit. Yet such a deemphasis does exist. This is clearly illustrated by the facts in the recent Hansen case.<sup>13</sup>

Hansen is a class action on behalf of children and their parents throughout California in immediate need of emergency shelter services and other child welfare services because they are homeless or threatened with imminent homelessness. The State Department of Social Services is statutorily obligated to provide

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<sup>12</sup> See Rothman, Supra note 1 at 105.

<sup>13</sup> Hansen v. McMahan, \_\_\_ Cal.3d \_\_\_ (1986).

services to homeless families with children. But the Department violates this duty by restricting emergency shelter benefits only to children who have been removed from their parents. The effect of this policy is to deny child welfare services to children who remain with their families. This denial of benefits violates provisions of the Welfare and Institutions Code and the United States and California Constitutions.<sup>14</sup>

The Welfare and Institutions Code Section 16500, et seq. requires the Department of Social Services to provide child welfare services to protect and to promote the welfare of all children and to prevent unnecessary family break-ups. By a combination of established policy and state regulation which the Department promulgates, emergency shelter is provided only to those children who are removed from their families.<sup>15</sup> The effect of this is to deny emergency shelter to children who remain with their parents or to compel separation of children from their families.

Hansen argued that California imposed an unconstitutional condition upon the receipt of a statutory right and thus violated the right of equal protection to members of the class. Furthermore, the state's denial of benefits to those children who chose to remain with their families unreasonably burdened their rights to privacy and association, also in violation of the

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<sup>14</sup> Id.

<sup>15</sup> California Department of Social Services Manual of Policies and Procedures, Sections 30-002 (z)(3); 30-158; 45-401.1 and 45-402.3.

United States and California Constitutions.

In a ruling that could ultimately affect more than 9000 homeless families in Los Angeles County alone, a Los Angeles Superior Court judge ordered the state to provide emergency services to all homeless children-even those who choose to remain with their parents. But less than three months later another Los Angeles Superior Court judge held the Deukmejian administration in contempt of court for continuing to promulgate the welfare regulation in a manner that the first judge had ruled illegal.<sup>16</sup>

If the most fundamental goal of the juvenile welfare system is to help children (and most would probably agree that it is), then why does the arm of the state government charged with bringing about that goal make separation of children from their families-which can only hurt children in the great majority of cases-a prerequisite for receiving benefits? It is true that in order to administer the questioned regulations in the way that the court ordered it to, the Department of Social Services would spend tens of millions of dollars more than it is currently spending. But this fact alone can not explain the Department's resistance to the ordered changes. After all, spending ever increasing amounts of money is never distasteful to governmental agencies. Part of the problem probably stems from that age-old antagonist of reform: the bureaucracy's inherent interest in maintaining the status quo. The government workers become

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<sup>16</sup> K. Murphy, State is Ordered to Revise Welfare Rule, Los Angeles Times, p. 17 (August 1, 1986).

accustomed to and even come to rely upon established power relationships in the organizational superstructure. They develop vested interests that they are very unwilling to relinquish.

But another, perhaps even larger part of the problem probably comes from the paternalistic philosophy which has always served as a central motivational power in the American social welfare system. This, combined with the general aversion for the poor that middle class America often feels, results in the attitude among the social service workers that they are better able to help children than their own parents are.

This anti-family attitude must be eliminated. Family-oriented intervention should have high priority in working with runaway and homeless youth. In various studies it has been found to reduce recidivism;<sup>17</sup> lessen youngsters involvement with the juvenile justice system;<sup>18</sup> help families that traditional social service agency interventions have failed to help; aid school adjustment; increase parental self-confidence;<sup>19</sup> encourage greater use of community resources; and foster increased family

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<sup>17</sup> R. Baron and F. Feeney, Preventing Delinquency Through Diversion--The Sacramento County 601 Diversion Project.37 Federal Probation 1, 13-18 (1973); M. Bohnstedt, Answers to three questions about juvenile diversion, 15 Journal of Research Crime and Delinquency 1, 109-123 (1978).

<sup>18</sup> D. Beal and P. Duckro, Family counseling as an alternative to legal action for the juvenile status offender, 3 Journal of Marriage and Family Counseling 1, 77-81.

<sup>19</sup> O. J. Morgan, Runaways: Jurisdiction, dynamics, and treatment, 8 Journal of Marital and Family Therapy 1, 121-127 (1982).

cohesion.<sup>20</sup>

Changing a person's philosophy is not an easy task. Educational programs for social service workers should be modified so that they stress the importance of family-oriented intervention. In addition, new regulations and policy implementation guidelines that emphasize the importance of the family unit in solving the problems associated with status offenders should be formulated and adopted.

The severity of the status offender problem in Los Angeles County is frightening. There are literally thousands upon thousands of runaway and homeless children sleeping in parked cars, in abandoned buildings, and on the city streets. Their problems are everyone's problems: crime, disease, prostitution, alcohol and drug abuse, mental illness, suicide, and the deterioration of the American family. The ways in which these children are perceived and the ways in which they are dealt with must change. Current programs and agencies are inadequate at best and at worst may even be hostile to their own objectives. It is only through a fundamental rethinking and restructuring of the way in which our society handles runaway and homeless youngsters that lasting reform can be achieved.

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<sup>20</sup> Id.