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CREATING PATHWAYS TO DIVERSITY®

PERSPECTIVES FROM THE INVISIBLE BAR:
Gay & Lesbian Attorneys in the Profession

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EXECUTIVE SUMMARY

I. Objective

The Minority Corporate Counsel Association (MCCA) was founded in 1997 to advocate for the expanded hiring, promotion, and retention of minority attorneys in corporate legal departments and the law firms that serve them. MCCA's efforts focus on the research, collection, and dissemination of information on the status of diversity in the legal profession and the use of that information to further the association's mission.

Creating Pathways to Diversity*: Perspectives from the Invisible Bar — Gay & Lesbian Attorneys in the Profession is a collection of articles and research reports commissioned by MCCA to examine how sexual orientation affects attorneys in law firms and law departments. This report will answer three primary questions:

1. What experiences have gay and lesbian attorneys had in law firms and law departments?

2. How has their sexual orientation influenced their career progress and opportunities?

3. How have law departments and law firms made openly gay and lesbian attorneys feel included in the workplace?

In addition, this report identifies the common barriers to making gay and lesbian lawyers feel comfortable and makes recommendations about how attorneys can confront their own biases that may inhibit communication and productivity.

II. Recommendations for a Gay-Friendly Workplace

RECRUITMENT & HIRING

1. Place information in all recruitment packets about the firm's anti-discrimination policy, domestic partnership benefits, and the numbers of openly lesbian or gay attorneys.

2. Recruit through lesbian and gay law student groups and bar associations. When involvement in such organizations is listed, ask applicants about their efforts and leadership experiences.

3. Include gay or lesbian attorneys on the hiring committee, if possible. Offer the names of lesbian and gay-sensitive contacts within the organization for those who want more information.

EMPLOYMENT POLICIES & PRACTICES

1. Include "sexual orientation" as prohibited grounds for employment discrimination in the firm's EEO policy or other anti-discrimination policy. Publicize this policy throughout the firm. Include sexual orientation in any diversity and anti-discrimination training.

2. Adopt complete domestic partnership benefits. In the firm's employment policies, wherever "spouse" is mentioned, "domestic partner" should apply as well. These benefits should include health and dental insurance policies, relocation assistance, caretaking and bereavement leave, access to employee assistance programs, and pension and survivor benefits.
3. Treat the children (biological, adopted, or step) of lesbian and gay couples just as the firm treats the biological children, adopted children, and stepchildren of married employees in health care coverage, child care, parental or family leave policies, and so on. If the firm is located in a state that does not allow two same-sex partners to be equal legal parents, the firm should nevertheless cover the employee's nonbiological child.

4. Explicitly invite partners whenever spouses are invited to a firm or client function—formal or informal. List such partners wherever spouses are listed.

5. Collect and publish statistics on the numbers of openly lesbian and gay attorneys.

6. Sponsor involvement in lesbian and gay professional associations and pro bono efforts if the organization sponsors other professional memberships or pro bono efforts.

7. Prohibit derogatory comments about lesbians and gay men. Quickly discipline those who make such comments.

STUDY OVERVIEW

The Creating Pathways to Diversity® research series has focused traditionally on the obstacles presented by minority and women attorneys in law firms and law departments and how those organizations can improve their retention and recruitment of diverse attorneys. Through the course of these studies, sexual orientation was mentioned as another barrier that many attorneys encounter. Informal interviews with openly gay attorneys suggest that they share many of the same experiences of other traditionally excluded groups, such as:

1. Overcompensation: openly gay and lesbian attorneys often feel the need to compensate for their different sexual orientation by outperforming their heterosexual counterparts.

2. Exclusion: statements about a date, spouse, family, or child can unintentionally exclude attorneys who are “in the closet” or who may be anxious about revealing their sexual preference. In addition, firm policies often exclude same-sex partners from the benefits that the spouses in heterosexual couples receive. Very often, gay and lesbian attorneys have moved from firms that were unfriendly towards them to more receptive work environments similar to the career tracks of attorneys of color who have “jumped ship” a few times looking for more diverse leadership or women seeking to balance professional and family responsibilities at firms with flexible work/life policies.

3. Bias: derogatory comments and attitudes about gay and lesbian individuals, both obvious and subtle, are a source of humor and camaraderie among powerful partners and clients. While such statements are “politically incorrect”, they are still too common. Forcing a few offensive attorneys to examine their biases can lead to alienation and unproductive work relations for the gay and lesbian lawyers, especially in firms that are less vigilant about enforcing zero tolerance for discriminatory or harassing behaviors.
Unlike race and gender, many gay and lesbian attorneys are “invisible” to the heterosexual majority; thus, they shield themselves from the negative impact that it might have on their performance evaluations or interactions with partners and clients. Hence, it is difficult to isolate the effect of a “hidden” variable absent accurate information about the numbers of gay and lesbian attorneys, much less the dearth of research on their experiences in law departments and law firms. Creating Pathways to Diversity™: Perspective from the Invisible Bar — Gay & Lesbian Attorneys in the Profession is a collection of articles and research reports commissioned by MCCA to examine how sexual orientation affects attorneys in law firms and law departments. This report will answer three primary questions:

1. What experiences have gay and lesbian attorneys had in law firms and law departments?

2. How has their sexual orientation influenced their career progress and opportunities?

3. How have law departments and law firms made openly gay and lesbian attorneys feel included in the workplace?

In addition, this report identifies the common barriers to making gay and lesbian lawyers feel comfortable and makes recommendations about how attorneys can confront their own biases that may inhibit communication and productivity.

I. Background and Methodology

This report started with the development of a two-part series of articles on the challenges faced by gay and lesbian lawyers, which MCCA published in Diversity & the Bar, its bi-monthly magazine. The feedback was so positive that MCCA expanded the focus to evolve into a full research report, including a set of recommended diversity practices.

Interviews were conducted with openly gay or lesbian attorneys who work as officers in national bar associations, partners in law firms, and general counsel in major corporations and nonprofits. Participants worked in organizations located nationwide in the Northeast, Mid-Atlantic, Southwest, and Pacific Coast area to determine any regional effects (e.g., San Francisco, CA is considered more gay-friendly than Houston, TX). To encourage people to speak frankly and thoughtfully, MCCA guaranteed anonymity for all participants unless they chose to be identified in the final article or report. Consequently, this report makes no reference to the sources of comments — either individual or firm — unless authorized by the interviewee or firm. For those who chose to allow use of their names and organizational affiliations, MCCA extends its appreciation and we hope that your openness and candor will be encouraging to others.

II. Research Team

MCCA retained E.J. Graff, the author of What Is Marriage For? The Strange Social History of Our Most Intimate Institution and a contributing editor to The American Prospect and Out magazine. Ms. Graff is nationally recognized for her thought-provoking work in the area of gay and lesbian issues and she served as the principal author of this report. In addition, Alesa Jasmine Mitchell, Diversity & the Bar's features editor, contributed to this report by interviewing attorneys at Jenner & Block about their new publication, Equal Time.

MCCA also acknowledges the work of Scott Mitchell, who assisted with editing, and the Madison Design Group, who completed the graphic design and lay-out of this research report.
FINDINGS

I. Welcoming the Invisible Bar: Lesbian and Gay Attorneys

By now, almost everyone knows at least one lesbian or gay lawyer — if only on TV's *Will and Grace.* In the real world as well, highly visible examples abound of successful openly lesbian or gay attorneys, such as Tammy Baldwin, Congresswoman from Wisconsin; Judge Deborah Batts of the United States District Court for the Southern District of New York; Todd Dickinson, partner at Howrey Simon Arnold & White, co-chair of its intellectual property practice, and former undersecretary of commerce for Intellectual Property and director of the United States Patent and Trademark Office; or Anthony D. Romero, an openly gay Latino man appointed to the American Civil Liberties Union as executive director. As the country has warmed toward its gay and lesbian citizens, so have legal workplaces. In cities as various as Atlanta, Boston, Minneapolis, San Francisco, and Washington, D.C., firm after firm includes openly gay and lesbian attorneys at levels ranging from junior associate to managing partner.

"There's clearly been great progress," says John L. Sullivan, senior vice president, general counsel, and corporate secretary at the high-tech firm Iovation, and a board member at the Human Rights Campaign, a civil rights organization that advocates for gay, lesbian, bisexual, and transgendered people. "In the larger law firms in the larger cities, it is starting to be okay to put up your partner's picture or to say: 'Over the weekend we visited his family.'"

At Dallas' Gardere Wynne Sewell LLP, being gay is "a complete and utter non-issue," says attorney Randy Ray. "It wasn't an issue when I was up for partner; it wasn't an issue when I was up for equity partner; and it wasn't an issue when the firm decided who would be the new hiring partner, which will be me."

Not one of the gay and lesbian attorneys interviewed for MCCA could think of a recent situation when he or she had been the target of another person's open hostility based on sexual orientation. These "out" attorneys also felt perfectly comfortable and supported by their firms in doing pro bono work for gay and lesbian organizations and issues.

Nevertheless, they all agreed that anti-gay discrimination still lingers in some small and mid-sized firms, and at the edges of larger firms, with room for significant improvement in more nebulous areas such as hiring, client contacts, the kind of socializing that leads to advancement, and the occasional conversational chill. These attorneys, found by word-of-mouth and through personal networks, had often moved from less friendly firms to positions where openly gay and lesbian attorneys were welcomed. Asked to characterize the general climate for lesbian and gay attorneys today, a partner at a major Boston firm who asked not to be identified said, "Generally there remains a cloud. It's not a thunderstorm, and sometimes it's partly sunny, but there's still plenty of rain."
THE TYRANNY OF SILENCE

The first barrier for lesbian and gay attorneys is the ongoing decision about whether to be open or silent about their family lives. Nongay people announce their sexual orientation whenever they mention a date, a spouse, or a child. But these normal conversational topics can be fraught with tension for lesbians and gay men. If they decide to remain silent about their personal lives, the word “we” is banished from their vocabularies, along with talk about weekends, homes, Thanksgiving plans, theater subscriptions and in-laws. It’s a silence that can often be interpreted by colleagues or clients as distant and cold.

Fearing that openness may have too high a cost, many gay and lesbian attorneys are still doing exactly that: suppressing any mention of their lives. “A lot of people have had bad experiences on a personal or family level, and don’t want to take the risk on the professional level,” explains Patrick McGlone, co-chair of the Committee on Sexual Orientation and Gender Identity in the American Bar Association’s section on Individual Rights and Responsibilities. “You go into a workplace not knowing the religious or moral outlook of your co-workers. There’s a real fear of not being measured on your merits.” That’s especially true within a law firm structure, where associates must be concerned not only about their immediate supervisors but also about every partner in the firm. As explained by Imation’s John Sullivan, “Each partner has a vote. And many people have a sense of not wanting to alienate anyone who might ultimately have a vote on your future success.”

But screening conversation to suppress all clues to a personal life requires sustained, even strenuous, effort. “You always have to be on guard about what you’re saying to people, what they know about you, what you’re revealing,” Patrick McGlone says. “That can be enervating and debilitating. And in a lot of workplaces, particularly at the senior levels, socializing is expected, whether that’s at the holiday party or having people over to your house for drinks or going to the golf course.” Someone trying to remain ‘in the closet’ may avoid such gatherings, since small talk is hard without spilling a revealing pronoun. But staying apart can alienate the very people you are trying to impress. John Shope, a partner at Boston’s Foley Hoag & Eliot says, “To remain closeted, one has to become somewhat aloof. And successful lawyers tend to be gregarious and friendly and open.”

That’s why an employer’s open support is essential. Explains Doug Coblens, deputy general counsel and senior vice president at Discovery Communications, Inc., “If you start out feeling confident and secure that you are welcomed there and the firm is behind you, that has a tremendous effect on your ability to focus on nothing but doing excellent work and building relationships with clients. If you don’t have that healthy and supportive start, you’re at a disadvantage.”
WHEN THEY WERE BAD

A 1999 report from the District of Columbia Bar's Task Force on Sexual Orientation and the Legal Workplace concluded that some D.C. firms were distinctly antagonistic. For instance, one attorney wrote on the task force's survey, "The partners of our firm unanimously hold homosexual conduct to be wrong. We do not employ and would not knowingly employ a homosexual attorney or a homosexual support staff member. Sodomy not only is abhorrent, but is a crime in Virginia." Wrote another attorney, "The existence of this questionnaire and its content are a graphic example of the sorry state to which this country has descended." What kind of firm voices such sentiments? The same kind that still discriminates based on race, ethnicity, or sex. The Boston attorney explains that she moved to her current firm in no small part because at her old employer, "there wasn't a prayer that I would come out, because I would not have had a career there. It was all white people; nobody had a vowel at the end of their name." In hiring decisions, when discussing someone Jewish or Catholic, "They'd say, 'I think she was kind of 'quirky'. 'Quirky' captured people who were clearly ethnic, or clearly gay or lesbian."

Tony Varona, general counsel and legal director of the Human Rights Campaign and formerly an attorney with both Mintz Levin and Skadden, Arps, agrees wholeheartedly that various kinds of discrimination are often linked. "As a Latino and an openly gay lawyer, I can tell you that there is tremendous overlap between how one feels as a person-of-color and how one feels as an openly gay lawyer. It's the old adage: no one can be free if anyone is held back. My non-gay, friends-of-color at certain firms have the same sorts of experiences as the gay lawyers have in those firms."

Or as one anonymous heterosexual respondent in the D.C. survey wrote, "The law firm experience I had in Washington, D.C. can be summed up in a single sentence: You are joining a firm led by aging white males; if you can leave your differences at the door and blend in with us, you are welcome."

STRAIGHTENING THE RESUME: ANTI-GAY BIAS IN HIRING AND PROMOTION

Even firms that aren't so hostile can react with excessive caution to openly lesbian or gay job applicants. Mary Jo Hudson, an attorney at Arter & Hadden LLP's Columbus, Ohio office, recounts that her firm felt it had scored a coup this year when it hired Ohio State University Law School's top-ranked graduate. But once he came on, the new associate reported that he'd had gotten very few interviews—presumably because his resume listed his leadership in OSU's gay and lesbian law students' association.

In fact, several people interviewed for this article reported that they receive better responses when they "straighten" their resumes, deleting any mention of gay and lesbian community activities. Why? For prospective employers, such involvement should be taken as a clue that an applicant is comfortable with him or herself, socializes and works well with others, and will get involved with local community organizations in ways that will develop strong political and business connections. But too often, employers misinterpret this data. Amy Johnson, co-chair of the National Lesbian and Gay Lawyers Association, says that at an in-service presentation on sexual orientation she gave to a Minneapolis law firm recently, she suggested that it would put gay and lesbian
applicants at ease to ask, for instance, what it was like to lead their gay and lesbian law students group. “But wouldn’t that be opening myself to litigation?” asked one attorney. Johnson was astonished at the discomfort and bias peeping out from under that question. “If I put on my resume that I was the president of the Jewish law students association, which I was, wouldn’t you ask questions about my experiences as a leader?”

Even if a firm’s policies are good, a particular work group may not be. “About 50 percent of a gay lawyer’s experience is that of the overall firm culture,” says HRC’s Tony Varona. “At least half or more is the micro-firm: the individual attitudes of your supervising partners are absolutely key. I have heard diametrically opposed experiences of gay lawyers in the same firm.” Sometimes discrimination can be invisible to those in charge. Varona gives the example of a firm that rewarded its summer associates by hosting an event at a private club that excludes same-sex couples. Would the firm have sent associates to a club that banned Jewish or African-American members? Perhaps the firm didn’t know about the policy, but the gay and lesbian associates did — and didn’t go.

BE A MAN: SEXISM AND ANTI-GAY BIAS

Anti-gay attitudes come down hardest on men who aren’t “butch” and women who are. And while it’s difficult to suppress any mention of a personal life, it can be nearly impossible (as many ethnic groups know) to alter natural mannerisms and infections. Nevertheless, women are still told to wear more jewelry and makeup; men are still advised to strengthen their stance and firm up their voices. “Gay male lawyers who are very masculine and lesbian women who are more feminine are the ones who get the good clients and good assignments; the others don’t get the cream. As a result, they don’t get a chance to shine, they don’t have enough work to do, they can’t make target,” says HRC’s Tony Varona. Perhaps the biggest clue to lingering anti-gay bias is how common anti-gay slurs and jokes remain. In an as-yet-unreleased bar association report conducted last year in a Midwestern city, eight percent of bar association members said they knew of a co-worker who had been treated differently because he or she was thought to be gay or lesbian — and fully 27 percent said that they regularly heard anti-gay comments at work. Mary Jo Hudson recalls an incident that happened when she was representing one of two gay men who were splitting up their business. During a break, the other attorney sneered at “the two fairies.” Says Hudson, “I let him know with both barrels that that was not okay.”

That word “fairy,” like many slurs against gay men, reveals how anti-gay bias intersects with sexism. Many lawyers report hearing colleagues say someone is too “sissy” to do litigation, or call an opposing counsel a “pansy” — comments that are humiliating and intimidating both to lesbians and gay men, and to women generally. “Just as you wouldn’t make derogatory comments or jokes about Jews or Blacks or any other ethnic group in the workplace,” says Gigi Sohn, co-chair of the Sexual Orientation and Gender Identity Committee of the Individual Rights and Responsibilities section of the American Bar Association, “you shouldn’t call people faggots or tell women to wear more makeup or dress differently because you think they are lesbian.”

WILL THE CLIENTS MIND?

But while such problems remain around the edges of the legal profession, they are no longer overwhelmingly endemic. According to study participants, however, there does remain one very real concern. “For lawyers, the tough part isn’t the other lawyers in the office or the opposing counsel; it’s the clients,” says John A. Shope, partner at Boston’s Foley, Hoag & Elliot. “I’m a litigator. Will a client think that a gay male lawyer is going to be tough enough?”

This concern puts gay and lesbian lawyers in a catch-22 situation. Suppressing any mention of their lives prevents them from building trust and friendship with their clients. But coming out to the clients can be unnerving, says HRC’s Tony Varona. “You don’t say, ‘By the way, I’m gay, here’s your closing documents,’ but when you’re small-
talking at the beginning of a teleconference and a client asks what you'll do over the weekend," you have to decide instantly whether to deflect or answer. "And sometimes the truth-telling causes silence on the other end." And while socializing is usually an excellent way to develop business, lesbian or gay attorneys may find themselves excluded for fear of a client's reaction. The Boston attorney says that fellow attorneys have invited her to bring her husband to a client's house for dinner — and then cautiously disinvite her when she reminds them that for the past 30 years she has lived with a woman. "Law firms follow their clients," she says. "The feeling is, we don't want to do anything that would make the client feel uncomfortable. So just as 30 years ago, white clients might be apt not to bring an African-American lawyer on the assumption that the white client would be uncomfortable, we now have the next iteration. People aren't willing to test whether it's the client or themselves who's uncomfortable."

That worry about clients' reactions has driven more than one gay or lesbian attorney into private practice, government agencies or public policy work, or corporate employment. As Discovery's Doug Coblens explains, "When you are the client, it's very much the other way. If the law firm doesn't like the fact that you're openly gay, well, too bad — don't work for us."

Other attorneys counter this concern by doing pro bono work and business development in the gay and lesbian communities, which can redound to their benefit. "I've done a lot locally with political issues," says Mary Jo Hudson, "so I'm better connected than many of the firm's other attorneys."

**TODAY'S STATUS: GETTING BETTER ALL THE TIME**

Despite such reports of lingering bias and excessive caution, the legal profession is, like the rest of society, becoming progressively more open. And both talent and business rewards have been flowing to law firms and corporations that welcome lesbians and gay men. For instance, after Mintz Levin was awarded a Human Rights Campaign National Community Service Award in 1995, it heard only kudos; law students, both gay and straight, said that they were applying to the firm because of that award. And long-time clients called to congratulate the firm, often explaining that rather they themselves or a family member — a daughter, a brother, an uncle — was lesbian or gay.

At mid- and senior career levels, talented and accomplished lawyers are making lateral moves to the many firms that are known to be gay-friendly — which means there's a brain drain from those that are not. "You don't want to kick these extraordinarily talented folks out of the pool because they perceive your environment as hostile; that's just stupid from a competitive standpoint," comments Gigi Sohn.

Nor is that brain drain confined to gay and lesbian lawyers. "Whether it be in a law firm or in corporate America," says Imation's John Sullivan, "the next generation of new entrants into the workforce is looking for a company that values differences. These days straight kids are saying, 'I just don't want to work someplace that wouldn't welcome all my friends.'"
II. The Gay-Friendly Workplace: An Achievable Goal for the Legal Profession

The past decade has seen a revolution in acceptance for lesbians and gay men. Thousands of attorneys have "come out" in the workplace in myriad ways: putting their life partner's pictures on the desk, talking freely about weekend plans or visits to the in-laws. At the same time, many legal employers have realized that, by openly welcoming lesbians and gay men, they gain an edge both in wooing talent and clients.

WHAT DO GAY AND LESBIAN ATTORNEYS SEEK?

When searching for jobs, many talented gay or lesbian attorneys — whether at the entry, mid-career, or top levels — check a firm's nondiscrimination and domestic partnership policies before applying. Younger attorneys, both gay and heterosexual, increasingly seek employers that are openly gay-friendly: lesbian and gay law students because they can't imagine having to be "closeted," and non-gay law students because they see support for lesbians and gay men as a signal that an employer is committed to making everyone feel welcome.

Meanwhile, many lesbian or gay mid-career professionals are seeking friendlier employers, because they find it too tiring or demeaning to continue hiding. Beyond these two basic signals, individual gay and lesbian attorneys also look for other clues that an employer is comfortable. Richard Parent, now senior counsel for Columbia TriStar Domestic Television, a division of Sony Pictures Entertainment, says that when he was in the job market, he would always "check the NALP printout for how many 'out' gay associates or partners were listed as being at the firms. If the firm said that statistics were not available, I counted that as bad: it was a signal they didn't want to deal with us."

Others look at a firm or corporation's welcome for diversity generally. "The advancement of women is sometimes a leading indicator, I believe, about a firm's willingness to recruit and promote gay and lesbian lawyers," explains San Francisco-based Keith Wetmore, senior partner and firm chairperson of Morrison & Foerster LLP, one of the world's largest law firms. When he was first looking for jobs in the early 1980s, Wetmore would look at how many women worked at a particular firm, especially in leadership positions, before deciding to apply. His reasoning; by our culture's standards, gay men are not standard-issue masculine. "A firm that's already moved past that classic masculine hierarchy, and can handle women leading them and playing important roles, is going to be a little more open to having a gay man in the mix. It breaks the locker-room ice."

Some gay and lesbian attorneys look for ethnic and racial diversity as another leading indicator. John Shope, a partner at Foley Hoag LLP in Boston, says he accepted a position there in 1990 "because the firm had a history of being the first in Boston to have Protestants, Catholics, and Jews all working together in a single partnership. My hope was that this ethic of tolerance would extend more broadly, and I was pleased that it in fact did." Similarly, when David Carlin was thinking about what to do after leaving the Clinton administration as assistant secretary at the U.S. Department of Agriculture, "I wanted to be in a place where I could be out." In looking at Akin, Gump, Strauss, Hauer & Feld, L.L.P. in Washington, D.C., Carlin was reassured by the fact that the firm
housed both Vernon Jordan, a former civil rights activist, and “out” D.C. city councilor David Catania. “I knew right off the bat that diversity was going to be okay here.” Akin, Gump has been nationally recognized for its diversity efforts.

In a similar way, gay-friendly policies signal to many non-gay attorneys that this will be a firm where they can thrive. “Some portion of the talent pool secretly feel they’re not like everybody else,” says Wetmore. “They see these policies as indicative of a flexible workplace that recognizes that people are not cookie-cutter images of each other.”

And from the firm’s point of view, every little bit helps in winning the talent war. “It’s hard to get a competitive advantage in recruiting. If you can get more than your fair share of any segment of the population, that’s a good deal — since most of these offerings are cheaper than salary increases,” says Wetmore dryly.

“Having decent bereavement policies costs much less than having to overpay for your help.”

**THE WAR FOR TALENT: GETTING THE POLICIES RIGHT**

Many, if not most, major legal employers have by now accomplished the two most basic tasks for welcoming lesbians and gay men. First, they have added sexual orientation to their EEO or anti-discrimination policies as one of the impermissible grounds for hiring or employment decisions. And second, they have rewritten policies so that domestic partners are treated as equivalent to married spouses for everything from insurance coverage to caretaking and bereavement leave.

A decade ago, employers hesitated to offer insurance benefits to domestic partners, fearing they would prove costly. Today, the opposite has proven true. Studies show that only one to two percent of any given workforce actually signs up; most lesbians and gay men obtain health insurance and other benefits through their own employers, not through their partners’. Further, because lesbian and gay men have fewer children (and especially, fewer pregnancies) than heterosexuals, their insurance plans tend to cost less.

While costs are low, the rewards of including sexual orientation in nondiscrimination policies and of offering domestic partnership benefits are high. “The war for legal talent justifies the business case for nondiscrimination policies and domestic partnership benefits,” says Todd Dickinson, currently partner and intellectual property practice co-chair at Howrey Simon Arnold & White. According to Dickinson, whose prior positions include undersecretary of commerce for intellectual property and director of the United States Patent and Trademark Office, one of the growth areas in intellectual property lies in biotechnology, for which attorneys need an in-depth scientific background, up to and including a Ph.D. “There’s a growing but still limited number of such people,” he says — which means the hiring competition is stiff. “If you rule out people who are gay and lesbian by not offering domestic partnership benefits, you’re at a disadvantage. To be competitive in a tight talent market, you have to be affirmative.”

According to the Human Rights Campaign (HRC), the nation’s largest civil rights organization advocating for gay, lesbian, bisexual, and transgendered people, more than 4,000 private employers — including one-third of the Fortune 500 — offer same-sex spousal benefits. These companies include legal employers such as American Airlines Inc., BellSouth Corporation, ChevronTexaco, The Coca-Cola Company, Colgate-Palmolive Company, Compaq Computer Corporation, Dow Chemical, Federated Department Stores, Ford Motor Company, General Motors Corporation, IBM, Intel Corporation, Marriott International, Inc., Merrill Lynch & Co., Inc., Morgan Stanley Dean Witter & Co., Pitney Bowes Inc., Shell Oil Company, United Airlines, Verizon Communications Inc., and Viacom Inc. As Chuck Marlett, corporate secretary and associate general counsel of American Airlines Inc., the main operating subsidiary of AMR Corporation, explains, “We look for talent and employee expertise not only in the airline industry but in other industries. You can’t afford to fall behind in that competitive marketplace.”
WELCOMING GAY AND LESBIAN ATTORNEYS ONCE HIRED: LEADERS SET THE TONE

Having the right policies in place is just a beginning. Equally important is setting a tone that allows gay and lesbian employees to relax, knowing that the policies are worth more than the paper they’re written on. “It is a sign of good management for employers to reach out to those associates — whether they are of color or women or gay — who are at any risk of feeling disenfranchised by the core power structure of the firm,” says Tony Varona, who has just joined the Pace Law School faculty as an associate professor after five years as HRC’s general counsel and legal director.

“Reaching out can take whatever form that would be most natural for that employer. So if the employer is particularly gregarious, get to know the woman associate, the gay associate, the associate of color, just by talking to them. Mentoring relationships are absolutely key.”

It’s essential to make lesbian or gay attorneys feel that their life partners are just as acknowledged, welcomed, and included as heterosexual attorneys’ spouses. Check the language of every invitation to a firm function to be sure that, whenever spouses are invited, so are partners, significant others, or guests. Inviting only spouses is just as exclusionary as inviting only wives.

But even when the language is right, gay and lesbian attorneys may still hesitate to bring their life partners to a function; no one wants to be the test case. “It’s very difficult to break the cycle, because you can’t all of a sudden populate the room with same-sex couples,” says John L. Sullivan, senior vice president, general counsel, and corporate secretary at the high-tech firm Imation, and an HRC board member. Sullivan urges law firm and corporate leaders to break the ice themselves by showing they not only welcome but also actively seek out the company of their gay and lesbian colleagues. For instance, Sullivan suggests that managing or other senior partners not just sponsor a table at the local HRC dinner but also attend with their own spouses — thereby giving the signal that leadership will back gay and lesbian employees when they bring their partners to firm events. If a summer associates program includes a weekly happy hour at various local bars, consider scheduling one of those happy hours at an upscale gay bar. Says Sullivan, “If you are a straight person feel uncomfortable going to a gay bar, think of the number of times the gay or lesbian employees have been asked to feel comfortable at a straight establishment. What better way to show your commitment to inclusion than to go outside your personal comfort zone so that others can be within theirs?”

There are many ways to show employees that the company’s commitment to diversity is more than just lip service. Gwen Marcus, executive vice president of operations and general counsel of Showtime Networks Inc., a subsidiary of Viacom Inc., talks about how, in the early 1990s, she still believed that only those she’d personally told knew she was a lesbian. As Showtime was about to launch its diversity initiative, her CEO approached her, Marcus recounts. “He said, ‘If this launch is going to have any meaning, I have to have my senior management right there with me. That means if I have a lesbian on my senior management team, it’s time for her to come out.’” Startled to have been glimpsed in the infamous Lucite closet, Marcus took a big breath and said, “You got me; I’m on board.”
Coming out was, of course, an enormous relief. "I didn't have to worry any more about what should I tell whom or how would I describe my weekend — all that needless psychic energy expended on ludicrous stuff!" says Marcus. "I have done a much better job since I've been able to be who I am." Perhaps more important, Marcus became a model: having an openly gay high-level executive made it clear that the organization was going to practice what it preached. Other Viacom divisions had similar experiences. As of January 1, 1993, Viacom implemented across-the-board same-sex domestic partnership benefits, ensuring that same-sex partners are eligible for "all forms of insurance, medical, dental, life, long-term care, anything available to a heterosexual spouse," Marcus says. With the diversity policy's launch, employees came out a lot more frequently. Today, the employee handbook is scrupulously comprehensive in acknowledging lesbian and gay life — noting, for instance, that all employees are entitled to days off with pay on "the occasion of their marriage or commitment ceremony."

Such leadership may seem more elusive in a law firm that's not a top-down corporation, but a loosely affiliated collection of strong-minded individuals, each in charge of his or her own turf. But it can be done. "Those firms that do have a good reputation [for welcoming gay and lesbian attorneys]," says Varona, "work hard to maintain it by disseminating that nondiscrimination policy to each and every supervising lawyer, partner, counsel, and senior associate, so everyone understands the firm does not judge on the basis of sexual orientation."

Some firm leaders show their support by trumpeting the community accomplishments of their gay and lesbian attorneys. "When I first got here, there wasn't much official awareness of gay and lesbian employees," says Lawrie Demorest, a partner in the products liability group of the Atlanta firm Alston & Bird LLP. "But now it's wide open." In 1998, when she told her managing partner she'd been elected to cochair the HRC board, "he was very warm and congratulatory." But a surprise was still to come. "Fifteen minutes later, I got a telephone call from our PR firm in New York, which he'd instructed to distribute a press release about it. In fact, every year the firm gives two pro bono awards to lawyers at our annual Christmas party. Two years ago, they gave one to me specifically for my work in the gay and lesbian community."
WOOING CLIENTS: GAY-FRIENDLINESS AS A MARKETING TOOL

Few law firms perform pro bono work solely from altruistic motives: most also hope to showcase their expertise to potential clients. Fortunately, working on gay and lesbian issues accomplishes precisely that. Many potential clients not only have well-developed diversity programs, but, in their RFPs, they require other firms to have such programs as well.

Mary Jo Hudson, an attorney at Arter & Hadden LLP’s Columbus, Ohio office, talks about a heterosexual mentor who urged her to use her gay rights work to market herself. “He had the vision to see through prejudice and said: ‘Whatever you do out in the community, make sure it works for you. Make your presence known; that’s the way you market for new business.’ He compared my political activities to the networking he did through his church and his children’s soccer team.”

When Varona was an associate at Mintz Levin, clients who heard about the firm’s pro bono work on gay rights began praising that work of attorneys in the firm — and coming out, either as lesbian or gay themselves or as the parents of a lesbian daughter or gay son. “Gay associates and partners can build relationships with gay general counsel and gay leaders in industry,” Varona adds, by making connections to the out lesbian or gay senior vice president, agency chief, or sole proprietor who’s working everywhere from the Fortune 500 to the local startup. “If I were heading up a firm in this very diverse age of ours, I would feel the need to have the most diverse lawyer base possible so we would have connections to every sector of society.”

That’s what Keith Wetmore does. “I try very hard in all hiring decisions to make choices that expand the pool of people who will find us compelling rather than to shrink it. The tapestry of the American population is extraordinarily complex. Most Americans know someone gay or lesbian, often several, and are quite at ease with having someone gay as their counsel.” While some potential clients wouldn’t want a lesbian or gay attorney, “on the other hand, others wouldn’t want to work with ‘people who went to military schools, or people from the south, or people from the north.’ Part of what you do is to have a diverse talent pool and try to figure out the right fit so that you can match the two up.” The goal is to match for advantage, but never to deny opportunities because of race, gender, or sexual orientation — employers cannot afford to do that.

WHEN BAD THINGS HAPPEN IN GOOD PLACES

No employer can control the behavior of every single employee on every single day. Thus, the gay-friendly law firm or corporation must be prepared to respond firmly when a bias incident occurs.

That’s what happened at the Discovery Channel. In 1999, Doug Coblens came back from lunch to find that “somebody had circled the word ‘fag’ in a dictionary, with a big arrow written toward it, and put it on my desk. It was really, really upsetting.” In his shock and distress, Coblens went to his general counsel, who immediately contacted the company’s president. “She was just floored, just appalled that such a thing would happen here at Discovery.” Within hours, the president had sent a strongly worded email to the entire company, saying that any kind of discrimination was intolerable, and that not only would the company terminate anyone caught expressing discriminatory bias, but it would take it upon itself to invoke the strongest kind of criminal sanctions as well. The email was worded vaguely enough that, while employees knew something had happened, Coblens’ distress was kept private unless he chose to disclose the incident himself. “It was really spectacular,” says Coblens. “It was dealt with in the most graceful and serious way.”

Although the company used a security expert to investigate, the perpetrator was never found — but there has been no additional incident. Coblens speculates that the employee was either silenced by the email or left the company.
Such openly offensive incidents, of course, are rare. A good employer makes it clear that such biases, even when deeply felt, are expressed only in the most civil terms. “There are some very conservative, old-guard lawyers here [at Alston & Bird],” says Lawrie Demorest, “but the official message of the firm is: ‘We respect the individuality of all our employees, so if you have a problem with this, keep it to yourself.’ When David Carlin first brought his life partner to a firm function, he immediately met a senior partner who had “very conservative political and religious beliefs. In our conversations, he had been very clear to me that he still thought that being gay was a sin.” But collegiality and professional civility ruled the day. “He was very polite, and so was his wife. This is so fundamental, although he was someone I would never consider to be a friend, he didn’t turn the other way and ignore us. They couldn’t have been nicer.”

Most gay and lesbian attorneys realize that they, too, bear some responsibility for making it easier for others to get to know and become comfortable with them. They recognize that there’s a big gap between inexperience or simple ignorance, on the one hand, and outright hostility. Carlin recounts how a colleague once “made an offhand comment that could have been interpreted as making fun of gay people. He immediately caught himself and apologized to me, saying, ‘I can’t believe I said that. I’ve really got to grow up. This is the ’90s, I’ve just got to do better.’” Carlin responded with a sense of humor, reassuring the colleague that Carlin understood the intention was not mean-spirited and that everyone should have the chance to make mistakes and grow. “After that, he started relaxing a little bit, knowing I wasn’t going to jump down his throat every time he opened his mouth. And professionally we work more together now than ever.”

A gay-friendly workplace rewards everyone: not just gay and lesbian attorneys but also the firm or corporation as a whole. Recent work by Carnegie Mellon University economist Richard Florida suggests that knowledge-based economies grow especially where tolerance and diversity are encouraged; by his tally, cities with large openly gay populations also have a better rate of economic growth. Certainly, the ability to be a whole person makes it easier to bring all of one’s brains and savvy to the job—which rewards the employer.
RECOMMENDATIONS

1. How Do You Create a Gay-Friendly Workplace?

RECRUITMENT & HIRING

→ 1. Place information in all recruitment packets about the firm’s anti-discrimination policy, domestic partnership benefits, and the numbers of openly lesbian or gay attorneys.

→ 2. Recruit through lesbian and gay law student groups and bar associations. When involvement in such organizations is listed, ask applicants about their efforts and leadership experiences.

→ 3. Include gay or lesbian attorneys on the hiring committee, if possible. Offer the names of lesbian and gay-sensitive contacts within the organization for those who want more information.

EMPLOYMENT POLICIES & PRACTICES

→ 1. Include “sexual orientation” as prohibited grounds for employment discrimination in the firm’s EEO policy or other anti-discrimination policy. Publicize this policy throughout the firm. Include sexual orientation in any diversity and anti-discrimination training.

→ 2. Adopt complete domestic partnership benefits. In the firm’s employment policies, wherever “spouse” is mentioned, “domestic partner” should apply as well. These benefits should include health and dental insurance policies, relocation assistance, caretaking and bereavement leave, access to employee assistance programs, and pension and survivor benefits.

→ 3. Treat the children (biological, adopted, or step) of lesbian and gay couples just as the firm treats the biological children, adopted children, and stepchildren of married employees in health care coverage, child care, parental or family leave policies, and so on. If the firm is located in a state that does not allow two same-sex partners to be equal legal parents, the firm should nevertheless cover the employee’s nonbiological child.

→ 4. Explicitly invite partners whenever spouses are invited to a firm or client function—formal or informal. List such partners wherever spouses are listed.

→ 5. Collect and publish statistics on the numbers of openly lesbian and gay attorneys.

→ 6. Sponsor involvement in lesbian and gay professional associations and pro bono efforts if the organization sponsors other professional memberships or pro bono efforts.

→ 7. Prohibit derogatory comments about lesbians and gay men. Quickly discipline those who make such comments.
II. How Do You Talk About Sexual Orientation In the Workplace?

Once an organization agrees that creating a gay-friendly legal workplace is the right thing to do and puts the right policies in place, the question remains: what about you, personally? How do you, as an individual, talk to someone who is lesbian or gay without being inadvertently offensive—or without inappropriately bringing up something too intimate? When is it okay to refer to someone’s sexual orientation, and when is it better just to keep your mouth shut?

If you are already asking yourself these questions, you’ll do fine. “Sincerity on your part will come across,” says Daryl Herrschaft, associate director for the WorkNet project at the Human Rights Campaign (HRC). While you may meet the stray gay or lesbian person with a chip on his or her shoulder, most will appreciate any honest attempt to make them welcome, and will do their best to help you along. Meanwhile, here are some suggestions and guidelines:

1. ALWAYS SPEAK INCLUSIVELY IN THE WORKPLACE (AND IN WORK GATHERINGS). This is the prime directive: setting the right general tone within the workplace says far more than anything you’ll say in a one-on-one conversation. When at work, “gay people are going to be very sensitive and acutely aware of any comments” about lesbian and gay issues, says Herrschaft, whether directed at them personally or not—and will judge speakers accordingly. Keep in mind that not everyone fits the stereotype: a feminine woman or masculine man might be gay, and vice versa. Even a heterosexually married colleague might have a lesbian or gay brother, daughter, uncle, parent, or friend, and may feel personally offended by anti-gay comments.

The best policy is to use respectful language all the time. Here are a few essentials. When relevant issues come up, use the term “lesbian and gay” or “LGBT” (for lesbian, gay, bisexual, and transgender) rather than “homosexual,” which is usually considered chilly and disapproving. When interviewing job applicants or talking to a recent hire, ask about a “spouse or partner” or “person you’re dating.” Avoid the offensive word “lifestyle” at all costs: it’s the equivalent of saying “you people” to someone of color. Since there is no single “gay lifestyle,” the phrase implies false and offensive stereotypes, says Herrschaft, who continues, “Gay men and lesbians are diverse ethnically, religiously, culturally, racially, economically, socially, and politically.” After all, what kind of “lifestyle” could be shared by people from every zip code in the United States?

Just as important as using respectful language is objecting to anti-gay language or jokes, whatever the context: a cartoon posted on someone’s bulletin board, a lipped comment made with a limp wrist, or a frustrated moment of calling a client or opposing counsel a “fairy.” If you can’t bring yourself to chastise the comment, at least turn away.

2. IF YOU SUSPECT SOMEONE MIGHT BE GAY, DON’T ASK—and just as important, don’t gossip. But do feel free, in general conversation, to make it clear that you are comfortable with lesbian and gay issues. For instance, mention an openly gay celebrity or “talk about a gay speaker you heard in a way that demonstrates some familiarity or comfort,” says John L. Sullivan, senior vice president, general counsel, and corporate secretary at the high-tech firm Imaion, and an HRC board member. “Say that you’re so glad that Rosie came out and is helping to focus debate on the welfare of the kids.” Mention in passing that you’re pleased your employer is sponsoring pro bono work on LGBT issues. Such casual comments leave the door open, when and if someone’s ready. Adds Sullivan, “If you don’t get an immediate response, don’t assume you’ve done something wrong. People think a lot about what’s safe.”

3. WHEN SOMEONE COMES OUT TO YOU, RESPOND WITH INTEREST. Aside from outright condemnation, silence is the most chilling possible response. Exactly what to say will depend on the situation: follow your colleague’s cues, and consider what you would say if the same cue revealed a heterosexual partner. If someone tells you directly that they’re lesbian or gay, ask if they’re involved with someone special. If a colleague has a picture of a same-sex partner on the desk, it’s a signal of a spouse-equivalent; you should feel free to ask
ordinary questions about his or her home life. "Some people are nervous asking a gay person, ‘What did you do this weekend?’" says Amy Johnson, co-chair of the National Lesbian and Gay Lawyers Association. "But the same attorney knows when another colleague’s kid is being bar mitzvahed, or whether someone’s wife works or stays home, and what degrees she has in what subjects. Know no more or less about your lesbian or gay colleagues than you do about your heterosexual colleagues."

What if a colleague mentions a same-sex partner in passing, as in, "Debbie and I visited her parents over the weekend" or "Martin and I are going to adopt"? Respond just as you would to a heterosexual colleague, with such comments as, "Where do your in-laws live?" or "Congratulations, you’re going to be a dad!" The best reactions, according to Marcie R. Elias-Smith, a management consultant whose specialties include diversity training, are when a colleague "asks the same follow-up questions as if they were talking with a straight person, such as, ‘What does she do? Where does she work? Where is she from?’ An example of a bad reaction is when someone says, ‘Oh my God, you don’t look gay, you’re too pretty to be a lesbian.’ Just as bad is dead silence. That’s when you know a person is deeply uncomfortable at having heard this."

4. DON’T WORRY THAT SOMEONE WILL TALK INAPPROPRIATELY ABOUT SEX. "If I asked you what you did over the weekend, I would not expect to hear about your sexual experience," says Elias-Smith. "You would talk about the anniversary dinner, or the museum you went to, or the kids’ soccer games." Your lesbian and gay colleagues are professionals: they will do the same.

5. FEEL FREE TO ASK PRELIMINARY QUESTIONS. "Be curious!" urges Elias-Smith. "Don’t be uncomfortable just because it’s uncharted territory. So long as you ask questions in a respectful way, and don’t encroach on a person’s privacy or comfort level around disclosure, curiosity is an important tool." If you don’t know something—even if you don’t know what to say or what to ask—say so. Emphasizes Amy Johnson, "Be honest. Ask: ‘How do I talk about this? I’m slightly uncomfortable, I’ve never known someone with a same-sex partner or dating life, are there any rules to the conversation?’" So long as your interest is honest, not voyeuristic or punitive, your colleague should respond in kind.

Many people, for instance, wonder what to call the object of a colleague’s affections: his friend? boyfriend? partner? spouse? husband? "Because we don’t have the legal markers that the straight community has," explains Sullivan, "that vocabulary is still in flux. Even within our community, we’re still struggling about what words to use." Just ask: what term would you like me to use for him or her?

Which is not to say that every gay or lesbian person feels that he or she has volunteered to be the 24-hour ambassador from Planet Gay. "If you detect that someone is uncomfortable or busy or preoccupied or just not interested," says Elias-Smith, "don’t push the issue. If you really want more information, read a book."
6. IF YOU FUMBLe, APOLOGIZE AND MOVE ON. “Don’t be afraid of making a mistake,” urges John Sullivan. “If you say something in the right spirit, it’ll be okay.” Even if you realize with a shock that you’ve just let out a slur or a hostile comment, say you’re sorry and that you’re still learning. Continues Sullivan, “If necessary, ask respectful questions to understand your error. Talking about it will give both of you confidence that you won’t make a similar mistake again.”

And genuine contrition will show. “It’s very difficult for some people to apologize,” says Debbie Kurzweil, an attorney at Powell, Goldstein, Frazer & Murphy LLP, where she specializes in labor and employment law. “But you just have to do it.” Use it as a learning opportunity. If someone doesn’t accept your apology, that’s his or her option: grudge-holders come in both gay and straight varieties.

7. EDUCATE YOURSELF. Our experts suggested a few resources consistently, including Brian McNaught’s book Gay Issues in the Workplace; the ‘coming out’ section of the HRC website (www.hrc.org); and the book Sexual Orientation In The Workplace by Amy Zuckerman & George Simons. Other useful books can be found in the lesbian and gay section of your local library or bookstore.

If you can, seriously consider bringing in a diversity trainer. There’s no need for everyone in your organization to tackle this new subject alone—or for your firm’s sole ‘out’ gay attorney to become a freelance diversity consultant. Spend a few hours with a professional who specializes in exercises and lessons that dispel anxiety and debunk stereotypes. The work will pay off doubly when your attorneys are more comfortable with gay and lesbian clients.
PRACTICES IN ACTION

1. American Airlines: A capsule profile of change

After the 1993 gay and lesbian march on Washington, American Airlines had a widely publicized bias incident. A pilot heard that some, perhaps many, of his passengers had been at the march, and ordered all blankets and pillows to be thrown off the plane. Says Chuck Marlett, corporate secretary and associate general counsel of American Airlines, the main operating subsidiary of AMR corporation, “That was a wakeup call that some education needed to be done.”

At the same time, says Wes Friedman, an American Airlines senior airport planner in corporate real estate, some gay employees were “concerned about a colleague who was ill and dying of AIDS, who felt he couldn’t tell anybody because of what he thought the company might do.” Believing that “people need to be able to come to work and feel safe,” a group of gay and lesbian AA employees “met in a conference room after work, closed the door, and decided to form GLEAM—gay, lesbian, bisexual, and transgender employees of AMR.”

When the group approached American Airlines’ management, the response was intriguing, says Friedman: “If we recognize this group, we need to recognize everybody. That was the birth of American Airlines’ Diversity Advisory Council, made up of fourteen different employee resource groups: African-American, Asian, Indian, native American, Christian, Muslim, the whole gamut.”

American Airlines soon added sexual orientation to its EEO statement (and by 2001, also added gender identity, a separate albeit overlapping issue). Soon sexual orientation was being covered in diversity trainings. Awarding domestic partnership benefits, however, took a few more years, as American Airlines took awhile to examine the business case. That was true in part because the entire airline industry, a low-margin business that needs each and every passenger, was waiting to see whether there would be a boycott if any major company offered such benefits. But after being legally pressured to do so by the city of San Francisco, United Airlines added domestic partnership benefits—and there was no such outcry. “On a Friday afternoon, United announced that it would provide domestic partnership benefits,” says Friedman. “On the following Wednesday, we announced too.” But American Airlines was the first in the industry to actually implement its policies, which went into place in April 2000.

That quick implementation came in part because AA’s management had been won over by GLEAM’s presentation of the business case: the actual financial costs of an enlightened policy would be low. According to Friedman, about a thousand AA employees signed up their domestic partners for flight privileges—the same ability to fly for free accorded to heterosexual spouses. About half that number signed up for insurance benefits as well.

“As with most of life, it’s been evolutionary,” says Chuck Marlett, whose 45-person legal department includes several openly lesbian or gay attorneys, including himself. In the few rare instances in which individual employees have made derogatory comments or torn down GLEAM meeting notices, company response has been swift. “A company this size will always have isolated incidents,” comments Marlett. “The real issue becomes: are steps taken to respond?”

The most recent step in American Airline’s program is “a new initiative on diversity to make certain people understand we mean what we say in our nondiscrimination policies. They’re just not words, they’re meant to be part of the culture and part of the way we treat ourselves and our customers and everyone else.” Not that he feels such a program is needed within his department. Marlett has been openly gay at American Airlines for many years, often bringing his life partner to company social events. As he puts it, “I’ve never had an uncomfortable moment.”
II. Making Equal Time for the Lesbian, Gay, and Transgender Community

Jenner & Block recently took an unprecedented step forward in its support of the lesbian, gay, bisexual, and transgender (LGBT) community. The law firm released the first edition of its quarterly newsletter, Equal Time, which catalogues Jenner & Block’s extensive legal involvement on issues affecting the LGBT community and profiles the firm’s openly gay and lesbian attorneys.

The idea for Equal Time was born as attorneys prepared a brochure to be distributed at Lavender Law, an annual conference offering professional skills development training for attorneys and discussions on legal issues confronting the LGBT community.

“As we gathered materials,” says firm partner Gail Morse, “we saw how extensive and impressive our accomplishments were and decided to make this a fixture.” In future quarterly newsletters, the Diversity Committee will focus on the firm’s efforts toward underrepresented groups including women, ethnic and racial minorities, and the LGBT community.

To date, the firm is one of the first large private practices to express in writing its support of the LGBT community.

“The firm didn’t have to take this stand,” says associate attorney Nicole Berner. “In fact, it might have been easier for them had it not. But they did, and I’m so proud to be part of it. I feel supported and even more committed to my work here.”

Jenner & Block’s mission includes a pledge to maintain its long tradition of public and community service. In fact, six percent of the firm’s total billable hours in 2000 were logged on pro bono cases, many of which concern the LGBT community.

In 2000, Jenner & Block filed an amicus brief on behalf of the American Psychological Association in support of a lesbian’s attempt to adopt her partner’s biological child, a case that will determine whether Nebraska law permits second parent adoption by same-sex partners. It has actively fought sodomy laws throughout the nation and anti-gay hate crime. In 1996 and again in 1997, it became the first law firm to secure political asylum for refugees fleeing their country due to anti-gay harassment and criminal persecution based on sexual orientation. Additionally, Jenner & Block works closely with the Lambda Legal Defense of Chicago.

“Precisely because of Jenner & Block’s commitment to public service and social justice issues, because of their history of support to the LGBT community—including their generosity with charity money,” states Morse, “because they support these issues that are important to us, it is easy to be lesbian or gay at the firm.”
The spoken and unspoken support of the firm's heterosexual employees also plays a role in creating a positive environment. Heterosexual attorneys at the firm frequently bring ideas for LGBT cases to the table, support LGBT initiatives (for example, Equal Time), and volunteer to work on cases affecting the LGBT community.

"Whenever I have expressed any discomfort because of homophobia I've encountered outside the firm, the response has always been immediate, sympathetic, and supportive," relates Berner. Associate lawyer Marty Moore similarly relates that with the few issues he has encountered within the firm, people are willing to listen and learn.

Moreover, gay and lesbian employees are encouraged to bring their significant others to firm events. Additionally, the firm offers benefits akin to those offered to married spouses of heterosexual employees to the life-partners of lesbian and gay employees, and boasts about its higher number of openly gay and lesbian attorneys in Chicago.

"We list 12. Of comparable large firms in the area, our closest competitors list three," shares Moore.

"The attorneys that are not gay or lesbian are accepting of our non-traditional families. They are sensitive and enlightened about our lifestyles," shares Washington, D.C. partner William Hohengarten, "and most importantly, it comes naturally. They do not go out of their way to make us feel comfortable, yet are themselves comfortable with it." The result is that nobody is treated out of the ordinary.

Moore found Jenner & Block's approach to recruiting and interviewing attractive to gay and lesbian attorneys, a point that was also reiterated by other interviewees. "This is the first large law firm to target, market themselves to, and support this sector of the legal community. I find that very exciting," said Moore.
APPENDICES

I. Gay and Lesbian Associations & Organizations

II. Gay And Lesbian Books & Magazines

APPENDIX 1: GAY AND LESBIAN ASSOCIATIONS & ORGANIZATIONS

American Bar Association— is a voluntary professional association. Its Committee on Sexual Orientation and Gender Identity/Section on Individual Rights and Responsibilities, works to keep members abreast of the laws and legislation affecting the lesbian, gay, bisexual, and transgender (LGBT) community. For more information, go to: www.abanet.org.

American Civil Liberties Union— a national organization that works daily in courts, legislatures, and communities to defend and preserve the individual rights and liberties guaranteed to all people in the country by the Constitution and laws of the United States. For more information, go to: www.aclu.org/issues/gay/hmg1.html.

Human Rights Campaign— provides a national voice on LGBT issues by lobbying Congress. It is a bipartisan organization that works to advance equality based on sexual orientation and gender expression and identity to ensure that LGBT can be open, honest, and safe at home, work, and their communities. For more information, go to: www.hrc.org.

LAMBDA Legal Defense and Education Fund— is a national organization committed to achieving full recognition of the civil rights of LGBT, and people with HIV or AIDS, through impact litigation, education, and public policy work. Its legal work is carried out principally through test cases selected for the likelihood of their success in establishing positive legal precedents that will affect LGBT, and people with HIV or AIDS. For more information, go to: www.lambdalegal.org.

National Lesbian and Gay Law Association— is an association of lawyers, judges, law students, and affiliated LGBT legal organizations. It is an affiliate of the ABA and operates as a national voice for LGBT in the legal profession. For more information, go to: www.nlgla.org.

National Center for Lesbian Rights— is a national legal resource center with a primary commitment to advancing the rights and safety of lesbians and their families through a program of litigation, public policy advocacy, free legal advice and counseling, and public education. It provides representation and resources to LGBT individuals on key issues that also significantly
APPENDIX 2: GAY AND LESBIAN BOOKS & MAGAZINES

BOOKS

A Legal Guide for Lesbian and Gay Couples by Denis Clifford, Frederick Hertz, and Hayden Curry


Issues in Gay and Lesbian Adoptions by Anne Sullivan

Living Together: A Legal Guide for Unmarried Couples by Frederick Hertz, Ralph Warner, and Toni Ihara

MAGAZINES

The Advocate is a biweekly gay and lesbian news-oriented magazine, which has been in existence since 1967. For more information, go to: www.advocate.com.

Curve magazine is a lesbian magazine that talks about tough issues and profiles women who are making a difference. For more information, go to: www.curvemag.com.

Genre is a magazine for gay men and has lifestyle articles and informative news. For more information, go to: www.genremagazine.com.

In the Family magazine focuses exclusively on lesbian, gay, bisexual, and transgender families and poses challenging articles drawing on the advice of medical community. For more information, go to: www.inthefamily.com.

POZ magazine is geared toward individuals living with HIV and AIDS and is free to any person who is HIV positive. For more information, go to: www.poz.com.

OUT is a lifestyle magazine for gay and lesbian individuals. For more information, go to: www.outmagazine.com.

Venus magazine has articles about lifestyles, fashion, and news and its audience is affluent black gay men and lesbians. For more information, go to: www.venusmagazine.com.