

Lambda
Legal

Impact



Notes from the
Front Line

In My Own Words
with Bill Thom



 **Lambda Legal**
making the case for equality

WINTER 2008



35 Years and Stronger Than Ever

Lambda Legal recently took up a case on behalf of the Hudson Valley, New York, LGBTQ Community Center, after its application for a nonprofit property tax exemption was denied. Although the center's mission clearly entitles it to the exemption, the city of Kingston did not see it that way. We are going to bat for the community center but also for the larger principle: Time and time again LGBT organizations have had to fight to prove they should receive the same benefits that other nonprofit organizations receive. History was repeating itself — both for LGBT communities and for Lambda Legal, which was forced to fight for its own right to exist as a nonprofit organization three decades ago.

We went to bat for the community center but also for the larger principle: Time and time again LGBT organizations have had to fight to prove they should receive the same benefits that other nonprofit organizations receive.

Today it may seem like a simple premise — a national legal organization dedicated to making the case for equality on behalf of LGBT people and people living with HIV. But only 35 years ago it was so revolutionary that a panel of New York judges at first rejected Lambda Legal's application for nonprofit status. In their view, our mission, equality for gay people, was "neither benevolent nor charitable." We fought that case and won and have been fighting ever since. A year later Lambda Legal opened for business in a tiny Greenwich Village apartment. Our pioneering strategy: Combine groundbreaking work in the courts with innovative public education to make the greatest impact on the lives of LGBT people and those with HIV across the nation.

Years later that strategy is still going strong, though we've grown from a few employees in a studio apartment to a staff of over 100 working out of offices in New York, Los Angeles, Chicago, Atlanta and Dallas. In short, we have become the most powerful legal rights organization in the country working on behalf of LGBT people and those with HIV.

Since our groundbreaking Supreme Court victory *Lawrence v. Texas* — which struck down all remaining state sodomy laws in the nation and launched a new era of respect for LGBT people — more lesbian, gay, bisexual and transgender people are living freer and more open lives. It's been only five years since that victory, and while we are still only beginning to feel its legal impact, the cultural landscape has shifted profoundly: No longer are gay people branded as criminals by sodomy laws, and the bar on what constitutes equal treatment for our communities has been raised significantly.

Every day more same-sex couples are gaining the rights, privileges and responsibilities that most different-sex couples take for granted. More LGBT families are being respected and protected. More young people are growing up with positive role models and with laws that support instead of marginalize them. More LGBT people and people with HIV are experiencing fair treatment in the workplace.

As we celebrate our 35th year, we are poised for even more success. Our resolve hasn't changed since we won that first case for our own right to exist and our mission has only grown stronger. Together we will continue the fight.

KEVIN M. CATHCART
EXECUTIVE DIRECTOR

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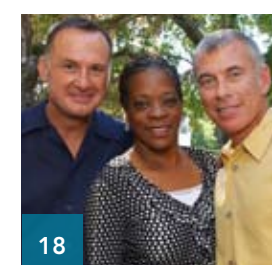
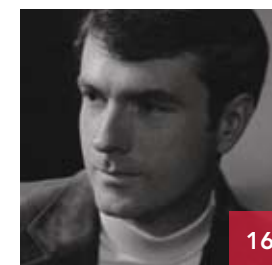
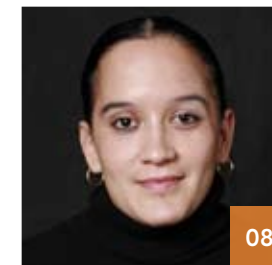
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Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation, education and public policy work.

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On the cover:
Former Lambda Legal client Colonel Grethe Cammermeyer continues to advocate for repealing the military's antigay policies (photo: Associated Press/World Wide Photos)

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Of Counsel On Campus

This November, Lambda Legal launched *Of Counsel On Campus*, a bi-monthly eNewsletter aimed at law students. The eNewsletter is a concise and accurate resource that empowers and encourages busy law students to learn more about the civil rights of lesbian, gay, bisexual, transgender people and people living with HIV. *Of Counsel On Campus* features information and analysis of Lambda Legal's groundbreaking litigation, reflections on strategy and tactics by Lambda Legal attorneys, and much, much more. So far, hundreds of students have signed up from schools such as New York University, Georgetown University, Columbia School of Law and many others. *Of Counsel On Campus* is an offshoot of our eNewsletter, *Of Counsel*, which focuses on lawyers and the legal community.

Sign up *Of Counsel On Campus* today at www.lambdalegal.org/ofcounseloncampus.

ON THE DOCKET

LGBT POSITIVE SEX ED

The Montgomery County School Board in Maryland voted to implement a curriculum that would discuss sexual orientation in a nonjudgmental framework and include medically accurate information about homosexuality. The curriculum has passed every layer of evaluation and has been successfully tested in several schools. But opponents, led by Parents and Friends of Ex-Gays (PFOX), have filed a legal challenge against the school district's incorporation of the curriculum. Lambda Legal has advised local families and organizations that support the use of an accurate and inclusive curriculum and is now representing the Metro DC chapter of Parents, Families and Friends of Lesbians and Gays in the case. The Maryland State Board of Education denied the opposing groups' challenge and the case is now before the Maryland County Circuit Court.

IMPACT: Lambda Legal supports sex education curricula that reflect the experiences of a diverse student body, including students who identify as lesbian, gay, bisexual, transgender or who question their orientation or gender identity. Access to accurate information on human sexuality is not only important for a well-rounded academic experience but is a necessity when it relates to medical and sexual health.



NOLA STRIKES BACK

Ten years ago, the city of New Orleans extended insurance benefits to same-sex partners of city employees. Shortly thereafter, the city created a domestic partnership registry. Domestic partnership registries have important symbolic value for couples and both public and private employers often find them helpful when extending benefits to employees' partners. Since 2003, the city's domestic partner policies have been under attack by the Alliance Defense Fund, an antigay legal organization that filed a lawsuit against the city. Lambda Legal is participating in the case, representing a city employee and his same-sex partner. In 2005, the case reached the Louisiana Supreme Court, which allowed the challenge to continue and returned it to the lower court. Lambda Legal is now arguing the case at the trial court level.

IMPACT: This case illustrates how antigay organizations like the Alliance Defense Fund not only protest advancement of LGBT civil rights but will also go on the offensive and attack benefits and rights already in place. Lambda Legal was called upon by the city of New Orleans to help protect LGBT couples and to fight hate groups that seek to reverse progress for our families.



People with HIV face increased regulations for U.S. travel

The Department of Homeland Security (DHS) recently proposed new regulations for HIV positive travelers to the United States. Though supposedly intended to ease restrictions, the new regulations create greater barriers for people with HIV traveling to the United States and significantly limit their rights once within U.S. borders.

"There is no medical justification to continue to treat people living with HIV as creating, by their very presence, a danger to public health."

This invasive policy unfairly targets people with HIV by requiring a close examination of an applicant's personal, medical and financial history. Bebe Anderson, HIV Project Director at Lambda Legal comments, "There have been extraordinary advances in the understanding and treatment of HIV/AIDS and how it's transmitted. There is no medical justification to continue to treat people living with HIV as creating, by their very presence, a danger to public health."

HISTORY REPEATS ITSELF

The Hudson Valley LGBTQ Center is fighting for its property's tax exemption status. The Center provides educational forums, support and counseling groups, and publications for the Hudson Valley LGBT community. The Center's goals and objectives clearly entitle it to nonprofit property tax exemption under New York law. But the assessor for the city of Kingston denied its application, dismissing the Center's activities as merely "social." The Center appealed to the Board of Assessment Review, providing documentation that summarized its activities. This appeal was denied, leaving the center with a damaging tax bill of \$9,000. Lambda Legal, the Worker's Rights Law Center of New York and Fried, Frank, Harris, Shrier and Jacobson LLP representing the center to secure exemption from this discriminatory tax bill.

IMPACT: Many LGBT organizations have had to fight bureaucracy for their right to exist as nonprofit entities. By denying LGBT organizations access to these tax exemptions, the ultimate goals of these organizations are undermined — a blow to LGBT communities at large that receive help and support from such important organizations.



L.A.'S FINEST

The Los Angeles City Council voted unanimously to approve the non-monetary portion of a settlement for Mitchell Grobeson, the first openly gay officer in the Los Angeles Police Department. Grobeson was suspended for what the LAPD deemed "unauthorized recruiting" of lesbians and gay men to join the force, and for allegedly wearing his uniform without permission at Pride and AIDS-awareness events.

IMPACT: This important settlement provides a vast array of protections for lesbian, gay, bisexual and transgender employees and job applicants in Los Angeles; additionally, it provides protections for people living with HIV. It also mandates recruitment from LGBT communities and strengthens the city's antidiscrimination policies by writing them into the city's administrative code.



Lawrence v. Texas

Celebrate the 5th anniversary of the Supreme Court victory that changed our lives

EVENTS

4.11.08 >
Lambda Legal and American Constitution Society : Emory Law School
Atlanta, GA

6.5.08 >
National Press Club Roundtable Discussion and Reception
Washington, D.C.

6.20.08 >
Lawrence Fifth Anniversary Breakfast
Houston, TX

6.21.08 >
Lawrence Fifth Anniversary Celebration
Dallas, TX

Visit our website, www.lambdalegal.org, in the coming months to get the most up-to-date information on these events and to learn more about *Lawrence v. Texas*.



The Ts That Bind

How Transgender Rights Affect Us All

BY COLE THALER, TRANSGENDER RIGHTS ATTORNEY

It was, as they say, politics as usual. Last fall, the Employment Non-Discrimination Act, or ENDA, a bill that would directly prohibit discrimination based on sexual orientation and gender identity, was pending in the House of Representatives. But a new version, one that removed mention of gender identity, sparked major controversy among LGBT organizations and activists. The end result — House passage of the bill without protections for gender identity — was disappointing, but there is a silver lining: It led to numerous conversations about why transgender people are part of the LGBT movement.

Engaging in painful dialogue is absolutely critical for the future of any movement. The question at the heart of the conversation is this: Do the lesbian, gay and bisexual communities have enough in common with the transgender community to merit linking them within one acronym and one movement? Civil rights organizations around the country answered in the affirmative years ago, but the question remains fresh.

One way to begin answering this question is to think about the term “gender identity.” ENDA originally defined “gender identity” as “the gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual’s designated sex at birth.” This protection does not apply only to transgender people. It applies to anyone whose identity, appearance, mannerisms or other characteristics might not line up with traditional gender norms: nearly all of us.

Our strength as a movement lies in our commonalities. Both gay people and transgender people must come out. And often

enough, both must navigate through a thicket of gender-related slurs: *sissy, fag, tomboy, dyke, pansy, queer, flamer, lezzie, queen, butch, fairy*. These words are dangerous when used against us as weapons, but many of us have reclaimed them and used them in the service of self-definition. Are these words about our sexual orientation? Or about our “gender-related appearance, mannerisms, or other characteristics?” Does it make any sense to distinguish?

The same bullies attack us, the same bigots fire us and the same fear of difference makes us legally vulnerable.

Some courts don’t think so. In *Centola v. Potter*, a 2002 decision of the U.S. District Court for the District of Massachusetts, one federal judge noted that the line between sexual orientation discrimination and discrimination based on gender stereotypes is “hardly clear,” observing that “stereotypes about homosexuality are directly related to our stereotypes about the proper roles of men and women.” Our civil rights movement becomes stronger by recognizing the intersecting areas of discrimination LGBT people face together.

At the same time, in our educational work, Lambda Legal must often explain that sexual orientation and gender identity are independent of one another; being gay doesn’t mean that you are more or less traditionally

manly or womanly, for instance. It is also true that each community represented in the LGBT acronym faces specific hurdles and concerns. Some community members believe that the differences between us are so great that they preclude collaboration. But the same bullies attack us, the same bigots fire us and the same fear of difference makes us legally vulnerable. The distinctions that seem so stark to some are meaningless in the eyes of our common enemies.

Take the case of KK Logan, an 18-year-old in Gary, Indiana. Throughout his senior year of high school, KK wore feminine blouses and jeans and carried a purse. KK’s sense of himself as a feminine gay male is so deeply rooted that he cannot think of himself in any other way. When he showed up to his senior prom wearing a pink dress, the school’s principal blocked him from entering, literally blockading the door with her body. While his friends danced the night away, KK snapped a few pictures in the parking lot, and then spent his prom night at home. Lambda Legal has filed a federal lawsuit on his behalf, claiming that the school’s actions violated KK’s constitutional right to self-expression.

Answers to the question of why T is included in LGBT are often deeply personal. I have always had tastes stereotypically associated with feminine gay men. I’ve loved show tunes for as long as I can remember, and I recall the first interior design magazine I read like it was a religious experience. These aspects of taste and expression started young and came naturally. But, unlike other feminine gay men, I did not get teased about these inclinations — not once, not ever. Why not? Because I was assigned the sex of “female” when I was born, and everyone thought I was a girl.

For a long time, it didn’t occur to me that I could be transgender, because I knew that my mannerisms, demeanor and “other gender-related characteristics” were feminine. I thought that gender transition would require me to become a stereotypically masculine man. But though I felt “girly” and was attracted to men, I didn’t feel like a woman. I could never relax in my own skin. Then I began to meet people who were born female but identified as gay men. Suddenly I realized that there are many ways for men to express their gender, and that a whole range of gender expression would be open to me if I transitioned. I would not have to be a stereotypically

masculine man, something I knew would feel inauthentic. I could be myself.

When I transitioned, I brought with me all of the gender-related characteristics that I have always had. As a feminine gay man, I’m in good company. But transgender, gay, or gender non-conforming, we’re all vulnerable and in need of legal protection.

The place where sexual orientation — whom we love and desire — blends into gender expression is blurry and permeable. We cannot leave our gendered selves at the door of the prom or the office. Just as KK Logan could not shed his femininity when the school principal demanded it, the LGBT community cannot create artificial

borders between the interrelated components of our identities. We are a richly varied community of individuals who, despite our differences, need to remain allies in our fight for a common goal: equality in the eyes of the law. **L**

For more information on Lambda Legal’s transgender rights work, visit our website at <http://www.lambdalegal.org/our-work/issues/transrights>.

events calendar

JANUARY 2008	Wine, Women and the Chopping Block	Chicago	IL
FEBRUARY 2008	The Bon Foster Kick-Off Party	Chicago	IL
FEBRUARY 17, 2008	Lambda Legal Love Lounge	Los Angeles	CA
MARCH 30, 2008	Lambda Legal in Fort Lauderdale	Ft. Lauderdale	FL
APRIL 2008	Lambda Legal’s San Francisco Event	San Francisco	CA
SPRING 2008	Lambda Legal in Palm Springs	Palm Springs	CA
SPRING 2008	Mad Hatter Brunch	Austin	TX
SPRING 2008	Lambda Legal Women’s Brunch	Dallas	TX
APRIL 2008	Bon Foster	Chicago	IL
APRIL 2008	Jeffrey Fashion Cares	New York	NY
MAY 5, 2008	Liberty Awards National Dinner	New York	NY
MAY 2008	DC Garden Party	Washington	DC
JUNE 2008	New Jersey Surf Party	TBD	NJ
JUNE 2008	Forum Conveniens	Chicago	IL
JUNE 20, 2008	Lawrence Fifth Anniversary Breakfast	Houston	TX
JUNE 21, 2008	Lawrence Fifth Anniversary Celebration	Dallas	TX
JULY 26, 2008	Lambda Legal Pines Brunch	Fire Island Pines	NY
AUGUST 2008	Lambda Legal in the Hamptons	TBD	NY
AUGUST 2008	Lambda Legal Seattle Garden Party	Seattle	WA
AUGUST 2008	Lambda Legal Women’s Summer Event	TBD	CA
AUGUST 2008	Into the Woods	TBD	MI



NOTES from the FRONT LINE

Puerto Rico's Child Welfare System — Ready to Transform

BY FLOR BERMEDEZ, STAFF ATTORNEY, YOUTH IN OUT-OF-HOME CARE PROJECT

As I entered the large yellow building in the center of Rio Piedras, a poster on the wall caught my attention. It pictured a red heart and a sad young girl, alone at the top of a hill with her arms open, as if waiting for someone to embrace her. The caption read *Un niño espera en la puertas de tu corazón* (A child awaits by the doors of your heart). It was the new recruitment campaign material for Puerto Rico's Office of Children and Family Services (ADFAN). Looking at that same image on my way out, all I could see were thousands of lesbian, gay, bisexual, transgender or questioning (LGBTQ) youth who were waiting in despair. They had found no open doors.

Take the story of Alya*, which led Evelyza Crespo, ADFAN's Auxiliary Assistant, to request guidance and resources from Lambda Legal's Youth in Out-of-Home Care Project, hoping to improve the quality of care for Puerto Rico's LGBTQ youth. Alya is 15 years old and has been in the child welfare system for two and a half years. Crespo says, "Alya acts and dresses like a boy. We do not know what to do with her any more." Alya has had as many as 90 placements over two years. "She ends up being rejected everywhere she goes. So she runs away and then she comes back to us with the hope that her next placement may be more accepting. Alya is humiliated and hurt constantly — both verbally and physically — and she reacts with a lot of anger."

Alya's story is not unique. Across the United States, many LGBTQ teenagers are living out of home because their families have been hostile to their sexual orientation or gender identity. Some were forced to escape abusive families who wanted to punish or "cure" them from homosexuality. Others were sexually molested. As a result, LGBTQ youth are overrepresented among child welfare, juvenile justice and homeless systems of care, and they live with an increased

risk of depression, physical or emotional abuse, rape, unethical "conversion therapies," prostitution, substance abuse and suicide.

It is also not uncommon for LGBTQ youth to be harassed, rejected and abused by youth, staff and caretakers in the child welfare system itself. Alya is only one out of thousands of LGBTQ youth in Puerto Rico's foster child population (7,572 children — with only 3,005 placed with caretakers) who face these challenges without supportive adults who can help them feel more comfortable with questioning, identifying and accepting their sexual orientation.

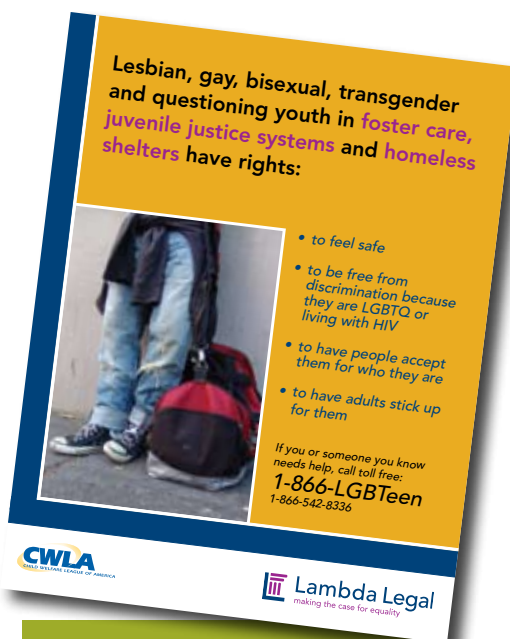
Alya also faces a myriad of class, cultural and religious barriers to acceptance in her community. Most foster children come from poor families who experience higher rates of unemployment, substandard housing, poor health, inadequate medical insurance and early death. Cultural biases and prejudices can take time and effort to unlearn: those struggling through poverty are less likely to prioritize that education.

Models of Compassion

Antigay religious views can also factor into the lack of acceptance and support for LGBTQ individuals within Latino culture. Puerto Ricans on the island are increasingly turning to religions where teachings "blame and shame" gays and lesbians. But it would be a mistake to accuse all religious people — even clergy members — of intolerance. As I talked with Crespo, three nuns came into the room looking for promotional T-shirts for the recruitment campaign. The nuns are motivated by their religious commitment to provide food and other developmental services to the foster youth in the custody of ADFAN. The nuns showed genuine interest when I began talking about Lambda Legal's efforts to protect and reach youth in out-of-home care. They listened attentively and expressed their commitment to welcome and affirm LGBTQ youth who access their services. When I told them about Alya, they identi-

fied similar cases and detailed their experience as advocates for their care.

I was inspired to see that these women were motivated by their religious faith to serve LGBTQ youth. The nuns appeared to be role models and mentors for agencies and individual caregivers struggling to bridge the gap between religious



Lambda Legal's Youth in Out-of-Home Care Program Poster

beliefs and professional standards of care. Crespo said, "I wish many of our staff were as open-minded and accepting as these nuns. The system would be very different." ADFAN officials worry that well-intentioned caseworkers try to change young people's sexual orientation instead of acknowledging it. We suggested that the agency's policy be clear: negative behaviors and attitudes towards LGBTQ people are not tolerated. We also recommended the implementation of staff-wide training so that all workers could learn to identify warning signs that a young person may be experiencing mistreatment or antigay abuse, so they can learn to effectively intervene on behalf of victims.

* Name changed to maintain confidentiality.

The dialogue with ADFAN has brought Lambda Legal's Youth in Out-Of-Home Care Project closer to its core mission: to increase the will and capacity of youth-serving organizations that prepare and support LGBTQ youth as they transition from adolescence to independence. We also work with social workers, case managers, administrators and other child welfare advocates to ensure safe and affirming child welfare services for LGBTQ youth in out-of-home care, the majority of whom are people of color. Next steps in our effort to assist Puerto Rico's child welfare system will be identifying appropriate training resources for staff, distributing our new bilingual poster that spells out the legal rights of youth in foster care, juvenile detention and homeless shelters, and continuing to provide technical assistance when needed.

Hopefully, one day young Alya and others like her can lead stable, happy lives in their local communities and even join Puerto Rico's thriving population of LGBT activists.

The Youth in Out-of-Home Care Project also brings targeted impact litigation to protect the rights of LGBTQ youth in out-of-home care and to set legal precedents nationwide. In 2006 Lambda

Legal and the Silvia Rivera Law Project sued the New York Office of Children & Family Services (OCFS) on behalf of a transgender young person who was not receiving adequate medical treatment while in OCFS custody. The parties eventually reached a favorable settlement that included monetary damages and a commitment by OCFS to evaluate its policies with an eye toward improving its ability to support and protect transgender young people in its care.

A Movement Grows

Although Puerto Rico's child welfare system has just begun to transform, the last few years have seen some major progress for LGBT civil rights in Puerto Rico. Puerto Rico decriminalized homosexuality in 2005. There are now hate crime laws that include protections for both sexual orientation and gender identity. Around 2005, the University of Puerto Rico became the first governmental institution to prohibit discrimination based on sexual orientation; it also extended health benefits to partners of gay and lesbian employees.

On my last day in Puerto Rico, I joined a demonstration organized by the Human Rights Foundation. We protested a Senate proposal to amend the constitution to ban marriage between same-sex partners. Francisco Dueñas, Lambda Legal's *Proyecto Igualdad* Coordinator, was by my side. He had joined this event to establish new contacts and reinforce existing ones with LGBTQ organizations on the island. On this sunny afternoon, supporters of marriage for same-sex couples gathered on the sidewalk in front of San Juan's Capitol. It was moving to see that young people played a vital part in the demonstration by leading protesters, holding a colorful array of signs and spearheading the upbeat chanting. These chants made use of Spanish rap songs and popular Latin songs, where the

lyrics had been changed to say *Igualdad para Todos* (Equality for All). The demonstration ended with a mass kiss for equality. On the other side of the street, one could see the coastline surrounding the island — soft sand and crystal blue water. I felt honored to be present for this moment and was highly inspired by all these very enthusiastic, hardworking activists who dedicate their lives to fight every day for LGBT civil rights.

Lambda Legal's Youth in Out-of-Home Care Project will continue our work with Puerto Rico's child welfare system, so that one day young Alya and others like her can lead stable, happy lives in their local communities and even, perhaps, feel empowered to join Puerto Rico's thriving population of LGBT activists. Their voices — strong and supported by a secure and loving foundation — will further aid the growing LGBT civil rights movement in Puerto Rico. **L**



FLOR BERMUDEZ
Youth in Out-of-Home Care Attorney

In the Beginning

Highlights of Lambda Legal History

All this year we're proud to offer you some highlights of Lambda Legal's work over the past 35 years. This issue we begin with some of our very first cases in the 1970s.

At Lambda Legal, we're feeling good about our age. At 35, we're in our prime, fighting for full equality for lesbians, gay men, bisexual and transgender people and people living with HIV. With tremendous support from members and volunteers, we've grown to an organization that represents people in more than 60 cases at a time with a staff of more than 100 employees, a national headquarters and four regional offices across the country. We achieve victories in court and in the court of public opinion with our high-impact litigation, education and public policy work. Our first case — fighting for the

right to exist and to become the nation's most powerful force for LGBT legal rights — was about being recognized and treated equally. That's the same fight we've waged on behalf of LGBT people and those with HIV ever since. For 35 years, we have been strategically building up laws and policies that protect and promote the civil rights of LGBT people and people with HIV, building a foundation brick by brick. During this anniversary year, we are proud to highlight some of the victories that became building blocks in our fight for civil rights.



1974: Parents and Children

One early request for Lambda Legal's help concerned the case of Maureen DiStefano. In 1974, several years before Lambda Legal joined the case, DiStefano's three young children were snatched away by a family court judge who also ordered that visitation could be allowed only if DiStefano's lesbian partner was not present. DiStefano was a fit mother, admitted the judge in Buffalo, New York — "aside from the effect upon the children of (her) life style."

The upstate New York case brought Lambda Legal's first opportunity to educate higher court judges about lesbian and gay parents. In its friend-of-the-court brief, Lambda Legal argued that the family court judge erred in saying that DiStefano's lesbian relationship was an "indiscretion" that warranted revocation of custody without showing any actual harm to the children. An appeals court ruled against her in 1978, rubber-stamping the trial judge's finding that a detrimental effect on the children was predictable as a result of the mother's "failure to

keep her lesbian relationship separate from her role as mother..."

From the outset, frantic parents were calling Lambda Legal, many facing loss of custody or visitation with their children on flimsy pretexts. In another early case, a man whose ex-wife refused to allow him to see his three daughters became one of a few "out" fathers to assert his rights. "It created a stir in the courthouse in Queens. People would come out to stare at him: a gay man who admitted to being gay," Lambda Legal volunteer lawyer Shepherd Raimi recalls. The judge found that our client was a good father and granted the visitation request.

Times — and the law — have changed dramatically since these early cases from the 1970s. But they didn't change by themselves. Lambda Legal secured the legal right of students to form gay-straight alliances and have recognized student clubs under the same terms as other student clubs in 2000 (*Colin v. Orange Unified School District*). And we have won numerous cases across the country protecting the parenting rights of LGBT people and nonbiological parents, including our 2007 federal court victory striking down the extreme Oklahoma Anti-Adoption Law as unconstitutional (*Finstuen v. Edmondson*).

As we celebrate our history, our eyes are on the future. **L**

1973: Gay Student Organization v. Bonner

"A spectacle," said a furious New Hampshire Governor Meldrim Thomson, Jr., denouncing a gay student dance at the University of New Hampshire in 1973. After the next Gay Student Organization event, where copies of Boston's Fag Rag were distributed, the governor condemned this "indecent and moral filth" and demanded to halt to "socially abhorrent activities."

Organizers insisted that they wanted "to promote the recognition of gay people on campus and...express ourselves." Theirs was a sentiment that young people have expressed more and more forcefully over the years, building a new kind of student activism that Lambda Legal has helped bolster since its inception. The gay students from the University of New Hampshire found themselves in federal court fighting a ban on their school activities. Lambda Legal's E. Carrington Boggan filed a friend-of-the-court brief, arguing for full recognition of the gay plaintiffs' First Amendment rights to meet, speak and socialize. With unflinching language, just before the year 1975 rang in, the court lifted the ban on gay student social activities, agreeing with Lambda Legal that: "...homosexuals exist, that they feel repressed...that they wish to emerge from their isolation."

Q&A

Time to Ask and Tell

CATHCART'S PHOTO BY LISA ROSS
CAMMERMEYER'S PHOTO BY SHARON SHOEMAKER

Fourteen years after the notorious "Don't Ask, Don't Tell" policy replaced the military's ban on gays in the military, proponents of gay rights, retired military leaders and presidential candidates are among many calling for an end to the discriminatory policy. Executive Director Kevin Cathcart and former Lambda Legal plaintiff Col. Grethe Cammermeyer discuss the policy's history and the struggle for gay and lesbian servicemembers to serve their country honestly and openly.

COLONEL GRETHE CAMMERMEYER: I think the lawsuit Lambda Legal filed on my behalf was a turning point. There was increased visibility that came with an old lady taking on the military and its antigay policies. It became the divisive issue of the 1992 election. People began to confront candidates as they were campaigning.

KEVIN CATHCART: People had pinned great hopes on the Clinton administration. He had said the right things. People thought that the ban on gay people in the military was going to be completely lifted, and then we got "Don't Ask, Don't Tell" instead. There was a real sense of anger and frustration within LGBT organizations and among activists.



KEVIN M. CATHCART AND COL. GRETHE CAMMERMEYER



"I think the broader issue has to do with the rights of the individuals in the military to serve honestly. And that the government of the United States has a law on the books that specifically names and discriminates against a group of people. That should not be tolerated."

- COL. GRETHE CAMMERMEYER

GC: Changing a law is time consuming. I remember when I first joined the military in the early 1960s. The idea of women in the military was very offensive to many young men. When I first went down to Fort Sam, I saw young enlisted people cross the street so that they wouldn't have to salute me as I walked by. The other big social change in the military, of course, had to do with integration. When I first joined, I saw a real effort on the part of the military to try to overcome bigotry.

KC: I think, again, it is partly generational. People in higher ranks with more power are usually older and have had less contact and less comfort being around openly gay people. At the time of *Lawrence v. Texas*, it wasn't that there had never been lesbian or gay clerks at the Supreme Court. It's that they were never out. So, Supreme Court justices could believe that they had never known any gay people. But, society has changed so much. Now you have soldiers and sailors who went to high school with openly gay people. That doesn't mean that there aren't risks that come with being out, both physical risks and those to one's career. But it does mean that the feeling on the ground is extremely different.

GC: On my website I've had about 50 people tell their stories. There are certainly people who have been threatened. We already know of individuals who have been killed and assaulted. So there is an undercurrent of discontent. But we had that when there was integration and we had it with women. The military is a unique system in that, if the leadership says that there are certain types of

behaviors that are inappropriate, and then take action when there is inappropriate behavior, the exterior conduct becomes one of, "We do not tolerate discrimination." That does not take care of the subliminal bias and the frank homophobia that people both express and feel. That takes conscious effort and time to work through.

KC: But the same thing is happening in congress. It's not just within the military. There's this political battle, much of which involves people who have never served, but who recognize the ways that the world has changed. We now have significantly more states and municipalities with employment discrimination protections, which makes the military seem even more like a stand-alone than it did back then. We've also seen the Supreme Court of the United States in the *Lawrence* case talk about privacy, autonomy and decision making around sexuality for adults. And while that's not directly on target for the military, it's very hard to look at the *Lawrence* decision and balance it with the discriminatory military policy. So the contradictions are becoming sharper and sharper.

GC: I think the broader issue has to do with the rights of the individuals in the military to serve honestly. And that the government of the United States has a law on the books that specifically names and discriminates against a group of people. That should not be tolerated.

KC: Absolutely. The biggest outrage is that this is completely state-sanctioned

bigotry and discrimination. The average person is thinking, "You know, my kid in the service is not at risk by working with a gay person in the service." So there's been a steady pile-on of facts and common sense that has begun to move people. The policy, however, is still in place. But there are several cases winding their way through the courts. A lot also depends on what happens in the election and what happens in the Senate. I think that we are on a path where, steadily, every year, Congress is better on issues for gay people than it was the year before. There's an excellent chance of legislative action. But if this legislative action doesn't come quickly enough, the courts could still do the kind of clean up that has so long been necessary.

GC: Well, Representative Tammy Baldwin is planning on introducing a bill for domestic partnership benefits for federal employees. If that were worked out in Congress first, then that could really set the stage for some of these discussions.

KC: And we're going to trial in February in federal court in Washington in the *Taylor v. Rice* case where we're challenging the State Department, which still has a policy of not hiring anyone for the Foreign Service who's HIV-positive. So, yes, there are still these major pieces of federally mandated discrimination that need to be eliminated. Yet even with those low points still in place, public opinion has changed. The polls of service

members are not lying. People see it differently today. The work that we have all done over the last 14 years is having an impact on the military. You can see this in the work we've done in schools, making it possible for young gay people to be out and to have gay student groups. It's changed the tenor of schools. And that has had an impact on many of the people who are going into the military today.

GC: Absolutely. What we're seeing in terms of social change is certainly due to the fact that Lambda Legal has taken on these precedent-setting cases that show through the legal system that these types of laws are discriminatory and take away equal protections. You have to push the boundaries. If it weren't for ACT UP in the days of the AIDS epidemic, would people have ever come to the table to discuss the treatment of people with AIDS? You have to have somebody that pushes.

KC: I think we need to always be thinking three or four steps out. But we have to keep thinking about the first step, too. We haven't changed the policy yet. There is great momentum, but momentum by itself is not the same thing as achievement. I think the most important thing that people can do right now is continue to hold politicians' feet to the fire on how important this issue is to all of us in the LGBT community and how important it should be to everyone in America who not only wants a country governed by a constitution and free of discrimination but a strong and fair military.

GC: And then you continue to have the day-to-day experience of individuals having to come out, being at risk, wondering if they're going to be thrown out from their families, their schools, the military. Society is coming along in slow increments behind us and we, as individuals, have to continue to come out every single day to somebody. There is the cliché of changing one heart at a time. But that really is how progress is made.

KC: I agree with you on the need to keep coming out. I think the pressure is on those of us who have the option, because we need to carry it for the people who can't. One of the challenges of the movement these days is that we have made so much progress — not that we don't have a long way to go — but where life is now quite comfortable for many people. Yet there are still other people who are left behind, who aren't in the same position to speak for themselves.

GC: Invariably, the stories from service members have been along the lines of "I'm a patriot. And yet, I could not tolerate not living honestly, always wondering whether somebody was going to target me." There is something really marvelous about what it feels like to put on a uniform and to represent America — the America that we used to have. And so, to feel that you have to give it up for your own sanity is really a tragedy for these individuals and a tremendous loss for America. **L**

Take the **POWER** — Plan Your **LIFE.**

It is easier for most of us to imagine the good times than the bad: One day you'll be retired, your health will be good, you will have enough money in the bank, your loved ones will surround you, and you will get to put your feet up and relax.

But dreaming of a happy ending doesn't make it happen, and life doesn't always go the way we wish it would. That's why Lambda Legal is launching a new life planning project to help lesbians, gay men, bisexuals, transgender people and people with HIV plan for good times and protect themselves against hard times.

"Anyone who lived through the AIDS epidemic in the gay community has a story about someone who lost a lover or partner — and then lost a home or savings or the right to make the most basic choices about the funeral or burial of their loved one," says Kevin Cathcart, Executive Director of Lambda Legal. "We don't need to see tragedy on top of tragedy. We want people to get the

information they need to better protect themselves."

Everyone is vulnerable to life's risks, but LGBT people and people living with HIV face extra dangers because of the discrimination they confront. Same-sex couples are excluded in all states but Massachusetts from civil marriage. These couples are also excluded, no matter where they live, from federal programs like Social Security benefits for surviving partners. In fact, the United States General Accounting Office reported 1,138 federal rights, protections and benefits that come with marriage. That means heterosexual married couples automatically receive these rights and protections, while same-sex couples do not.

Lambda Legal fights discriminatory laws and actions, but by the time we take a case, serious harm has often already been done. LGBT people and people living with HIV can take the power themselves — by using all the tools available under the law to protect themselves and their loved ones.

LEARNING FROM EXPERIENCE

In recent history, Lambda Legal has stepped in to help in many situations where LGBT and HIV-affected individuals and couples were not protected with legal documents and were treated unfairly under the law. In a sad and well-known case in the 1980s, Karen Thompson had to fight in court for eight years to gain legal guardianship of her lesbian partner, Sharon Kowalski, who was left paralyzed following an automobile accident.

Everyone is vulnerable to life's risks, but LGBT people and people living with HIV face extra dangers because of the discrimination they confront.

Kowalski's father sought and initially gained guardianship of his daughter after the accident, denying the importance of the relationship the women shared. The couple did not have the

necessary documents, and the laws did not immediately protect them.

In 1991, a Minnesota Court of Appeals finally awarded guardianship to Thompson. Thompson's drawn-out battle to provide care for her life partner was the first of its kind in the courts — and drove home the importance of same-sex couples drawing up proper legal documents, such as a medical power of attorney and documents appointing a guardian, for protection in times of crisis.

People living with HIV should likewise be able to make important decisions about their lives without fear of discrimination or legal battles. Unfortunately, discrimination can

still create enormous barriers to adequate care. When Cecil Little, a Louisiana man living with HIV, suffered a stroke and two aneurisms in 2003, he fell into a coma and had to go on life support. His family rallied around his hospital bed. When he finally came out of his coma, beating the odds and his doctors' assertions that he wouldn't live, his sister and mother began making plans for his long-term care. Six nursing homes, all of which initially accepted him into their care, eventually retracted their offers when learning of Cecil's HIV status. Cecil's sister contacted Lambda Legal and filed a discrimination complaint. Finally, one of the homes agreed to admit Cecil into its care.

Cecil's struggle shows how prejudices and stigma still surround HIV within nursing homes, hospitals and other health care facilities, making it all the more important to prepare documents that give your wishes legal force. This does not apply only to people with living with HIV. Everyone should have a health care proxy (also known as a medical power of attorney), living will and other relevant documents stored in an easy-to-find location in your home so that your loved ones can immediately access them in an emergency.

Same-sex couples with children face special risks because often the law does not

automatically recognize the legal rights of both parents, which invites discrimination against either or both parents based on their sexual orientation. In 2004, Becki Hamilton and Kim Brennan, an Indiana couple who had agreed to the state's request to foster a child and consider adopting her, successfully adopted by order of a judge. But another judge who supervised foster care placements ruled that the adoption was invalid. Lambda Legal helped to appeal the ruling and secured a victory at the Indiana Court of Appeals confirming the legality of the adoption. Becki and Kim's story demonstrates how discriminatory rulings about LGBT and HIV-affected families are being successfully challenged, one by one. But that success depends on everyone taking power together. Lambda Legal was able to successfully protect the adoption because Becki and Kim had taken the necessary legal steps. They took the power; Lambda Legal backed them up.

LIFE — ASSEMBLY REQUIRED

Taking the power to plan your life and build economic and family security is not as hard as it may seem. The first step is to create a "blueprint." Then you can choose the "power tools" to help construct a solid foundation.

When you create your blueprint, decide who and what is most important to you, assess the laws and opportunities available in the state in which you live and begin making detailed plans.

Then use your power tools: write a will, designate a health care agent, sign a living will, name someone to have financial power of attorney. If you are in a relationship and own a home, examine real estate ownership agreements to protect you and your loved ones. If you are a couple who has children, and one of you lacks a legal parental tie, find out if you can do a second-parent adoption in your state. Consider whether you need life or disability insurance and designate your loved ones as your beneficiaries if you can.

Find out about any retirement benefits and designate your loved ones as beneficiaries if you can. Decide how you wish to be remembered and make your wishes clear in writing.

If these legal tools seem complicated, help is available. Many actions require the advice of an attorney or tax experts. But it's all easier when you have the information you need ahead of time. Lambda Legal's new toolkit "Take the Power! — Tools for Life and Financial Planning" will be available in

print and on our website (www.lambdalegal.org). Information about state laws can also be found on our website or by calling our Help Desk (866-542-8336).

Everyone should have a health care proxy, living will and other documents stored in an easy-to-find location

LIVING OUR LIVES, LEAVING A LEGACY

At Lambda Legal, we use both litigation and education as tools to protect and empower LGBT people and people living with HIV. You can take the power to control your life, your resources and the security of your family by using the laws we have — even as we fight hard for marriage equality and other equal treatment under other state and federal laws.

"We want good laws that people can use, and we want to make sure people know how to use the laws that we have," says Leslie Gabel-Brett, Lambda Legal's Director of Education and Public Affairs. "That's what this new toolkit is all about — information is power." **L**



In My Own Words

BILL THOM : LAMBDA LEGAL FOUNDER

As Lambda Legal celebrates its 35th anniversary, we take a moment to look back and reflect on our humble yet ambitious beginnings. We are pleased to present a special edition of In My Own Words, shared with us by one of our founders, Bill Thom.

Lambda Legal began with its name on a Band-Aid on my apartment mailbox and a \$25 bank account. When I founded the organization in 1973, the idea of legal defense and education funds was in the air. The National Organization for Women had created one, and there was the Native American Legal Defense and Education fund and the Puerto Rican Legal Defense and Education Fund. It was part of the ethos at the time.

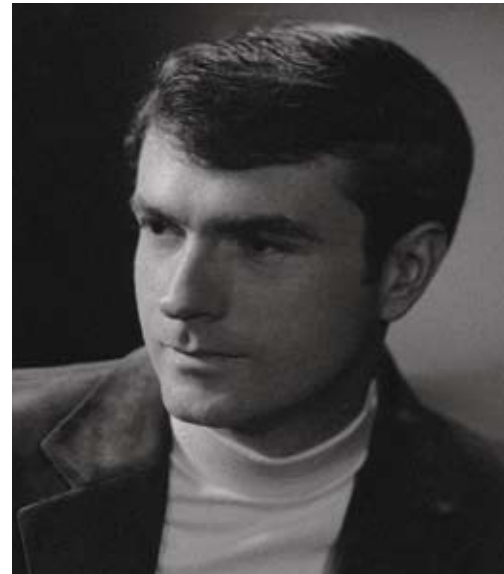
I had been offering legal assistance to an organization called the Gay Activists Alliance. Their political work involved courting politicians to support gay and lesbian causes. They also held more radical actions, like sit-ins. While I was there it occurred to me that something like Lambda Legal would be a good idea for lesbians and gay men, so I began doing the paperwork. I followed the Puerto Rican Legal Defense Fund's paperwork word for word, except I changed the beneficiaries from Puerto Ricans to lesbians and gay men. A New York court turned down the application for incorporation on the grounds that I had not demonstrated the organization was "benevolent or charitable." So I became involved in a court battle that would reach the highest court in the state of New York before we even got permission to incorporate.

From the beginning, we had two roles to play: the first litigation, the second education. We were ambitious and wanted to have a national focus. Initially, our board was composed of six men. My partner became the general counsel and, as I recall,

I was president and chief cook and bottle washer for the first five years. I think in our best year we probably raised \$50,000. That was worth a good deal more then than it is now, but it still wasn't a great deal of money. I took a couple fundraising courses, but we were inexperienced. It felt at times like we were just muddling through. We were fairly cautious about the cases we took. Even though we were doing the legal work for nothing, lawsuits have a lot of other expenses. For instance, in the military challenge that my partner handled against the Department of Defense, the case was tried in Washington, D.C. Anytime there was activity in that case, he had to make that trip. If it's a busy case, as this one was, the costs can add up.

"Those of us who were there in the beginning were involved because we believed in the cause — equality for LGBT communities."

The defense department settled that case, and we later took cases involving access in federal prisons to gay publications, a couple custody cases, and an immigration case. We had quite a cross-section from the beginning, and since we had no publicity budget it was surprising how quickly we became known. We met once a month as a board and we would discuss the facts of a case, the resources it



Bill Thom

would take and the opportunity for the case to be precedent-setting. The key to being a successful legal advocacy organization is to get the best factual case you can. So it was very important in those early days for us to determine whether we had as close to an optimum set of facts as we could to make the best case.

Those of us who were there in the beginning were involved because we believed in the cause — equality for LGBT communities — but one of the things that has allowed Lambda Legal to endure and prosper is that it we always put the clients first and the cause second. It was always about the people. We still have a long way to go in the fight for equal rights across the board for our communities. But the changes I've seen since I got involved 35 years ago are so astonishing and so widespread that I'm pretty confident that we're going to have substantial equality in my lifetime — and I'm no spring chicken. **L**

Match
ME if
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Can!



Lambda Legal's partnerships with the business community have played an integral role in our successes. Thousands of companies nationwide help support our litigation, education and public policy work through workplace giving and matching gift programs.

Workplace giving programs make it easy to support Lambda Legal. If your employer offers this program, you can sign up to have a contribution deducted from your paycheck and sent to Lambda Legal on a regular basis. You will receive a tax deduction for your charitable contribution as well as the satisfaction of helping Lambda Legal remain at the forefront of the fight for equality.

Some employers also offer matching gift programs, which can double or even triple the impact of your contribution. If you work for a company that offers a matching gift program, be sure to include a matching gift form (available from your employer) when you make your contribution to Lambda Legal.

To learn more about how you can participate in your workplace giving programs, check with your employer or contact Sarah Ogden at 212-809-8585, ext. 226 or sogden@lambdalegal.org.

Lambda Legal In the News

"Iowa has been on the forefront of marriage law, common sense and equal rights — making it quite believable that granting equal rights to people 'happened in Iowa.'"

Des Moines Register on the Iowa District Court's ruling that denying marriage rights to same-sex couples is unconstitutional

SEPTEMBER 1, 2007

"The Board of Education reversed course after...members learned over the weekend that Lambda Legal...had issued a statement that called the district's pursuit [to challenge the] state human rights law "unconscionable." Lambda Legal believes that neither federal or state education law protects LGBT students against antigay discrimination and harassment."

Editorial in the Ithaca Journal on the Ithaca City School District rescinding its challenge to New York's human rights law

OCTOBER 25, 2007

"It is hardly a surprise that New Jersey's civil union law is not working very well. During the past several weeks, dozens of same-sex couples have testified that the law has not provided the equal benefits that were promised when it passed."

Editorial in the New York Times in support of marriage rights for same-sex couples

NOVEMBER 11, 2007



From Here to Paternity

When people think about Lambda Legal's docket of parent-child cases, they frequently think about litigation involving lesbian mothers. But Lambda Legal also maintains a healthy docket of cases involving both gay and HIV-positive fathers. We are proud of the ways we have overcome sexual orientation and HIV bias to vindicate the rights of men who have become fathers.

Some of our cases have involved men who had children in previous marriages. In Maryland and Virginia, we battled court orders that threatened to deny divorced fathers visitation with their children so long as the father was living with a same-sex partner. In another case in Maryland, we are representing a father living with HIV whose deceased wife's mother has sought custody of his three children, outrageously arguing that his HIV status makes him unfit as a parent.

"We are proud of the ways we have overcome sexual orientation and HIV bias to vindicate the rights of men who have become fathers."

Other cases have involved litigation between two fathers. We recently helped resolve a parenting dispute between a gay couple who had separated. Kevin McManamon's former partner had moved from Michigan to California with the couple's two children, whom only he had adopted. With the assistance of Jeffrey Erdman of the Los Angeles firm of Bennett & Erdman, we filed a lawsuit seeking joint custody and visitation on behalf of Kevin. After we won temporary visitation for Kevin, the parties agreed to share joint custody and worked out a visitation schedule.

We have represented men who have jointly adopted their children. In the *Finstuen v. Edmondson* case, we represented a number of couples, including Ed Swaya and Gregory Hampel from Washington State, and convinced a federal appellate court to strike down the Adoption Invalidation Law, an Oklahoma statute that refused to respect adoptions obtained by same-sex couples in other states.

We are currently handling a similar case in Louisiana on behalf of a gay couple living in California.

We have even represented men facing discrimination as they seek to become fathers. We are working on a case in Florida on behalf of a man whose doctor refused him medical assistance with a surrogacy procedure. The doctor wrongly thought that because our client is gay, FDA regulations designed to prevent transmission of HIV automatically applied, preventing his sperm from being used to father a child.

Given that about 20 percent of gay male couples have children — and the number is on the rise — and that a recent survey showed nearly 30 percent of men living with HIV want to have children, we are likely to see increasing numbers of legal disputes involving fathers who are gay or living with HIV. As those cases arise, Lambda Legal will be there to make sure that the law develops in ways that respect the rights of men in our communities who have taken on the awesome responsibility of raising our nation's next generation. We admire these men — including several Lambda Legal staff members — who frequently have to fight against stereotypes about gay men and about families. As their lives and their families become more visible, more Americans learn that regardless of gender, sexual orientation, age or social status, good parents are loving parents. Period.

JON W. DAVIDSON
LEGAL DIRECTOR



Save the date:

Thursday, May 15th for
**Clock In, the 2nd Annual Day of
Action for Workplace Equality!**

Last year, over 200 organizations and individuals in every state took action in support of workplace fairness for LGBT people and people living with HIV. This year, we can activate an even broader base of support with your help.

Sign up at www.lambdalegal.org.

See our entire calendar of events on page 7.

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