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Determining the Impact on Employees of California's Domestic Partnership Benefits and Laws

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Golden Gate University

DETERMINING THE IMPACT ON EMPLOYEES OF CALIFORNIA'S DOMESTIC
PARTNERSHIP BENEFITS AND LAWS

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INTRODUCTION

In 1999, California was one of the first states in the nation to sanction the registration of gay and lesbian couples through the State. The *Declaration of Domestic Partnership*, Family Code Section 298, (Appendix A) is registered through the Secretary of State and allows same sex couples and certain heterosexual couples (both partners must be 62 years of age or older) to be afforded some of the same rights and privileges historically reserved for married heterosexual couples. The official recognition by the State of long term domestic partnerships was a substantial first step towards official governmental recognition and acceptance of same sex couples. The monetary benefits from the legislation are not the only value gleaned by gay and lesbian couples. A review of existing literature regarding domestic partnership benefits and interviews with people who are part of long term same sex relationships shows that the intrinsic benefits derived from the creation of a Domestic Partnership Registry and subsequent legislation are just as important as monetary benefits.

During the last several years the federal government, state and local governments, and private employers have gradually afforded benefits and rights to same sex domestic partners. Specifically, the State of California has implemented laws that recognize those in long term committed relationships but are unable to marry because of current legal restrictions. On September 19, 2003, Governor Gray Davis signed Assembly Bill 205 into law. The legislation grants registered same sex couples in California nearly all of the same rights and responsibilities as married spouses. The law is set to go into effect on January 1, 2005. After signing the bill Governor Davis stated, "We are at our best when

we extend our respect to every Californian no matter who they love.” (San Jose Mercury News, September 20, 2003)

The State of California, along with a handful of states, has been in the forefront in areas of diversity. The population of the state is comprised of people from all over the world, with differing backgrounds, religions, languages, social mores, and the like. One of the diverse groups in California, as in every other state of the union, is the inclusion of gay and lesbian individuals and couples in the population. Equality California (2003) reports that information from the 2000 Census noted the presence of same sex domestic partnerships in all Congressional districts and in all but 22 counties in the entire United States. Census data from 2000 also shows that one in six of the nation’s same sex couples resides in California. According to So-Gay (2003), “There are roughly 400,000 Californians in same-sex relationships who don’t have the same benefits as married couples.” Gradually, the acknowledgement of the presence of domestic partnerships and the conferring of most of the rights and privileges granted by the State of California to married heterosexual couples is allowing those in domestic partner relationships to feel somewhat accepted by their government.

California passed legislation that established a Domestic Partners Registry in 1999. It went into effect in January of 2000. The text of California Family Code Section 297, defines domestic partners for the State of California. It reads:

- (a) Domestic partners are two adults who have chosen to share one another’s lives in an intimate and committed relationship of mutual caring.
- (b) A domestic partnership shall be established in California when all of the following requirements are met:

- (1) Both persons have a common residence.
- (2) Both persons agree to be jointly responsible for each other's basic living expenses incurred during the domestic partnership.
- (3) Neither person is married or the member of another domestic partnership.
- (4) The two persons are not related by blood in a way that would prevent them from being married to each other in this state.
- (5) Both persons are at least 18 years of age.
- (6) Either of the following:
 - (A) Both persons are members of the same sex.
 - (B) Both persons meet the eligibility criteria under Title II of the Social Security Act as defined in 42 U.S.C. Section 402 (a) for old-age insurance benefits or Title XVI of the Social Security Act as defined in 42 U.S.C. Section 1381 for aged individuals. Notwithstanding any other provision of this section, persons of opposite sexes may not constitute a domestic partnership unless both persons are over the age of 62.
- (7) Both persons are capable of consenting to the domestic partnership.
- (8) Neither person has previously filed a Declaration of Domestic Partnership with the Secretary of State pursuant to this division that has not been terminated under Section 299.
- (9) Both file a Declaration of Domestic Partnership with the Secretary of State pursuant to this chapter.

According to Equality California (2003), as of May 2003, there were nearly 20,000 same sex couples registered. At its inception in 2000 the registry was mostly symbolic, but a significant first step towards recognition none the less. The above benefits and gradual recognition by the State, even a left leaning state like California, have not been easy to achieve. As more and more benefits and rights that are automatically granted to married heterosexual couples are given to those in long term same sex relationships, the more the religious right and moral majority rally against equal treatment. There is strong opposition from conservative religious groups to any type of positive recognition of those who compromise a significant part of our population, gays and lesbians.

After Governor Davis signed Assembly Bill 205 into law, state Senator William (Pete) Knight, R-Palmdale, warned that he would challenge the law in a lawsuit to be filed on September 22, 2003. (Note: Senator Knight authored the successful 2000 ballot initiative, Proposition 22, that states "...only marriage between a man and a woman is valid and recognized in the state of California.")

Case study overview

The focus of my research when dealing with the above subject went beyond any monetary benefit derived from domestic partner laws. The over arching view is that the official recognition by governmental agencies of same sex couple's relationships is unquantifiable. Feelings of belonging, recognition, and acceptance cannot be measured but are important to study regardless.

My hypothesis is this: There is more than monetary benefit to domestic partnership legislation. There is a validation from the government and/or recognition of domestic

partnership/same sex relationships. Employee satisfaction with their employer and their attitude and work ethic/product are higher when it is felt that both their employer and the State of California positively recognize their relationship. Employee satisfaction is also high when the employer creates and demands an organizational culture of acceptance and tolerance.

Some benefits experts show that benefits can compromise almost 40% of overall compensation for an employee. (Mills, 2000) While that percentage is large, I have shown through my research that an unquantifiable benefit is derived by gay and lesbian couples from domestic partnership legislation. The benefit comes from the government's positive recognition of a non-traditional yet valid and important type of relationship.

Domestic partnership legislation has a significant affect on the lives of the couples that can reap the monetary benefits of the changes in law. However, the overall fiscal impact on society is negligible. According to the National Gay and Lesbian Task Force (2003), the numbers of eligible couples that either register with the State or receive benefits from a partner's employer are small. The State of California employs over 200,000 people. As of June 2000, 157 employees had enrolled domestic partners in the benefits plan. The reasons for this are myriad. In many professions, such as education, it is still somewhat taboo and career threatening to be openly gay. Also, many same sex couples have dual incomes and dual benefits packages. These couples can choose not to register and/or to receive the other partner's benefits. Registering or receiving domestic partner benefits opens the couple and their relationship up to public scrutiny. The domestic partnership registry is public record.

This research proposes that monetary benefits are not the only reason that employers should offer domestic partnership benefits and are not the only reason these benefits are embraced by gay and lesbian employees. Those who see things in only black and white may not understand that acceptance and affirmation can be subtle and yet powerful. Most people in a society strive to be accepted into that society. It is part of human nature to be a member of a group or community that makes one feel welcome, safe, and secure. This desire for group membership and acceptance does not only refer to one's family and personal life. Most working Americans spend at least 40 hours per week working. The environment of the workplace can have a powerful affect on the attitude, emotional well-being, and work satisfaction of each employee. It is important for employers to understand and recognize this.

A survey was conducted that consisted of a set of questions posed to participants in face-to-face interviews. This method of data collection was chosen so that I could glean information from the participants not only from the answers to the prepared questions but from any anecdotal experiences of those surveyed. Literature review was difficult in that there was not much information on point to the research question. Information was mostly gathered from newspaper articles that dealt with domestic partnership benefits proposed or enacted by the State of California, reaction to the legislation by groups on both sides of the issue, information on employee satisfaction, and governmental publications.

The results of the data gathered will be presented in quantitative form. The structure of the questions posed allowed me to obtain quantitative results from a topic and

hypothesis that is truly qualitative. My personal observations and experiences will be included as well.

I had an experience at my workplace regarding my employer's lack of consistency regarding benefits in October of 1999. I was working as a patrol sergeant at a police department in the greater San Francisco Bay Area. As a sergeant it was my responsibility to fill out the payroll for my officers. One of my officers could not come to work because her domestic partner had been injured and needed her care. The city has a payroll category, enumerated in Personnel and Salary Resolution No. 4652 and passed in 1983, called "family sick" which at the time allowed an employee to use sick time to attend to members of the employee's "immediate family." The city's definition of immediate family was, "...husband, wife, parent, brother, sister, child, father-in-law, mother-in-law, grandparent, grandchild, or any or either of them, or another related member of the household if residing within the home or within the same place of residence as the officer or employee." I marked the officer "family sick" and thought nothing of it. Somewhere between the police department and city hall it was determined that the employee could not use "family sick" because her partner was not "immediate family."

When I discovered what had occurred I was livid. I felt the Personnel and Salary Resolution was in direct conflict with the City Manager's Directive (131) regarding Equal Employment Opportunity and Discrimination. The stated purpose of that policy is, *"To reaffirm the City's existing and long term commitment to assure equal employment opportunity to all persons regardless of race, sex, color, religion, religious creed, national origin, ancestry, age, marital status, physical disability, mental disability,*

medical condition, or sexual orientation, as required by law, to offer employment and employment advancement to all persons on the basis of merit and job-related knowledge, skills and abilities, and to provide a workplace free of unlawful discrimination or harassment.” The policy states, “...*There shall be no unlawful discrimination or harassment in the work environment or in employment including recruitment, testing, hiring, training, promotion, transfer, demotion, lay off, compensation, **benefits**, working conditions, disciplinary action, or retirement.*” (Emphasis added)

I wrote a letter to the director of human resources. (Appendix B) I pointed out the conflict between the Personnel and Salary Resolution and the City Manager’s Directive. Shortly thereafter, the city amended the language in Personnel and Salary Resolution 4652 to add domestic partner. Also, during the upcoming contract negotiations with all of the bargaining units, the city extended health and dental benefits to the domestic partners of city employees.

On December 29, 1999, the city enacted City Manager’s Directive Number 8. (Appendix C) The subject is *Domestic Partner Eligibility for Specific Benefits*. The directive states that benefits for domestic partners of employees and/or for the dependent children of the domestic partner of the employee shall be offered to each employee organization through a Memoranda of Understanding.

LITERATURE REVIEW

The literature that deals with the overall subject of domestic partnership legislation and laws is plentiful. Because of many recent law changes and proposed changes in California there are many sources of literature. The sources range from the actual text of legislation to opinions about the legislation written by both proponents and opponents. Because the issue can be emotionally driven, there are articles, opinions, and statistics given from those on either side of the issue. Make no mistake; there are two distinct sides. The line is drawn between those who advocate for gay and lesbian rights and those who feel strongly aligned to conservative religious views.

Domestic partner legislation

Interesting, but not surprising, was the presentation of the same information by different groups that skewed the statistics or facts to their point of view. For example, politicians like California state senator William (Pete) Knight, R-Palmdale, decry that the legislation passed in California, specifically Assembly Bill (AB) 205, "...puts the state in the position of promoting a same-sex marriage." (San Jose Mercury News, August 23, 2003) Other conservatives in government had more heated thoughts when AB 205 was signed. In an article by Steve Lawrence, Assemblyman Dennis Mountjoy, R-Monrovia, was quoted, "Gay marriage is wrong; it is an aberration to God." Assemblyman Jay La Suer, R-La Mesa, added, "May the wrath of the people come down on you." (2003) Many are equating the passage of the bill with the conferring of all of the rights and privileges of marriage to gay and lesbian couples. However, even when AB 205 takes

effect in January of 2005, there will still be more than 1,000 federal benefits available to married couples that are not available to those in domestic partner relationships.

In the above article, Assemblyman John Longville, D-Rialto, said, "Nobody is talking about gay marriage except the people who are trying to wave it around like a straw man issue."

The different interpretations of the same set of facts certainly can be either intentional or unintentional. When an issue evokes such emotion, the tendency to want to mold the facts towards your point of view or agenda is understandable. However, the researcher must step back and look at the facts and figures for what they are. Emotions must be kept out of the process and personal biases or leanings must be recognized but squelched. I do not know if the above is humanly possible but it must be considered and strived for non-the less.

One of the most comprehensive and interesting pieces of literature I located was a report published by the City and County of San Francisco Human Rights Commission. It is a five-year report on the effectiveness of the San Francisco Equal Benefits Ordinance. (2002) The ordinance itself was enacted in 1997 and basically requires that San Francisco's City contractors must provide the same benefits to employees who have domestic partners and employees who are married.

There are many statistics found in the report. At the time the Ordinance was enacted, only 500 employers in the United States offered domestic partner benefits. At the time the report was written, over 4,500 employers offered the benefit. In 1997 there were only 33 jurisdictions where domestic partners could register their relationships. In 2002 there were at least 63 such registries, 58 local government registries (in 21 different states), and

five state registries. The report also mentions the State of Vermont's Civil Union legislation. In that state, same sex couples may now form civil unions that give them all the rights conferred by the State on married couples.

The Human Rights Campaign Foundation (2003) gives more recent and comprehensive statistics. Their literature states that 10 state governments, 162 local governments, 198 Fortune 500 companies, 187 colleges and universities, and 5247 other private companies, non-profits, and unions offer domestic partner health benefits.

Two parts of the San Francisco Human Rights Commission Report point to my hypothesis. The report mentions the early days of domestic partnership registries. It says, "While at first these registries *represented a symbolic means for recognizing committed relationships* (Emphasis added), more and more registration now brings with it some of the rights associated with marriage." (p. 3)

The second passage reads:

In articulating the impact of the Equal Benefits Ordinance, perhaps the most significant factor to consider-but the hardest to quantify-is what it means to individual employees and their domestic partners to receive benefits equivalent to those given to married employees and their spouses. While it is easy to approximate the number of people employed by City contractors who are benefiting from domestic partner medical insurance (51,660), placing a value on this insurance coverage or any of the other benefits offered is much harder. The dollar amount paid for medical claims doesn't reflect the peace of mind gained by knowing that your partner will receive medical care when needed. The cost of a few days of paid bereavement leave doesn't include the value of the support provided to a domestic partner who is dealing with a death in the family. The dollar amount of retirement distributions doesn't reflect the comfort felt when structuring your retirement income to provide for the financial needs of your partner if you die first. Perhaps more importantly, any financial analysis of the impact of the Equal Benefits Ordinance can't include the added dignity felt when discriminatory treatment ends and you begin to receive equal pay for equal work. (p.16)

An article that appeared in the San Jose Mercury News on June 26, 2003, talks about a Canadian Court recognizing gay marriage. Joe Varnell, one of the parties who sued the provincial government, said after the ruling, "We're no longer second-class citizens in this country and the time has come for a change. My relationship is validated and nobody can say we're not a family anymore."

An article written by Washington Post writer Mike Allen appeared in the San Francisco Chronicle on June 26, 2002. It reported that, "President Bush has signed a bill allowing death benefits to be paid to domestic partners of firefighters and police officers who die in the line of duty, permanently extending a federal death benefit to same-sex couples for the first time." Jeff Sheehy, of Equal Benefits Advocates, said, "It's a great first step. Symbolically, it's huge. It is federal recognition of our relationships." The article states that the announcement of the law represents a, "...rare case in which Bush was willing to take on the Republican Party's right wing. Indeed, the decision incited some conservative leaders, who already were displeased with Bush..." The Rev. Lou Shelton, chairman of the Traditional Values Coalition, added, "Homosexual folks see this as a first step toward recognizing homosexuality on the same level as marriage, and that's what it will be used for."

Further information regarding the opposing viewpoint can be found at several websites including, crosswalk.com. (2003) The site appears to be religion based. The article I found spoke about the California Assembly passing Assembly Bill 205 in June of 2003. The headline in the article reads, "*California Assembly Passes 'Gay Marriage' Bill.*" As previously noted, the bill was passed by both houses of the legislature and was signed into law by Governor Gray Davis on September 19, 2003. The bill extends the

rights and duties of marriage to persons registered as domestic partners. A news release issued by the Campaign for California Families mentioned in the article said the bill reverses Proposition 22, the Protection of Marriage Initiative, which states that marriage is the union of one man and one woman. The executive director of the Campaign for California Families, Randy Thomasson, called AB 205 a homosexual marriage bill.

According to the Christian Broadcasting Network (2003), The Vatican, "...launched a global campaign against gay marriages Thursday, (July 1, 2003), warning Catholic politicians that support of same-sex unions was "gravely immoral..." The 12-page document issued by the Congregation for the Doctrine of the Faith, is, "...a bid to stem the increase in laws granting legal rights to homosexual unions in Europe and North America. The Vatican document, "Considerations Regarding Proposals to Give Legal Recognition to Unions between Homosexual Persons", sets out a plan for politicians when confronted with proposed legislation granting homosexual couples the same rights as heterosexual couples."

The same day, President George W. Bush, addressed the press and was asked the following question (The White House, 2003):

Mr. President, many of your supporters believe that homosexuality is immoral and believe that it's been given too much acceptance in policy terms and culturally. As someone who speaks out in strongly moral terms, what's your view on homosexuality?

President Bush's response:

Yes, I am mindful that we're all sinners, and I caution those who may try to knock a speck out of their neighbor's eye when they got a log in their own. I think it's very important for us to respect each individual, to welcome those with good hearts, to be a welcoming country. On the other hand, that does not mean that somebody like me need to compromise on an issue such as this. And that's really where the issue is heading here in Washington, and that is the definition of marriage. I believe in the sanctity of marriage. I believe a marriage is between a man and a woman. And I

think we ought to codify that one way or another. And we've got lawyers looking at the best way to do that."

The above strong thoughts and feelings from the President of the United States and the Catholic Church portend a strong push by the right to stop the conferring of equal rights to same sex couples and a push to rescind some of the gains already made.

In spite of the above, the State of California has gone forward in its efforts to bestow similar rights, privileges, and responsibilities to its gay and lesbian citizens who are registered domestic partners. The recent passage of Assembly Bill 205, also known as the Domestic Partners Rights and Responsibilities Act of 2003, puts California in the forefront as far as state domestic partnership legislation. After its passage, Associated Press writer, Lisa Leff, quoted former San Francisco assemblywoman Carole Migden, who sponsored many landmark gay rights bills that Governor Davis approved during his first term, "California's domestic partners registry surpasses the achievement in Vermont because it was created not under court order, but by a willing legislature and a willing governor. (2003)

Employee thoughts and feeling

There is also literature that points to the premise that an employee who feels validated in their relationship while at work is a more productive one. Dan Wong, a writer for msn.com, cited a University of Massachusetts report from the late 1990's that found up to 44 percent of gay, lesbian, and bisexual workers suffered discrimination based on sexual orientation during their careers. A more recent survey conducted in 2002 by the National Gay and Lesbian Task Force reported that out of a sample of more than 2000 gay, lesbian, and bisexual workers, 14 percent experienced workplace discrimination during

2002. Wong writes, "Discrimination can be overt: a cutting remark directed at you, for example, or being passed over for promotion. It can be covert: not being asked to bring your partner to the boss's party, or uncomfortable looks when you put your partner's photo on your desk. Whatever form it takes, it hurts. *It also prevents you from doing the best job you can – so it hurts your company, too.*" (Emphasis added) (2003)

The Human Rights Campaign Foundation (2003) has a site on their web page that talks about the reasons why employers offer domestic partner benefits. One of the headings in the article is *Domestic Partner Benefits Are Good for Business*. Some of the text reads:

A domestic partner benefits program will also improve employees' productivity by alleviating personal stress that may keep them from focusing fully on work. At least one workplace advocate has employed a simple formula to measure the dollar amount of increased productivity created by a fair and inclusive work environment for GLBT (Gay, Lesbian, Bisexual, Transgender) workers. The formula conservatively assumes the number of GLBT employees in any workplace to be 5 percent and the amount of productivity associated with a safe and equitable workplace to be 10 percent. Using these figures, you can illustrate how much money a company might lose by not providing a safe and equitable workplace. (For example: A company with a workforce of 1,000 employees would have 50 GLBT employees [$1,000 \times 0.05 = 50$]. If the average salary is \$40,000, the average loss in productivity per GLBT worker per year is \$4,000h [$\$40,000 \times 0.10 = \$4,000$]. Thus, the total annual loss to the company in productivity would be \$200,000 [$50 \times \$4,000 = \$200,000$].

The article also talks about domestic partnership benefits having a positive impact on hiring and retention. Domestic partner benefits are one of the hallmarks of a progressive company that values diversity. "Indeed, domestic partner benefits were ranked as the No. 1 most effective recruiting incentive for executives and the No. 3 most effective recruiting incentive for managers and line personnel."

Lastly, the article states, "If one purpose of a benefits program is to provide a safety net for employees and their families, *thereby enabling employees to focus better on work,*

(Emphasis added) a plan that does not include domestic partner benefits ignores a growing portion of the workforce.”

There is more literature available for review on the subject of employee job satisfaction. There is a correlation between how employees feel about their employer and their performance. Employees who feel valued and accepted for who they are by the organization usually will put forth more effort and be more productive employees than those who feel unvalued and ostracized.

Hal G. Rainey (1997), points out that, “Research also indicates that security and benefits serve as important incentives for many who join and stay with the government. A major survey by Kilpatrick, Cummings, and Jennings (1964) found that vast majorities of all categories of public employees, including federal employees, cited job security and benefit security (retirement, other protective benefits) as their motive for becoming a civil servant.” (p. 214)

Rainey also points to Abraham Maslow’s needs hierarchy when talking about needs, values, motives, and incentives for employees. Maslow’s theory, one of the most prominent regarding human needs has significantly influenced the field of management. Maslow proposed five categories of needs. He arranged them in what he referred to as a “hierarchy of prepotency.” He started with the most basic need, physiological, and continued to safety needs, social needs, self-esteem, and finally, self-actualization. (p. 206) An employee’s social needs can be partially met by having an employer who offers benefits and an organizational culture that values that employee’s domestic partner relationship.

Also in Rainey, "J. Stacy Adams (1965) argued that a sense of equity in contributions and rewards has a major influence on work behaviors. A sense of inequity brings discomfort, and people thus act to reduce or avoid it. People assess the balance between their inputs to an organization and the outcomes or rewards that they receive from it, and they perceive inequity if this balance differs from those of other employees." Adams referred to this as the Equity Theory. (p. 227)

Why offer domestic partner benefits?

Mathis and Jackson (1997), talk about strategic reasons for offering benefits. "Major benefits attempt to protect employees and their dependants from financial risk associated with illness, disability, unemployment, and old age. From management's perspective, benefits are thought to contribute to several strategic goals." (p. 435)

Of the four goals listed: help attract employees, help retain employees, elevate the image of the organization with employees and other organizations, and increase job satisfaction, the last is on point for this research. It states, "Benefits can contribute to employees' overall good feelings toward the employer *if* the employees are aware of the benefits they receive." (Mathis and Jackson 1997)

Employee satisfaction is paramount to American companies and American government. No one can argue that a satisfied employee will be less likely to do a good job than an unsatisfied one. In 1992 Lotus Corporation became the first publicly traded company to offer domestic partner health insurance benefits. What followed, especially in the business boom 1990's was that other IT sector companies adopted the benefits as a competitive way of attracting and keeping the best employees. (Capitol Report, 2003)

At the beginning there was the thought that the offering of domestic partner benefits would be a great cost to corporations. That has not occurred. The conferring of the benefits does enhance employee productivity and retention. (Capitol Report, 2003) The report states that seven out of the top 10 Fortune 500 companies offer benefits to same-sex partners. The number went down when Exxon acquired Mobil in 1999 and revoked Mobil's existing policy of medical benefits for gay partners of employees.

Greater recognition of work force diversity, competitive pressures and basic concerns about fairness are all factors encouraging more employers to extend benefits to employees' same-sex partners. (Greenwald 2003) Ed Kahn, director of human resources strategy and integration at Shell Oil Co., said that Shell feels offering domestic partner benefits has been good for the company for two reasons. The first is that it has expressed to all of their employees that they have great respect and value their contribution to the company and that their private lives are essentially their private lives. Second, he believes it makes Shell a more attractive employer. It says to people, 'We value diversity; we value differences.'

IBM's program manager for gay, lesbian, bisexual and transgender initiatives, Stan Kimer, says the major impetus for the benefits is equal pay for equal work. It also assists the company with attracting and retaining the best employees.

Daryl Herrschaft, deputy director for WorkNet, a HRC Foundation project said, "I believe it (offering domestic partner benefits) is a realization that in order to remain competitive in the labor market, in order to be an employer of choice, in order to hang onto or, rather, retain valued employees, these benefits are increasingly becoming standard business practice." (Greenwald 2003)

An article by the Institute of Management & Administration (Anonymous, 2001) points out that 76 percent of organizations started offering domestic partnership benefits to attract and maintain employees. It is felt that employers are discovering that the benefits (of offering domestic partner benefits) such as employee loyalty and engagement, far outweigh the associated costs.

An on-line poll conducted by Witeck-Combs Communications/Harris Interactive found that 71 percent of the 2,050 adults surveyed supported hospital visitation rights for same-sex couples, 66 percent supported emergency health care authority, 60 percent supported joint property rights, 59 percent supported estate inheritance laws, and 48 percent supported Social Security survivor benefits. "This is a beginning of a bellwether that attitudes are changing, and it ought to give comfort to policy makers who live by American attitudes," said Bob Witeck, CEO of Witeck-Combs Communications. "What it means is more candidates will come out and say, 'Civil unions mean these things, and I support parity of benefits and rights,'" Witeck added. (Kerman 2003)

The last piece of literature I found, quite accidentally and surprisingly, was in the monthly magazine I receive because of my membership in my police department's union. The PORAC Law Enforcement News issue of October 2003 included an article about domestic partner benefits. The article is titled *Domestic partners may be entitled to benefits* and was written by Robert M. Wexler, an attorney who represents public safety labor organizations. The author points out that California law "...mandates that health care providers must make available to employers the option of offering domestic partner insurance under the same conditions as they offer such benefits to eligible dependants. However, the law designates that the employer, not the employee, determines whether to

offer such benefits for domestic partners. A public safety employee organization that wishes to secure health insurance for domestic partners must negotiate for that benefit like any other. That said, *an employer would be hard-pressed to publicly defend its steadfast refusal to extend health insurance to domestic partners.*" (Emphasis added)

METHODOLOGY

Based upon my review of the literature available regarding domestic partner benefits, specifically as it relates to my hypothesis, the majority of my information was gleaned from primary data collection. The research methodology focused mostly on formulation of questions for a select group of subjects to answer.

Limitations of the research

The literature relevant to the research question was non-existent. This created a challenge in that the scope of the research fell primarily on the shoulders of the researcher for primary research. My focus, the intangible or unquantifiable benefit felt by those who are eligible to receive or who receive domestic partnership benefits, appears to not have received much thought or study.

I selected a group of people who met the following criteria to conduct one on one interviews with using a prepared questionnaire.

- Registered Domestic Partners with the State of California
- One of the partners is employed by a local or state governmental agency
- The employee has listed their partner as a beneficiary

Characteristics of the research sample

The research sample consisted of the following demographics:

- 12 members of domestic partner relationships
- 100 percent are female*
- Age range 38-48 years

- Average age 42.5 years
- Average number of years with current employer 9.5
- Average length of relationship 8.5 years
- Average length of registration 2.6 years

* I did not plan on having only female respondents. My group of respondents came from people I know and those to which they referred me. I attempted to find male subjects who met the criteria to no avail.

Although the criteria included having one member of the domestic partnership work for a local or state governmental agency, in two of the domestic partnerships, both participants work for a governmental agency. Of the remaining four participants, three work for private corporations and one is a teacher. The teacher and one of the others** are not offered domestic partner benefits through their employers. (**She is a contract employer at a Silicon Valley firm that offers domestic partner benefits to their employees. Her employer is based out of California and is in her words, "very conservative.")

Of the eight participants who work for governmental agencies, only one is not offered domestic partner benefits through her employer. One participant is an administrator for a community college, one is a fire fighter, five are police officers, and one is a parole agent.

Data collection

I personally presented a comprehensive questionnaire directed to both members of the couple. (Appendix D) A sample size of six domestic partnerships was used. It was difficult to find subjects who met the above criteria. Certainly, a larger sample size was desirable, but difficult to find.

When I met with the participants they were not told what the specific topic of the research was, only that it related to domestic partner benefits in California. I did not want to influence their answers by pointing to my hypothesis. I did not want the participants to either consciously or unconsciously answer the questions the way they thought I wanted them to.

I decided to present the questionnaires in person for myriad reasons. One was to be available to answer any clarifying questions that the subjects might have regarding specific questions. The second was to informally talk to them after the questionnaires were completed to gather more information about their feelings and experiences regarding the subject. I also wanted to thank them in person for their assistance.

The first 11 questions presented used a Likert rating scale of 1-5. The participants were asked: *Using the following rating scale, circle one of the numbers below each category that best describes your feelings about each question.*

1. Very Important
2. Somewhat Important
3. Not Important
4. Had not considered
5. Don't know

The questions were:

- How important is it to you (non-monetary) that the State of California recognizes and in a sense validates your relationship by officially recognizing domestic partnerships via the Domestic Partnership Registry?

- How important is it to you that the governmental agencies for which you work or your place of employment (or your partner's if you do not work) offer domestic partnership benefits as part of your compensation package?
- How important is it to you that the organizational culture of your agency or place of employment positively accepts the conferring of domestic partnership benefits to its Gay and Lesbian employees?
- How important is it to you that the State of California is one of only a handful of states with comprehensive domestic partnership benefits legislation pending or adopted?
- How important is it to you to work for an organization that embraces and values its Gay and Lesbian employees?
- How important is it to you that your employer (or your working partner's) has a strong working knowledge of the benefits that are available to registered domestic partners?
- How important is it to you to be abreast of pending state legislation or court decisions that affect you and your partner?
- How important is it to you to receive the same benefits, privileges, and responsibilities afforded to and expected of married couples?
- How important is it to you to have the ability to take time off from work to care for your domestic partner in case of illness or injury?
- How important is it to you that your employer (or your working partner's) goes beyond what is legislated when offering domestic partner benefits?

- How important to you are the non-monetary benefits you and your partner receive from domestic partnership legislation?

The second set of questions did not use the Likert rating scale. Instead, participants were asked a number of questions regarding their thoughts on their current place of employment and why they decided to register with the State. The questions were:

- Why did you register with the State of California as domestic partners? (Circle all that apply)
 - a. Benefits received
 - b. To show commitment to one another
 - c. Symbolic reasons
 - d. Political statement
 - e. Other
- Would you consider leaving your current place of employment because of its lack of domestic partnership benefits?
 - a. Yes
 - b. No
- Which of the following factors would cause you to leave your current place of employment? (Circle all that apply)
 - a. No domestic partnership benefits
 - b. Limited domestic partnership benefits
 - c. Organizational culture of non-diversity
 - d. Organizational culture of intolerance (overt or not) to Gay and Lesbian employees.
 - e. Would not leave

FINDINGS

As mentioned previously, there was not much literature available that directly related to my hypothesis. A review of literature relating to domestic partnership benefits, specifically in the State of California, was undertaken to find if there had been previous measurement of the non-monetary benefits afforded to those in domestic partnerships. The findings for the research come mostly from the thoughts and feelings of the respondents to the survey questions. Some background information was found from different sources regarding the thoughts and feelings of others who have had some exposure to issues dealing with domestic partner benefits in California. Many of those quotes are found in the literature review section.

The results of the survey were collated through quantitative measurement. The responses to the 11 questions that referred to a Likert Scale for responses are listed below:

Fifty nine percent of the respondents said it is very important to them that the State of California recognizes and validates their relationship via the Domestic Partnership Registry. Thirty three percent said it is somewhat important, eight percent said it is not important.

One hundred percent of the respondents said it is very important to them that their employer offers domestic partner benefits as part of their compensation package.

Eighty three percent of the respondents said it is very important to them that the organizational culture of their employer positively accepts the conferring of domestic partnership benefits to its gay and lesbian employees. Seventeen percent said it is somewhat important.

Intrinsic benefits very important

Seventy five percent of the respondents said it is very important to them that the State of California is one of just a few states with comprehensive domestic partnership benefits legislation pending or adopted. Twenty five percent said it is somewhat important.

Eighty three percent of the respondents said it is very important to them that they work for an organization that embraces and values its Gay and Lesbian employees. Seventeen percent said it is somewhat important.

Eighty three percent of the respondents said it is very important to them that their employer has a strong working knowledge of the benefits that are available to registered domestic partners. Seventeen percent said it is somewhat important.

Fifty eight percent of the respondents said it is very important to them to be abreast of pending state legislation or court decisions that affect them and their partner. Forty two percent said it is somewhat important.

Ninety two percent of the respondents said it is very important to them to receive the same benefits, privileges, and responsibilities afforded to and expected of married couples. Eight percent said it is somewhat important.

One hundred percent of the respondents said it is very important to them to have the ability to take time off from work to care for their domestic partner in case of illness or injury.

Eighty three percent of the respondents said it is very important to them that their employer goes beyond what is legislated when offering domestic partnership benefits. Seventeen percent said it is somewhat important.

Finally, 100 % of the respondents said that the non-monetary benefits they and their partner receive from domestic partnership legislation are very important to them.

Each respondent was asked why they had registered with the state as domestic partners. Sixty seven percent said it was for benefits received, 58% said it was to show commitment to one another, 42% said it was for symbolic reasons, 25% said it was a political statement, and 16% (two respondents) wrote in an answer. They are members of a domestic partnership and have two children. Both responses reflect that fact. One wrote, "family benefits reason" and the other wrote, "to facilitate step-parent adoption." Registering with the State of California as domestic partners helped assist in the second parent adoption of their two daughters. (Note: Each respondent could choose up to five reasons in response to the question.)

Each respondent was asked if they would consider leaving their current place of employment because of its lack of domestic partnership benefits. Thirty three percent said they would leave, 67% said they would not leave.

Organizational culture very important

The last question in the survey asked each respondent which factors would cause them to leave their current place of employment. Sixty seven percent said they would leave if there were an organizational culture of intolerance (overt or not) to Gay and Lesbian employees, 58% said they would leave if there were an organizational culture of non-diversity, eight percent said they would leave if there were no domestic partner benefits, eight percent said they would leave if there were limited domestic partner benefits, and

eight percent said they would not leave. As with a previous question, respondents had five responses from which to choose and could choose multiple responses.

The results of the survey given to the twelve respondents support the hypothesis that the non-monetary, intrinsic benefits gleaned from domestic partner benefits are very important to employees of governmental agencies and their domestic partners. The positive recognition of same-sex domestic partnerships by the State of California and local governmental agencies is very important to these employees.

Sixty seven percent of the respondents said they would not leave their current employer because of its lack of domestic partner benefits. The respondent's average tenure at their current employer was 9.5 years. Of the respondents, only four do not depend on seniority at their place of employment for work and shift assignments and opportunities. Also, the average age of the respondents, 42.5 years, shows that on average they are towards the end of their current career. (Assuming each agency has 3% @ 50 CalPERS retirement. One can retire at 50 years of age having accrued 3% salary for every year worked to go towards retirement, up to 90%. For example, an employee who started working at age 25 and retires at age 50 will retire with an income of 75% of their last highest year's salary. One can stay longer than age 50 to get to the maximum 90%). Although income questions were not asked, my personal knowledge of the salary structure of most of those interviewed tells me that high compensation is a factor in not wanting to, or not having the ability to leave, one's current place of employment for any reason. The above factors point to a logical reason why the 67% of the respondents would not leave their current employer because of its lack of domestic partner benefits.

Interestingly, the reasons for leaving that received the highest percentage of responses deal with organizational culture, a non-monetary issue. Sixty seven percent of the respondents said they would leave their current place of employment because of an organizational culture of intolerance (overt or not) to gay and lesbian employees. The responses show that the same respondents who would not leave their current place of employment because of the lack of domestic partnership benefits *would* leave because of an organizational culture of intolerance. Fifty eight percent would leave because of an organizational culture of non-diversity. Only 25% of those who said they would not leave their current place of employment because of the lack of domestic partner benefits said they would leave because of an organizational culture of non-diversity.

CONCLUSION AND AREAS FOR FURTHER RESEARCH

One might ask, is there really a reason to consider the above hypothesis? The benefits are either available or they are not. It is not that simple. There is a sense of belonging to the society in which one lives when one is afforded the rights and recognition from the government that are afforded to other groups and other people. Members of a society that feel included and valued will be more productive, valuable members of that society. The finding of the research show that gay and lesbian Californians who are registered domestic partners value the efforts of the State to grant them the rights, privileges, and responsibilities that are granted to married heterosexual couples.

The quantitative research results of the study indicate that employees feel strongly about the conferring of domestic partnership benefits by the State of California and by their employers. Employees embrace the non-monetary benefits they are afforded. They expect their employer to be consistent when offering benefit packages to *all* employees. They do not want special treatment, just equitable treatment.

The research results show that employees would be willing to leave their employer if there was an organizational culture of intolerance to gay and lesbian employees. The message to employers is clear: in order to attract and retain quality employees an organization must value diversity, offer the same benefits to each employee, and foster a workplace environment of acceptance and valuing all employees.

Areas for further research

Further, more wide ranging study of the hypothesis could show those in decision making positions in California what is important to same sex couples as far as

government recognition and response to their needs. The relatively small number of respondents in this study should be expanded in both size and diversity to more accurately gauge the thoughts and feelings of those affected by domestic partner legislation, laws, decisions, and choices.

Historically, the voices of individuals are seldom heard at the state level. Lobbyists, special interest groups, and the like mostly have access to the ear of lawmakers. The findings of a larger study could go a long way to showing those in power what is important to their constituents.

APPENDIX A



State of California
KEVIN SHELLEY
Secretary of State

FILE NO: _____

DECLARATION OF DOMESTIC PARTNERSHIP

(Family Code Section 298)

Instructions:

1. Complete and mail to: Secretary of State, P.O. Box 942877, Sacramento, CA 94277-0001 (916) 653-3984
2. Include filing fee of \$10.00. Make check payable to Secretary of State.

We the undersigned, do declare that we meet the requirements of Section 297 at this time:

We share a common residence;
We agree to be jointly responsible for each other's basic living expenses incurred during our domestic partnership;
Neither of us is married or a member of another domestic partnership;
We are not related by blood in a way that would prevent us from being married to each other in this state;
We are both at least 18 years of age;
We are both members of the same sex or one/or both of us is/are over the age of 62 and meet the eligibility criteria under Title II of the Social Security Act as defined in 42 U.S.C. Section 402(a) for old-age insurance benefits or Title XVI of the Social Security Act as defined in 42 U.S.C. Section 1381 for aged individuals;
We are both capable of consenting to the domestic partnership;
Neither of us has previously filed a Declaration of Domestic Partnership with the Secretary of State pursuant to Division 2.5 of the Family Code that has not been terminated under Section 299 of the Family Code.

The representations herein are true, correct and contain no material omissions of fact to our best knowledge and belief. Sign and print complete name. Please type or print legibly. Signatures of both partners must be notarized.

Signature _____	(Last) _____	(First) _____	(Middle) _____
Signature _____	(Last) _____	(First) _____	(Middle) _____
Common Residence Address _____	City _____	State _____	Zip Code _____
Mailing Address _____	City _____	State _____	Zip Code _____

E-Mail Address (optional) _____

NOTARIZATION IS REQUIRED

State of California

County of _____

On _____, before me, _____, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Signature of Notary Public _____

[PLACE NOTARY SEAL HERE]

SEC/STATE NP/SF DP-1 (Rev 7/03)

APPENDIX B

Renee McEntire Lee
Director of Human Resources
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

October 11, 1999

Subject: Personnel and Salary Resolution No. 4652

Dear Ms. Lee:

In May 1983, the City of Santa Clara passed Personnel and Salary Resolution No. 4652. Part of the resolution addresses sick leave, specifically its accrual and usage. Section 23 (f), addresses the use of accumulated sick leave to attend to members of the employees "immediate family." For purposes of this section, "immediate family" is defined as *"...the husband, wife, parent, brother, sister, child, father-in-law, mother-in-law, grandparent, grandchild, or any or either of them, or another related member of the household if residing within the home or within the same place of residence of the officer or employee."*

There are omissions in the definition of "immediate family." In our society there are many couples that choose not to marry or are unable to marry. These couples live together, sharing their lives. Under the current definition of "immediate family", these City employees are not able to use "family sick" when their partners are sick or injured. They must use compensatory time off or accrued vacation time. The employee is not sick so the use of regular sick time would be inappropriate.

The above employees are denied a benefit afforded to other City employees.

City Manager's Directive 131 (CMD 131) is the City policy, which addresses Equal Employment Opportunity and Discrimination. The stated purpose of the policy is, *"To reaffirm the City's existing and long term commitment to assure equal employment opportunity to all persons regardless of race, sex, color, religion, religious creed, national origin, ancestry, age, marital status, physical disability, mental disability, medical condition, or sexual orientation, as required by law, to offer employment and employment advancement to all persons on the basis of merit and job-related knowledge, skills and abilities, and to provide a workplace free of unlawful discrimination or harassment."*

The policy states, *"...There shall be no unlawful discrimination or harassment in the work environment or in employment including recruitment, testing, hiring, training, promotion, transfer, demotion, lay off, compensation, benefits, working conditions, disciplinary action, or retirement."*

Personnel and Salary Resolution No. 4652 is in conflict with CMD 131.

California Governor Gray Davis recently signed into law a bill that affirms the rights of unmarried and same-sex couples. Assembly Bill 25, establishes a statewide registry for domestic partners and gives state and local government employers the option of extending benefits to those partners. A second piece of legislation, Assembly Bill 1001, makes it illegal to discriminate against gays or lesbians in employment or housing.

The State of California has demonstrated its resolve to do the right thing with regard to equal protection and rights for all of its citizens. The City of Santa Clara must follow suit and address the antiquated language in Personnel and Salary Resolution No. 4652.

Your prompt attention to this matter would be greatly appreciated.

Sincerely,

Diana Bishop
Sergeant, Santa Clara Police Department

DB/db

CC: Charles Arolla, Chief of Police

APPENDIX C

CITY MANAGER'S DIRECTIVE-PROCEDURE

DATE: December 29, 1999

CANCELS: None

SUBJECT :

DOMESTIC PARTNER ELIGIBILITY FOR SPECIFIC BENEFITS

POLICY :

It is the Policy of the City to provide benefits to the employee, his/her spouse and dependent children. In addition to the spouse and dependent children eligibility to benefits, the following procedure shall be adhered to for eligibility to specific benefits for the domestic partner of the employee and/or for the dependent children of the domestic partner of the employee.

The domestic partner eligibility for specific benefits is effective, as agreed upon in a Memoranda of Understanding between the City of Santa Clara and the employee organizations, for the period 12/29/99-12/20/03. The City shall make all benefit programs available to employees, dependents and domestic partners subject to the requirements of each benefit provider.

For the purpose of this CMD, a domestic partnership is defined as two adults, regardless of gender, who:

- are age 18 or above,
- have chosen to share one another's lives in an intimate and committed relationship and mutual caring,
- live together, and
- have agreed to be jointly responsible for basic living expenses incurred during the domestic partnership.

The following procedure is to be followed for enrollment of the employee's domestic partner and/or the dependent children of the domestic partner.

RESPONSIBILITY :

ACTIONAll Employees

1. Complete the City of Santa Clara forms: "Declaration of Domestic Partnership, Statement of Financial Liability, and Declaration of Eligibility for Economically Dependent

Children (if applicable)" along with the specific benefit enrollment forms at the Human Resources Department, Employee Benefits and Records Division.

Human Resources
Department

2. When the domestic partnership terminates the employee must inform the City of Santa Clara Human Resources Department, Employee Benefits and Record Division immediately.
3. Retain the City forms, "Declaration of Domestic Partnership, Statement of Financial Liability, and Declaration of Eligibility for Economically Dependent Children (if applicable)" in the employee's Medical file. Process the enrollment forms for the specific benefit according to the enrollment procedures.
4. Upon receipt of the signed "Notice of Termination of Domestic Partnership" form the domestic partner and/or the dependent children of the domestic partner benefits will be terminated.
5. Provide notification to the domestic partner and/or the dependent children of their rights to COBRA continuation of benefits, if applicable.

APPENDIX D

Questionnaire

Participant's name: _____
Gender: _____
Age: _____
Employer: _____
Number of years with
current employer: _____
Length of relationship: _____
How long registered: _____

Thank you for your participation in this survey. Your name and employer will be kept confidential. The results of the survey will be used as research findings for a research project regarding domestic partnership benefits in California.

Using the following rating scale, circle one of the numbers below each category that best describes your feelings about each question.

1. Very important
2. Somewhat important
3. Not important
4. Had not considered
5. Don't know

1. How important is it to you (non-monetary) that the State of California recognizes and in a sense validates your relationship by officially recognizing domestic partnerships via the Domestic Partnership Registry?

1 2 3 4 5

2. How important is it to you that the governmental agencies for which you work or your place of employment (or your partner's if you do not work) offer domestic partnership benefits as part of your compensation package?

1 2 3 4 5

3. How important is it to you that the organizational culture of your agency or place of employment positively accepts the conferring of domestic partnership benefits to its Gay and Lesbian employees?

1 2 3 4 5

4. How important is it to you that the State of California is one of only a handful of states with comprehensive domestic partnership benefits legislation pending or adopted?
- 1 2 3 4 5
5. How important is it to you to work for an organization that embraces and values its Gay and Lesbian employees?
- 1 2 3 4 5
6. How important is it to you that your employer (or your working partner's) has a strong working knowledge of the benefits that are available to registered domestic partners?
- 1 2 3 4 5
7. How important is it to you to be abreast of pending state legislation or court decisions that affect you and your partner?
- 1 2 3 4 5
8. How important is it to you to receive the same benefits, privileges, and responsibilities afforded to and expected of married couples?
- 1 2 3 4 5
9. How important is it you to have the ability to take time off from work to care for your domestic partner in case of illness or injury?
- 1 2 3 4 5
10. How important is it to you that your employer (or your working partner's) goes beyond what is legislated when offering domestic partner benefits?
- 1 2 3 4 5
11. How important to you are the non-monetary benefits you and your partner receive from domestic partnership legislation?
- 1 2 3 4 5

12. Why did you register with the State of California as domestic partners? (Circle all that apply)

- a. Benefits received
- b. To show commitment to one another
- c. Symbolic reasons
- d. Political statement
- e. Other _____

13. Would you consider leaving your current place of employment because of its lack of domestic partnership benefits?

- a. Yes
- b. No

14. Which of the following factors would cause you to leave your current place of employment? (Circle all that apply)

- a. No domestic partnership benefits
- b. Limited domestic partnership benefits
- c. Organizational culture of non-diversity
- d. Organizational culture of intolerance (overt or not) to Gay and Lesbian employees.
- e. Would not leave

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