

PORTRAIT OF A SEXUAL CIVIL LIBERTIES LAW OFFICE
a holistic approach

There are many approaches to the practice of law. Some attorneys are trial gladiators; others are office paper strategists. Some work out of social conscience, others out of ego gratification. Some are idealistic and issue oriented; others maximize financial returns. Still others do not practice law at all; they become advisors, consultants, politicians, beaurocrats, and the like. Some lawyers specialize while others remain, at their best, renaissance persons, and, at their worst, dilettantes of the law.

The public view of those who engage in this most varied of professions is as chromatic, inconsistant, and multifarious as the characters who enter the profession and their approaches to the practice. Rèputations go from the extremes of the integrity of an Abraham Lincoln to the self-serving deceitful hypocrisy of some used-car salespersons. Fathers still advise their daughters to marry a doctor or a lawyer; except that some fathers, in the post-Watergate world, now omit lawyers.

The sexual civil liberties attorneys who call their offices "The Center for Education and Legal Advocacy" have created their own definition of what it means to practice their profession. Thomas F. Coleman and Jay M. Kohorn see themselves as participants in and shapers of what they call the most important constitutional movement of this century: the growth of the right to privacy and personal autonomy. Recently they assisted Governor Jerry Brown in drafting the executive order establishing a state Commission on Personal Privacy. In fact, they have created a working relationship with the Governor's office over a period of several years, during which time they have served as consultants to the Governor's staff on issues of a sexual privacy nature.

According to Kohorn, while the concepts of personal autonomy, right of privacy, and the doctrine of separation of church and state are cornerstones of our political and legal systems, these concepts are under heavy attack at this time in history. But he is optimistic: "Through education, the population and its chosen officials may come to understand that these issues are not just 'liberal' ideals. The very foundation of conservative philosophy rests on the premise that government should not intrude upon the lives of its citizens except where absolutely necessary; the power of government should be limited vis-a-vis the personal decisions of the individual. Since some people have difficulty applying this premise to the area of sexual autonomy and sexual privacy, the area of sex law has become the battleground for the most vibrant and important constitutional debates of our day."

However, the problems are not just rhetorical; they are very real and affect a large portion of the population. As Carl Ingram, Los Angeles Times Staff Writer, pointed out in his article (October 19, 1980, front page) on the Governor's privacy commission, the issues affect the life styles of the elderly, persons in nursing home, the mentally handicapped, the physically handicapped, teenagers, single persons, and persons with a same-sex orientation. Ironically, at some time, every person will find him- or herself to be a part of one of these "minorities" and might face some blatant or insidious sexual discrimination.

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Within California, where many reforms in the sexual civil liberties area seem to have given the state a leadership role in the country, Coleman has handled or participated in over a dozen and a half important appellate court and supreme court cases involving such divergent topics as child custody rights for bisexuals, narrowing the scope of prostitution laws, loitering, consenting adult sexual behavior, employment discrimination, battery, and search and seizure. Coleman and Kohorn also are working on a number of projects in the state, such as group medical and hospital insurance plans which now include coverage only for a spouse and not for the unmarried worker's mate.

"It is not sufficient simply to work in California. One must have a national as well as a historical perspective. Over half of the states in the country still criminalize consenting adult sexual conduct. Until a majority of the states and a majority of the population in the country are under a rule of law which leaves private sexual matters to the individual, the Supreme Court of the United States will probably not recognize sexual privacy as a fundamental right guaranteed by the Bill of Rights," Coleman commented when discussing Supreme Court strategy. He felt that the highest court would not create new law but would, at some time, recognize the state of the law which actually exists. Coleman and Kohorn are co-directors of the litigation project of the National Committee for Sexual Civil Liberties. That organization participated in the case which reformed the laws of Pennsylvania last year and in the New York case which could create the majority of the population which Coleman mentioned. If the New York case is won, then 24 of the 50 states will be reformed jurisdictions. A large multi-colored map of the United States in the hallway of their offices keep Coleman and Kohorn reminded of the current state of the law.

"Timing and choice of issues are very important in our work," said Coleman. "Our projects are long range, maybe five to ten years. And it is unreasonable for us to think that we can win all of the battles such as employment discrimination against gay people, when the sexual conduct itself is still a misdemeanor or felony. Prioritizing the issues is most important, especially in states outside California."

The Coleman-Kohorn team also submits "friend-of-the-court" briefs in cases outside the state, and they act as consultants to attorneys working on appellate cases in almost half the states, from Alaska to Washington, D.C. In addition to the litigation work, they give seminars for the Los Angeles County Public Defenders' Office, lectures to many special interest groups, and special assistance to prosecutors' offices in establishing guidelines for filing and prosecuting criminal cases.

Then there are the publications and articles: the Sexual Law Reporter, a national legal periodical, and articles in other legal and medical journals. There are no fewer than 10 ongoing projects besides litigation, publications, and speaking engagements. The employment project deals with the United States Government Office of Personnel Management, the California State Personnel Board, the California Fair Employment Practices Commission, and the United States Equal Employment Opportunity Commission. The bar association project deals

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with drafting resolutions and holding seminars for local, state, and the American Bar associations. The educational project includes advising jury instruction committees, counselling at legal clinics, and preparing and publishing studies dealing with the effects of sex-oriented laws. The criminal law revision project involves drafting proposals for changes in the criminal law as well as testifying at legislative hearings. The effects of the great discretion allowed appellate judges to decide if their opinions are published are explored in the unpublished opinion project. This project includes research, testifying and submitting recommendations to the Chief Justice's Advisory Committee, and publication of articles on the "publication rule", with examples of important unpublished opinions. ¶ The continued cooperation with the Pennsylvania Council on Sexual Minorities, created by executive order of that state's chief executive; executive orders by California's Governor; and rulings by the Fair Employment and Housing Commission and Alcoholic Beverage Control Board in California, are all part of the executive branch project. The study commission project has been involved in the California Commission on Personal Privacy, the Oregon Task Force on Sexual Preference, and the Michigan House of Representatives Civil Rights Committee Task Force on Sexuality. The privacy project is re-examining the prostitution laws throughout the country and their effect on sexual surrogates, motion pictures, and consenting adult private sexual behavior. This project is also working toward sexual privacy legislation and has, in the past been instrumental in altering conditions of probation involved in criminal sentencing. The family law project has dealt with the United States Department of Housing and Urban Development as well as with various insurance companies in both Michigan and California regarding the redefinition of family so that couples living in "stable relationships" but not related by blood, marriage, or adoption, may enjoy the benefits of federal housing as well as employees' health insurance benefits.

In any single week, these attorneys may conduct a criminal trial, write an appellate brief for the supreme court of another state, give a seminar on privacy or some aspect of law, prepare a research report on one of the projects, meet with Governor Brown's staff, act as consultants on a matter with the White House staff, engage in conversations with two dozen attorneys and legal strategists, including the ACLU, regarding cases and discrimination problems in many states throughout the country, and publish an issue of their national legal periodical. It's an approach to practicing law which is both specialized and circumspect. It's involved with politics, maintains its own integrity throughout it all. It does not seek publicity, but works quietly, often through ^{the} bureaucracies. And the list of accomplishments and successes are a testament to the appropriateness of this holistic approach. One of the projects dearest to the attorneys' hearts is the library project, the establishment of a Sexual Civil Liberties Library which will house the legal briefs, cases, legislation, administrative decisions, books and articles which are of benefit to those working in this area. The library would have a consulting service and would develop a network of librarians around the country with expertise in sexual civil liberties issues.