

## **Lesbian and Gay Families with Children: Implications of Social Science Research for Policy**

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*In this paper, we provide an overview of variability across jurisdictions in family law relevant to lesbian and gay parents and their children, showing that some courts have been negatively disposed to these families. We summarize recent research findings suggesting that lesbian and gay parents are as likely as are heterosexual parents to provide home environments that support positive outcomes among children. Research findings suggest that unless and until the weight of evidence can be shown to have shifted, parental sexual orientation should be considered irrelevant to disputes involving child custody, visitation, foster care, and adoption.*

To marry and bring up children are two aims central to the imaginations of many Americans, but these rights often have been denied to lesbian and gay citizens. Popular stereotypes suggest either that lesbian and gay parents do not exist, or that children suffer irreparable harm if brought up in the households of lesbian or gay parents. Evidence from recent research, however, suggests not only that lesbian and gay parents exist in significant numbers, but also that children in their care seem to be developing in a normal fashion (Patterson, 1992, 1995b). Nonetheless, the American legal system frequently has been hostile to lesbian and gay parents and their children. The largest numbers of legal cases have concerned disputes between parents regarding child custody and visitation in the context of divorce proceedings, but prejudice and discrimination against gay and lesbian parents and their children also have been evident in foster care

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We wish to thank Kate Kendell, Sharon Portwood, Dick Reppucci, Allison Rosenberg, and our anonymous reviewers for their helpful comments on earlier drafts of this paper.

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and adoption policies in many jurisdictions (Editors of the *Harvard Law Review*, 1990).

In this paper, we provide an overview of the current state of family law with regard to lesbian and gay parents and their children in the United States. The policies that show least variability across the states concern the right to legal marriage: the states uniformly withhold legal recognition from same-sex marriages. On the other hand, relevant legal precedents about child custody and adoption vary enormously from jurisdiction to jurisdiction. In some states, the law treats parental sexual orientation as irrelevant for purposes of child custody deliberations or adoption proceedings, while in others, it is regarded as significant, even central. With the variability in law across jurisdictions as background, we then summarize estimates of the prevalence of gay and lesbian parenting, as well as recent research evidence about lesbian and gay families with children. Without denying the provisional nature of understanding in this field, and while recognizing the need for more research, we nevertheless suggest that the results of research to date are exceptionally clear. There is no evidence in the social science literature of any significant difficulties experienced by children brought up in the households of lesbian or gay parents, relative to those experienced by children growing up in otherwise comparable heterosexual homes. On the contrary, research evidence suggests that gay and lesbian parents are as likely as heterosexual parents to provide home environments that support positive developmental outcomes among children growing up in them (Patterson, 1992, 1995b).

Next, we turn to a consideration of the possible implications of research findings for legal decision making. The most obvious implication of research findings in this area is that unless and until the weight of the evidence can be shown to have shifted, sexual orientation should be considered irrelevant to disputes involving child custody, visitation, foster care, and adoption. Recent developments in various jurisdictions are discussed, and directions for future work in this area are considered.

### The Legal Status of Lesbian and Gay Parents and Their Children

The family holds a special place in American life, and this is reflected in law. The United States Supreme Court has held that rights central to family life such as the right to marry (*Loving v. Virginia*, 1967) and to procreate (*Skinner v. Oklahoma*, 1942) are "fundamental rights" guaranteed by the Constitution. Fundamental rights are "deeply rooted in this Nation's history and tradition" (*Moore v. City of East Cleveland*, 1977, p. 503), and are "implicit in the concept of ordered liberty" (*Palko v. Connecticut*, 1937, pp. 325-326). A fundamental right may be exercised freely unless the state can show a compelling need to regulate or to interfere with the right (*Prince v. Massachusetts*, 1944). The United States

Supreme Court repeatedly has reaffirmed the fundamental right of parents to raise their children as they see fit (*Meyer v. Nebraska*, 1923; *Pierce v. Society of Sisters*, 1925). This right is so well established that it is considered "beyond the need for multiple citation" in Supreme Court opinions (*Lassiter v. Dept. of Social Services*, 1981, p. 27).

The "fundamental rights" to marry and to raise children have not, however, been extended equally to lesbian and gay Americans (Cain, 1993; Editors of the *Harvard Law Review*, 1990; Rivera, 1991; Rubenstein, 1991). Many lesbian and gay adults have been denied the opportunity to become foster or adoptive parents (Patterson, 1995c; Ricketts, 1991; Ricketts & Achtenberg, 1990), or have had custody or visitation with their biological children denied or curtailed solely because of their sexual orientation (Cain, 1993; Rivera, 1991). The lives of many children, most of whom will themselves grow up to identify as heterosexual, also have been disrupted because of discrimination based on the sexual orientation of a parent or prospective parent. At the time of this writing, same-sex marriage remains illegal throughout the United States (Eskridge, 1993). However fundamental the right to marry the person of one's choice may seem to other Americans, this right has routinely been withheld from lesbian and gay Americans. Similarly, although most Americans take for granted the right to bring up their children as they see fit, this opportunity has not been open to lesbian and gay Americans in many parts of the country.

Important underpinnings of discrimination against lesbians and gay men in many states are provided by the so-called sodomy laws (Rivera, 1991). Less than 50 years ago, every state in the Union had sodomy laws, making private oral or anal sexual acts between consenting adults a criminal offense—often, a felony. These laws gradually have undergone repeal in many states. A number of sodomy laws have been voided by legislatures or courts, but sodomy restrictions are still on the books in more than a third of the states. A criminal law against sodomy was first upheld by a federal appeals court in *Doe v. Commonwealth's Attorney* (1975), which found that the practice of sodomy undermines family life. More recently, the United States Supreme Court upheld a state sodomy law, holding that the right to perform sexual acts that constitute sodomy is not deeply rooted in American tradition (*Bowers v. Hardwick*, 1986). The sodomy laws are central to discrimination against lesbian and gay parents and their children because courts have often used the illegality of parents' presumed sexual conduct to justify the denial of child custody or the curtailment of visitation (e.g., *Bottoms v. Bottoms*, 1995; *Roe v. Roe*, 1985; *Thigpen v. Carpenter*, 1987).

When discrimination against lesbian and gay parents and their children has been evident, it has been based not only upon the criminalization of private sexual activities, but also upon moral views about such conduct. In *Bowers*, for example, Chief Justice Burger argued that to legalize the sexual acts that constitute sodomy "would be to cast aside millennia of moral teaching" (p. 197). A

Missouri court held that "morality is always a factor in [child custody] cases" (*L. v. D.*, 1982, p. 244; *S.E.G. v. R.A.G.*, 1987, p. 165). In other cases, the Missouri Court of Appeals cited *Bowers* in support of the principle that gay lifestyles are immoral (*J.P. v. P.W.*, 1989; *Roberts v. Roberts*, 1985). In *Roberts*, for instance, the court stated that "the state has a substantial interest in viewing homosexuality as an errant sexual behavior which threatens the social fabric, and in endeavoring to protect minors from being influenced by those who advocate homosexual lifestyles" (*Roberts v. Roberts*, 1985, p. 1070).

Life, liberty, and the pursuit of happiness thus are limited in a number of ways for lesbian and gay Americans. Fundamental rights, such as the right to marry the person of one's choice, are denied to those who identify as lesbian or gay. Criminalization of private sexual conduct is used in many jurisdictions to justify discrimination against lesbians and gay men in child custody, visitation, foster care, and adoption, even though similar or identical activities are also practiced by many heterosexual adults (Laumann, Gagnon, Michael, & Michaels, 1994). Some courts even have offered their views on morality as possible explanations for such discrimination.

#### *State Laws on Child Custody and Visitation by Gay Men and Lesbians*

Custody and visitation cases are decided by trial judges under state law, with federal constitutional law defining the permissible boundaries of state legislation and court decisions. Whether under statute or under case law (see Editors of the *Harvard Law Review*, 1990, p. 120), judges must decide custody and visitation solely according to what is in the "best interest of the child." Some state statutes list factors that judges must consider in deciding the child's best interest. Factors like a parent's "moral fitness" [e.g., Fla. Stat. Sect. 61.13(3)(f), 1984] open the door to consideration of a parent's sexual orientation (Editors of the *Harvard Law Review*, 1990). Even with statutory guidelines, decisions about child custody can be highly subjective (Reppucci & Crosby, 1993; Mnookin, 1978). As Mnookin has commented, "deciding what is best for a child often poses a question no less ultimate than the purposes and values of life itself" (Mnookin, 1978, p. 164).

Like federal court decisions in *Doe* and *Bowers*, state laws on child custody and visitation may reflect the morality of the heterosexual majority. For instance, the Missouri Court of Appeals observed that "homosexual practices have been condemned since the beginning of recorded history" (*L. v. D.*, 1982, p. 243, citing *Doe*). In another case, because the mother's lesbian relationship was sanctioned neither by society nor the law, the North Dakota Supreme Court held that the child's best interests were served by giving custody to his father (*Jacobson v. Jacobson*, 1981). In a New Jersey case, a judge opined that "children should not be victims of an avant-garde tolerance that does not represent the thinking of the vast majority of society" (*M.P. v. S.P.*, 1979, p. 1270).

The moral and religious values of judges frequently lurk in the background in custody decisions, but they are sometimes made explicit. This is illustrated in a dissent to *Chicoine v. Chicoine*, a 1992 South Dakota case. Referring to the lesbian mother, the judge wrote,

For years, she has followed a life of perversion . . . [and used] a cunning plan, by employing a psychologist, to wrest away good judgment from the judicial officers . . . . Until such time that she can establish, after years of therapy and demonstrated conduct, that she is no longer a lesbian living a life of abomination (see Leviticus 18:22), she should be totally stopped from contaminating these children . . . . homosexuals, such as Lisa Chicoine, are committing felonies, by their acts against nature and God . . . . The Bible decries it. (pp. 896–897)

Other courts have rejected the notion that the moral views of heterosexual judges should prevail in these cases. The Supreme Judicial Court of Massachusetts held, for instance, that lesbians and gay men cannot be denied custody "simply because their households fail to meet the ideals approved by the community . . . [or] simply because the parents embrace ideologies or pursue life-styles at odds with the average" (*Bezio v. Patenaude*, 1980, p. 1216). The extent to which judges' own views of morality enter into their decision making thus varies from jurisdiction to jurisdiction.

The extent to which a parent's sexual identity is considered relevant in deciding a child's best interest varies from state to state (Brantner, 1992). In about half of the states (e.g., Alaska, California, Massachusetts, New York), parental sexual orientation is considered relevant to child custody and visitation disputes only if it can be shown to have an adverse impact on the child. Before parental sexual orientation can be considered as a factor relevant to the child's best interests, in these states a connection, or *nexus*, must be demonstrated between a parent's sexual orientation, on the one hand, and a negative outcome for the child, on the other. In a few states (e.g., Arkansas, Missouri, Oklahoma, Virginia), lesbian and gay parents are presumed to be unfit custodians of their children, but this presumption can be rebutted by evidence that the parent's behavior will not adversely affect the child. In the remainder of the states, there is either no explicit rule, or the law remains unsettled (Brantner, 1992).

In some jurisdictions, then, a parent is presumed unfit unless the parent can demonstrate that he or she will not live with a same-sex partner, show affection to a same-sex partner in the child's presence, or expose the child to lesbian or gay influences. In refusing to grant custody to a lesbian or gay parent, courts have noted that the parent continued living a gay lifestyle [*L. v. D.*, 1982], took the child to gay activist groups and gay church meetings [*J.L.P.(H.) v. D.J.P.*, 1982], held hands with a same-sex partner in the child's presence (*M.J.P. v. J.G.P.*, 1982), or slept with a same-sex partner in the home (*S.E.G. v. R.A.G.*, 1987). Similarly, courts have conditioned visitation upon a parent promising not to engage in same-sex social or sexual activity in the presence of the child

[*Dailey v. Dailey*, 1981; *L. v. D.*, 1982; *J.L.P.(H.) v. D.J.P.*, 1982]. Some courts have refused altogether to allow children to stay overnight with a lesbian or gay parent [*J.L.P.(H.) v. D.J.P.*, 1982]. One appellate court directed the trial judge to terminate a gay father's visitation with his children unless safeguards could be fashioned to protect children from exposure to the gay father's way of life (*Roberts v. Roberts*, 1985).

While no state still adheres to the strict rule that gay parents are per se unfit as a matter of law, the strongest presumptions against lesbian and gay parents would appear to be in place in Virginia and in Missouri. In *Bottoms v. Bottoms* (1995), the Virginia Supreme Court recently reaffirmed its rejection of a per se rule, but reiterated its strong presumption against lesbian and gay parents. In this decision, the Virginia Supreme Court cited the existence of sodomy laws that criminalize much private consensual sexual behavior between members of the same sex. The court also reiterated its assumption (first expressed in *Roe v. Roe*, 1985) that any child in custody of a lesbian or gay parent would suffer an "intolerable burden" as a result of the social stigma attached to the parent's sexual identity. Similarly, although one Missouri case expressly rejected a per se rule and discussed the nexus requirement (*T.C.H. v. K.M.H.*, 1989), others used language suggesting that gay parents are unfit (e.g., *J.P. v. P.W.*, 1989; see Brantner, 1992). The Missouri Court of Appeals held that it is in the child's best interest to award custody to a heterosexual parent (*S.L.H. v. D.B.H.*, 1988) and that lesbian or gay parents should not have unsupervised visitation (*J.P. v. P.W.*, 1989).

In other jurisdictions, however, sexual orientation increasingly is considered irrelevant to custody and visitation disputes. Most states remain faithful to the best interests standard by considering the parent's homosexual conduct only as far as it affects the child. These courts will deny custody because of a parent's sexual orientation only if a connection can be shown between parental sexual orientation and some adverse effect on the child. The California Court of Appeals took this approach in *In re Marriage of Birdsall* (1988): "Evidence of one parent's homosexuality without a link to detriment to the child, is insufficient to constitute harm . . . but the court may consider a parent's homosexuality as a factor" (p. 1031). The Alaska and Iowa Supreme Courts both rejected claims that a mother's lesbian relationship adversely affected her child (*In re Marriage of Will*, 1992; *S.N.E. v. R.L.B.*, 1985), and the Iowa court removed a visitation restriction that no other unrelated adults be present during visitation (*In re Marriage of Walsh*, 1990). Overall, the growth of laws governing child custody and visitation over time appears to be in the direction of requiring a demonstration of harm before parental sexual orientation can be taken into account as an adverse factor.

#### State Laws on Adoption

Legal adoptions of minor children by lesbian or gay adults generally fall into one of two major categories (Patterson, 1995c). When biological parents are

unable or unwilling to care for a child, and an adoptive parent offers to provide that child with a home, the result is called a *stranger adoption*. In such cases, the courts dissolve existing legal bonds and create a new legal relationship between the child and the adoptive parent. *Second-parent adoptions* are pursued by lesbian or gay couples who raise a child together, although only one member of the couple—the biological or legal adoptive parent—is a legal parent. These couples seek legal recognition of the relationship between the other parent and the child. In recent years, both types of adoptions have been completed by openly lesbian and gay individuals in the United States (Polikoff, 1990).

Like laws on custody and visitation, those governing adoption vary enormously across the states (Patterson, 1995c). At the time of this writing, adoption of minor children by lesbian and gay adults is specifically barred by statute in two states, Florida and New Hampshire. In other states, such as New York and Massachusetts, the law is more favorable for prospective adoptive parents who identify themselves as lesbian or gay. For example, in a landmark New York second-parent adoption case, *In re Adoption of Evan* (1992), the court noted that "[t]he fact that the petitioners here maintain an open lesbian relationship is not a reason to deny adoption . . . a parent's sexual orientation or sexual practices are presumptively irrelevant . . ." (*In re Adoption of Evan*, 1992, pp. 1001–1002).

Even though state adoption laws vary, both stranger adoptions and second-parent adoptions by openly lesbian and gay adults have occurred in numerous jurisdictions. Openly lesbian or gay adults have completed stranger adoptions in California, the District of Columbia, and Ohio. Many more stranger adoptions have undoubtedly been accomplished by lesbian or gay parents in other states without their sexual orientations becoming a topic of public discussion. In addition, second parent adoptions have been granted in Alaska, California, the District of Columbia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Texas, Vermont, and Washington. State supreme courts in Massachusetts, Vermont, and Wisconsin have ruled on the legality of second-parent adoptions, and two of the three—Massachusetts (*Adoption of Tammy*, 1993) and Vermont (*Adoptions of B.L.V.B. & E.L.V.B.*, 1993)—have affirmed them.

#### Overview of Social Science Research Findings

How do the results of social science research address the legal and policy issues raised by child custody, visitation, and adoption by lesbian and gay adults? In this section, we first describe estimates of the numbers of lesbian mothers, gay fathers, and their children in the United States today. We then turn to research on lesbian and gay parents themselves and on their children. These studies suggest that large numbers of lesbian and gay adults are raising children and that both lesbian and gay parents themselves and the children in their care are difficult to

distinguish, in terms of mental health and adjustment, from heterosexual parents and the children in their care.

#### *Numbers of Lesbian and Gay Parents and Their Children*

The numbers of lesbian and gay adults in the United States today cannot be estimated with confidence. Because of fear of discrimination, many take pains to conceal their sexual orientation (Blumenfeld & Raymond, 1988). Locating gay and lesbian parents is especially difficult. Fearing that they would lose child custody or visitation rights if their sexual orientation were known, many lesbian and gay parents attempt to conceal their gay or lesbian identities (Pagelow, 1980), sometimes even from their own children (Dunne, 1987).

Despite acknowledged uncertainties, estimates of lesbian- and gay-parented families with children in the United States have been offered. The numbers of lesbian mothers are estimated to range from about 1 to 5 million, and gay fathers from 1 to 3 million (Gottman, 1990). Estimates of the numbers of children of gay or lesbian parents range from 6 million to 14 million (Editors of the *Harvard Law Review*, 1990).

In addition to lesbians and gay men who became parents in the context of heterosexual marriages before adopting lesbian or gay identities, growing numbers are also becoming parents after coming out (Martin, 1993). One recent estimate holds that 5 to 10 thousand lesbians have borne children after coming out (Seligmann, 1990). The number of lesbians who are bearing children conceived through donor insemination also is believed to be increasing (Martin, 1993; Patterson, 1994a, 1994b). Additional avenues to parenthood, such as foster care, adoption, coparenting, and multiple parenting, are also being explored increasingly both by lesbians and gay men (Patterson, 1995d; Ricketts, 1991; Ricketts & Achtenberg, 1990). Estimates like those given above may therefore minimize the actual numbers.

#### *Judicial Concerns and Social Science Research on Lesbian and Gay Parents*

One issue underlying both judicial decision making in custody litigation and public policy governing foster care concerns the fitness of lesbians and gay men to be parents. Courts sometimes have assumed that lesbians and gay men are mentally ill and hence not fit to be parents, that lesbians are less maternal than are heterosexual women and hence do not make good mothers, and that lesbians' and gay men's relationships with sexual partners leave little time for ongoing parent-child interactions (Editors of the *Harvard Law Review*, 1990; Herek, 1991).

Results of research to date fail to confirm any of these fears (Falk, 1989; Herek, 1991; Patterson, 1994b, 1995b, 1995d). The idea that homosexuality

constitutes a mental illness or disorder was rejected by the American Psychological Association over 20 years ago (Committee on Lesbian and Gay Concerns, 1991). Research studies have reported that lesbian and heterosexual women do not differ markedly either in terms of measures of overall mental health or in their approaches to child rearing (Kweskin & Cook, 1982; Lyons, 1983; Miller, Jacobsen, & Bigner, 1981; Mucklow & Phelan, 1979; Pagelow, 1980; Rand, Graham, & Rawlings, 1982; Thompson, McCandless, & Strickland, 1971). These studies also have failed to support the contention that lesbians' romantic and sexual relationships with other women detract from their ability to care for their children (Pagelow, 1980). Recent evidence suggests that lesbian couples who are parenting together tend to divide household and family labor relatively evenly (Hand, 1991; Patterson, 1995a), and to report satisfaction with their couple relationships (Koepke, Hare, & Moran, 1992; Patterson, 1995a). Research on gay fathers similarly has been unable to unearth any reasons to believe that, as a group, these men are unfit as parents (Barret & Robinson, 1990, 1994; Bozett, 1980, 1989; Robinson & Barret, 1986). In general, then, negative assumptions about gay and lesbian adults' fitness as parents appear to be without empirical foundation (Cramer, 1986; Falk, 1989, 1994; Gibbs, 1988; Patterson, 1995d).

#### *Judicial Concerns About Children of Lesbian and Gay Parents*

In addition to judicial concerns about gay and lesbian parents themselves, courts have voiced three major kinds of fears about effects of lesbian or gay parents on children. In this section, we outline these concerns; in the next section, we summarize research findings relevant to each issue. The first general concern is that development of sexual identity will be impaired among children of lesbian or gay parents. It has been suggested, for instance, that children brought up by gay fathers or lesbian mothers will show disturbances in gender identity and/or in gender role behavior (Falk, 1989, 1994; Green, 1982; Kleber, Howell, & Tibbits-Kleber, 1986). It may also be suggested that children brought up by lesbian mothers or gay fathers will themselves become gay or lesbian (Falk, 1989; Green, Mandel, Hotvedt, Gray, & Smith, 1986; Kleber et al., 1986), an outcome that the courts generally view as undesirable.

Concerns about the development of gender identity among children of lesbian or gay parents have been expressed by a number of courts. For example, in 1987, the New Hampshire Supreme Court found that "the source of sexual orientation is still inadequately understood" (*Opinion of the Justices*, 1987, p. 25), and so the court relied upon their understanding of social learning theory to support the constitutionality of a state statute prohibiting adoption of minor children by lesbian and gay adults. "The role model theory provides a rational basis on which to exclude homosexuals . . . because it is in the familial context

that the theory of learned sexual preference is most likely to be true" (*Opinion of the Justices*, 1987, pp. 25–26). Similarly, in *Lundin v. Lundin* (1990), the Louisiana Court of Appeals recently decided that children of a lesbian mother should spend more time with their heterosexual father under a joint custody arrangement because the mother's "sexual preference is known and openly admitted, . . . there have been open, indiscreet displays of affection . . . and . . . the child is of an age where gender identity is being formed" (p. 1277). The possibility that children living in the custody of a lesbian mother might have an elevated probability of themselves identifying as gay or lesbian was also identified as an important issue in a case heard by the Supreme Court of North Dakota (*Jacobson v. Jacobson*, 1981).

A second category of concerns involves aspects of children's personal development other than sexual identity (Falk, 1989, 1994; Green, 1982; Editors of the *Harvard Law Review*, 1990; Kleber et al., 1986). For example, courts have expressed fears that children in the custody of gay or lesbian parents will be more vulnerable to mental breakdown, or will exhibit more adjustment difficulties and behavior problems. It also is argued sometimes that these children will be less psychologically healthy or less well adjusted than children growing up in homes with heterosexual parents. For instance, in *L. v. D.* (1982), the Missouri Court of Appeals stated that "the probably devastating effect of that life-style upon children has been established" (p. 244).

A third general category of concern expressed by the courts is that children of lesbian and gay parents may experience difficulties in social relationships (Editors of the *Harvard Law Review*, 1990; Falk, 1989, 1994; Green, 1982). Judges have repeatedly expressed concern that children living with lesbian mothers may be stigmatized, teased, or otherwise traumatized by peers. As the court stated in *Jacobson v. Jacobson* (1981, p. 81), the children may suffer "the slings and arrows of a disapproving society." For instance, in *Thigpen v. Carpenter* (1987), the Court of Appeals of Arkansas observed that "homosexuality is generally socially unacceptable, and the children could be exposed to ridicule and teasing by other children" (p. 514). Similarly, the Virginia Supreme Court gave custody to a heterosexual mother, explaining that if the gay father had been awarded custody of his daughter, "social condemnation . . . will inevitably afflict her relationships with her peers and with the community at large" (*Roe v. Roe*, 1985, p. 694).

A more specific fear expressed by some courts is that children living with lesbian or gay parents may be more likely to be sexually abused by the parent or by the parent's friends or acquaintances. For instance, in *In the Matter of J. S. & C.* (1976), an expert testified that if the father's visitation were to be expanded, "it is possible that these children upon reaching puberty would be subject to either overt or covert homosexual seduction" (p. 96). In another case, an expert testified that the likelihood of sexual abuse was not increased if children spent

time with a gay parent, but the court dismissed the testimony, stating that "Every trial judge . . . knows that the molestation of minor boys by adult males is not as uncommon as the psychological experts' testimony indicated" [*J.L.P.(H.) v. D.J.P.*, 1982, p. 869].

Because negative assumptions like these are open to empirical test, psychological research can help evaluate their accuracy. Only in the last 20 or so years, however, has systematic research comparing children of gay and lesbian parents with those of heterosexual parents appeared in the research literature. Case reports began to appear in the psychiatric literature in the early 1970s (e.g., Osman, 1972; Weeks, Derdeyn, & Langman, 1975) and have continued to appear (e.g., Agbayewa, 1984). Beginning with the pioneering work of Martin and Lyon (1972), first person and fictionalized descriptions of life in lesbian mother families have also become available (e.g., Alpert, 1988; Clausen, 1985; Jullion, 1985; Mager, 1975; Perreault, 1975; Pollock & Vaughn, 1987; Rafkin, 1990; Rizzo, Schneiderman, Schweig, Shafer, & Stein, 1995). Systematic research on the children of lesbian and gay parents began to appear in major professional journals in the late 1970s, and most of the available research has been published more recently.

#### *Research on Sexual Identity Among Children of Lesbian and Gay Parents*

Three aspects of sexual identity are considered in the research (Patterson, 1992). Gender identity concerns a person's self-identification as male or female. Gender role behavior concerns the extent to which a person's activities, occupations, and the like are regarded by the culture as masculine, feminine, or both. Sexual orientation refers to a person's choice of sexual partners—e.g., heterosexual, homosexual, or bisexual. To examine the possibility that children in the custody of lesbian mothers or gay fathers experience disruptions of sexual identity, research relevant to each of these three facets of sexuality is summarized below.

*Gender identity.* In studies of children ranging in age from 5 to 14, results of projective testing and of related interview procedures have revealed normal development of gender identity among children of lesbian mothers (Green, 1978; Green et al., 1986; Kirkpatrick, Smith, & Roy, 1981). More direct assessment techniques have been used by other investigators to assess gender identity (Golombok, Spencer, & Rutter, 1983), with the same result; all children in this study reported that they were happy with the sex to which they belonged, and that they had no wish to be a member of the opposite sex. There was no evidence in any of the studies of gender identity difficulties among children of lesbian mothers or of gay fathers.

*Gender role behavior.* A number of studies have examined gender role behavior among the offspring of lesbian mothers (Golombok et al., 1983; Gottman, 1990; Green, 1978; Hoefler, 1981; Kirkpatrick et al., 1981; Patterson, 1994a). These studies have reported that such behavior among children of lesbian mothers fell within conventional limits. For instance, Kirkpatrick and her colleagues (1981) found no differences between children of lesbian vs. heterosexual mothers in toy preferences, activities, interests, or occupational choices.

Rees (1979) administered the Bem Sex Role Inventory to 24 adolescents, half of whom had divorced lesbian and half of whom had divorced heterosexual mothers. Children of lesbian and heterosexual mothers did not differ on masculinity or on androgyny, but children of lesbian mothers reported greater psychological femininity than did those of heterosexual mothers. This result would seem to run counter to expectations based on stereotypes of lesbians as lacking in femininity, both in their own demeanor and in their likely influences on children.

Sex role behavior of lesbian and heterosexual mothers' children was also assessed by Green and his colleagues (1986). In interviews with the children, no differences between 56 children of lesbian and 48 children of heterosexual mothers were found with respect to favorite television programs, favorite television characters, or favorite games or toys. There was some indication in interviews with children themselves that the offspring of lesbian mothers had less sex-typed preferences for activities at school and in their neighborhoods than did children of heterosexual mothers. Consistent with this result, lesbian mothers were also more likely than were heterosexual mothers to report that their daughters often participated in rough-and-tumble play or occasionally played with "masculine" toys such as trucks or guns; however, they reported no differences in these areas for sons. Lesbian mothers were no more or less likely than heterosexual mothers to report that their children often played with "feminine" toys such as dolls. In both family types, however, children's sex role behavior was seen as falling within normal limits. In summary, the research suggests that children of lesbian mothers develop patterns of gender role behavior that are much like those of other children.

*Sexual orientation.* A number of investigators have studied a third component of sexual identity, sexual orientation (Bailey, Bobrow, Wolfe, & Mikach, 1995; Bozett, 1980, 1982, 1987, 1989; Gottman, 1990; Golombok et al., 1983; Green, 1978; Huggins, 1989; Miller, 1979; Paul, 1986; Rees, 1979; Tasker & Golombok, 1995). In all of these studies, the great majority of offspring of both gay fathers and lesbian mothers, described themselves as heterosexual. For instance, Tasker and Golombok (1995) interviewed 25 young adult offspring of divorced lesbian mothers and 21 of divorced heterosexual mothers. Two of the offspring of lesbian mothers, but none of the offspring of heterosexual mothers, identified themselves as lesbian or gay; this difference was not statistically signif-

icant. Huggins (1989) interviewed 36 teenagers, half of whom were offspring of lesbian mothers and half of heterosexual mothers. No child of a lesbian mother identified as lesbian or gay, but one child of a heterosexual mother did; again, this difference was not statistically significant. In a recent study, Bailey and his colleagues (1995) studied adult sons of gay fathers and found more than 90% of the sons identified as heterosexual. Because the heterosexual and nonheterosexual sons did not differ in the length of time they had resided with their fathers, the authors suggested that environmental effects on sexual orientation of the sons must either have been small or nonexistent.

*Summary.* Overall, then, results of research to date suggest that concerns about disruption of sexual identity among children of gay and lesbian parents are not warranted. Although studies have assessed over 300 offspring of lesbian or gay parents in many different samples, no evidence has been found for disturbances in the development of sexual identity among these individuals. Fears about difficulties with sexual identity among children of gay and lesbian parents have not been supported by the results of empirical research.

#### *Research on Other Aspects of Personal Development Among Children of Lesbian and Gay Parents*

Studies of other aspects of personal development among children of gay and lesbian parents have assessed a broad array of characteristics. Among these have been separation-individuation (Steckel, 1985, 1987), psychiatric evaluation (Golombok et al., 1983; Kirkpatrick et al., 1981; Tasker & Golombok, 1995), assessments of behavior problems (Flaks, Ficher, Masterpasqua, & Joseph, 1995; Golombok et al., 1983; Patterson, 1994a), personality (Gottman, 1990), self-concept (Gottman, 1990; Huggins, 1989; Patterson, 1994a; Puryear, 1983), locus of control (Puryear, 1983; Rees, 1979), moral judgment (Rees, 1979), and intelligence (Flaks et al., 1995; Green et al., 1986). Concerns of judges about difficulties in personal development in these areas among children of lesbian mothers have not been sustained by results of the research. As was the case for sexual identity, studies of these other aspects of personal development have revealed no major differences between children of lesbian and of heterosexual mothers. One statistically significant difference in self-concept emerged in Patterson's (1994a) study; children of lesbian mothers reported greater symptoms of stress but also a greater sense of well-being than did children in a comparison group of heterosexual families (for further discussion of this finding, see Patterson, 1994a). The responses of both groups were, however, within a normal range (Patterson, 1994a). Overall, fears that children of gay and lesbian parents suffer deficits in personal development appear to be without empirical foundation.

### *Research on Social Relationships Among Children of Lesbian and Gay Parents*

Studies assessing potential differences between children of gay and lesbian vs. heterosexual parents sometimes have included assessments of children's social relationships. The most common focus of attention has been on peer relations, but some information on children's relationships with adults has also been collected. These research findings, together with studies that address the likelihood of sexual abuse of children by lesbian or gay parents, are summarized in this section.

Research on peer relations among children of lesbian mothers has been reported by Golombok and her colleagues (1983), by Green (1978), by Green and his colleagues (1986), and by Tasker and Golombok (1995). In these investigations, reports by both parents and children suggest normal development of peer relationships. For example, as would be expected, most school-aged children reported same-sex best friends and predominantly same-sex peer groups (Golombok et al., 1983; Green, 1978). The quality of children's peer relations was described, on average, in positive terms by researchers (Golombok et al., 1983) as well as by lesbian mothers and their children (Green et al., 1986). Further, young adult offspring of lesbian mothers included in these studies were no more likely than were those of heterosexual mothers to recall having been teased or bullied by their peers during childhood or adolescence (Tasker & Golombok, 1995).

Studies of relationships with adults among the offspring of lesbian and gay parents also have yielded a generally positive picture (Golombok et al., 1983; Harris & Turner, 1985/86; Kirkpatrick et al., 1981). Golombok and her colleagues (1983) found that children of divorced lesbian mothers were more likely to have had recent contact with their fathers than were children of divorced heterosexual mothers. Another study found no differences in this regard (Kirkpatrick et al., 1981). Harris and Turner (1985/86) studied the offspring of gay fathers as well as those of lesbian mothers; parent-child relationships were described in positive terms by parents in their sample. One significant difference between lesbian and gay parents, on the one hand, and heterosexual parents, on the other, was that heterosexual parents were more likely to say that their children's visits with the other parent presented problems for them (Harris & Turner, 1985/86).

Finally, concerns that children of gay or lesbian parents are more likely than are children of heterosexual parents to be sexually abused have been addressed. Results of work in this area reveal that the great majority of adults who perpetrate sexual abuse are male; sexual abuse of children by adult women is extremely rare (Finkelhor & Russel, 1984; Jones & MacFarlane, 1980; Sarafino, 1979). Thus, lesbian mothers are at very low risk for sexual abuse of their children. Moreover, the overwhelming majority of child sexual abuse cases can be characterized as

heterosexual in nature, with an adult male abusing a young female (Jenny, Roesler, & Poyer, 1994; Jones & MacFarlane, 1980). Available evidence reveals that gay men are no more likely than are heterosexual men to perpetrate child sexual abuse (Groth & Birnbaum, 1978; Jenny et al., 1994; Sarafino, 1979). Fears that children in custody of gay or lesbian parents might be at heightened risk for sexual abuse thus are without basis in the research literature.

In summary, results of research to date suggest that children of lesbian and gay parents have normal relationships with peers and that their relationships with adults of both sexes also are satisfactory. The picture of lesbian mothers' children that emerges from results of existing research is one of general engagement in social life with peers, with fathers, and with mothers' adult friends—both male and female, heterosexual and homosexual. Studies in this area to date are few, and the data emerging from them are still somewhat sketchy. On the basis of existing research findings, however, fears about children of lesbians and gay men being sexually abused by adults, ostracized by peers, or isolated in single-sex lesbian or gay communities are all unfounded.

### **Implications of Research for Legal Decision Making**

This review of the scientific literature reveals no evidence suggesting that psychosocial development among children of gay men or lesbians is compromised in any significant respect relative to that among offspring of heterosexual parents. Not a single study has found children of gay or lesbian parents to be disadvantaged in any important way relative to children of heterosexual parents. Indeed, the evidence to date suggests that home environments provided by gay and lesbian parents are as likely as are those provided by heterosexual parents to support and to enable children's psychosocial growth. For this reason, and in view of the needs of children who are involved, we suggest that for purposes of child custody, visitation, foster care, and adoption, the sexual orientation of parents or prospective parents should be considered irrelevant.

Without denying the clarity of research findings to date, it is important also to acknowledge that work in this area has presented a variety of methodological challenges. As is true in any area of behavioral research, questions can be raised with regard to individual studies about sampling techniques, statistical power, and other technical matters (Belcastro, Gramlich, Nicholson, Price, & Wilson, 1993; Patterson, 1992, 1995b). For instance, most studies have been based on relatively small groups of participants, and few have involved longitudinal designs. A particularly notable weakness of existing research has been the tendency in some studies to compare development among children of a group of divorced lesbian mothers, many of whom are living with lesbian partners, to that among children of a group of divorced heterosexual mothers who are not currently living with heterosexual partners. It will be important for future research to separate the

potential significance of maternal sexual orientation from that of mothers' partner status.

Recently, Belcastro and his colleagues (1993) have discussed sampling issues in research on children of lesbian and gay parents. They suggested that the research on lesbian and gay parents and their children lacks external validity because it fails to establish that samples are representative of the populations from which they were drawn. After a review of some well-known studies in this area, Belcastro and his colleagues concluded that "not a single study remotely represented any sub-population of homosexual parents" (p. 116). This criticism is not justified, however, because researchers do not know the actual composition of the entire population of lesbian mothers, gay fathers, or their children (many of whom choose to remain hidden), and hence cannot possibly evaluate the degree to which particular samples do or do not represent the population. At present, there is no more reason to argue that samples do not represent the population of lesbian mothers, gay fathers, and their children than there is to argue that they *do* represent it. In the long run, it is not the results obtained from any one specific sample but the accumulation of findings from many different samples that will be most meaningful. It is significant to note in this regard that Belcastro et al. (1993) did not cite any research that suggested conclusions at variance with those summarized above.

It should be acknowledged that research on lesbian and gay families with children is still relatively new, and that additional work is needed if we are to expand our understanding of the lives of lesbian mothers, gay fathers, and their children. Less is known about children of gay fathers than about children of lesbian mothers. Less is known about development of the offspring of gay or lesbian parents during adolescence and adulthood than during childhood. Sources of heterogeneity among lesbian mothers, gay fathers, and their children have yet to be systematically investigated. Longitudinal studies that follow lesbian and gay families over time certainly are needed. Despite these limitations, results of existing research comparing children of gay or lesbian parents with those of heterosexual parents are quite clear. With the exception of Belcastro and his coauthors (1993), other reviewers have shared our interpretation of research findings in this area (Barret & Robinson, 1990, 1994; Bigner & Bozett, 1990; Bozett, 1989; Cramer, 1986; Falk, 1989, 1994; Gibbs, 1988; Green & Bozett, 1991; Herek, 1991; Robinson & Barret, 1986; Tasker & Golombok, 1991).

Indeed, the findings have been regarded as sufficiently clear to warrant policy statements by major professional organizations. The American Academy of Matrimonial Lawyers, for example, has declared that "any presumption that a homosexual parent is 'unfit' for custody simply by virtue of his or her homosexuality is . . . based upon prejudice" (Brief for Amicus Curiae, 1994, p. 2). Similarly, the American Psychological Association has endorsed the view that "sexual orientation of natural, or prospective adoptive or foster parents should

not be the sole or primary variable considered in [child] custody or placement" (Conger, 1977, p. 432). In the context of a recent child custody case, an *amicus* brief submitted by the American Psychological Association, the American Academy of Child and Adolescent Psychiatrists, and the National Association of Social Workers—together representing over 250,000 mental health professionals across the country—stated that "the presumption that a parent in an openly gay or lesbian relationship is an unfit custodian has no basis in fact" (Brief for Amicus Curiae, 1994).

In light of the present state of affairs, what can social scientists contribute in this area? There are a number of possibilities (Melton, 1987; Monahan & Walker, 1991). First, psychologists and other social scientists can work to expand the body of research on lesbian mothers, gay fathers, and their children, and can make efforts to ensure that the results of research become available through appropriate publications. Second, psychologists and other qualified social scientists can interpret the research findings for legal purposes by testifying as expert witnesses in court. Third, the research findings can be brought to the attention of the courts in the form of *amicus* briefs. As necessary as psychologists' contributions in all of these areas may be, it nevertheless is clear that they are not generally sufficient in themselves to effect changes in judicial or legislative decision-making processes.

Uncontroverted scientific evidence may not influence courts as much as some scientists would like, because the social, moral, and religious values of judges and legislators often hold sway over all other considerations. Scientific evidence may refute psychosocial myths surrounding lesbian and gay parents and their children, but they cannot refute *moral* beliefs. Even if moral beliefs can be overridden, at least some elements of the legal system may be relatively impervious to input from the sciences, and especially from the social sciences (Redding, 1993). For instance, in a child custody case involving a lesbian mother, the Missouri Court of Appeals stated that the mother's way of life "strips the scientific literature of its facade of statistics and in its application to this case reduces it to nonsense" (*L. v. D.*, 1982, p. 244). Because lawyers often have little or no training in the area, they often fail to appreciate the value of social scientific evidence, believing instead in the superiority of moral and philosophical reasoning.

In the end, psychologists must recognize that both public policy and judicial decision making are likely to be influenced by many factors in addition to, or instead of, evidence from social scientific research (Redding, 1993). As noted above, the existence of sodomy laws in a number of states and the fact of anti-lesbian and anti-gay moral sentiments felt by some legislators and judges are likely to be significant factors. While the legal and public policy implications of findings from social science research on lesbian mothers, gay fathers, and their children are clear, discrimination based on sexual orientation is still evident in

many jurisdictions. In many states, lesbian and gay parents and their children thus continue to be denied rights that are regarded by other Americans as fundamental.

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