



## Lambda Legal Defense and Education Fund

by Linda Rapp

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The largest glbtq legal advocacy group in the United States, the Lambda Legal Defense and Education Fund has been fighting for the civil rights of queer Americans and people with HIV/AIDS for over three decades.

In the early post-Stonewall period, as the gay rights movement was gaining momentum, several lawyers, including William Thom, decided to form a legal organization to assist gay men and lesbians. The group's first court battle was for its own right to exist. A panel of New York judges unanimously rejected their application as a nonprofit organization, finding in 1972 that their mission was "neither benevolent nor charitable" as required by law.

Thom persevered, however, and won a reversal in the New York Court of Appeals. The organization was formally incorporated in 1973 and received federal tax-exempt status the following year.

The Lambda Legal Defense and Education Fund was initially housed in a spare room in the New York apartment of a supporter. With funds and personnel both scarce, the organization's early work consisted mainly of filing amicus curiae briefs in cases involving the civil rights of glbtq people.

Amicus curiae--or "friend of the court"--briefs are typically presented by attorneys representing groups who, although not party to a case, will be affected by the decision. The purposes of such briefs are to provide the appellate court with information not included in the original trial and to present written arguments in favor of the outcome advocated by the group. Thus, the early work of Lambda Legal Defense and Education Fund lawyers was important, but somewhat peripheral since they were reacting to the legal initiatives of others rather than initiating new suits of their own. That, however, was soon to change.

The organization's web site describes its mission as follows: "Strategically taking on legal battles to create the 'building blocks' that allow LGBT people to live openly and honestly while being treated equally" has been Lambda Legal's aim from the outset, and its "strategy . . . was to secure legal precedents that solidified basic rights for LGBT people, then build on those victories to win full equality in all areas of life." Over the years Lambda Legal has taken on the challenge of fighting for equality on a broad range of issues of concern to glbtq Americans.

In its early years Lambda Legal successfully assisted clients fighting discrimination in cases of wrongful dismissal from employment, parental visitation rights, custody of foster children, and the recognition of gay and lesbian student organizations, among other issues. Nevertheless, it had become clear that to achieve its mission, the organization needed to grow.

The board of directors elected in 1980 and Tim Sweeney, who became Lambda Legal's executive director in 1981, realized the importance not only of increasing the budget but also of expanding Lambda Legal's operation to make it truly national. They were successful on both fronts: in four years there was a five-fold growth in revenue, which permitted the hiring of additional personnel to serve more clients.

In the 1980s Lambda Legal continued working on such issues as unfair employment practices by successfully advocating for the adoption of antidiscrimination policies and same-sex partner benefits for employees of large corporations. In addition, Lambda Legal took the lead in challenging the military policy of giving dishonorable discharges to gay and lesbian service members.

With the 1980s came the AIDS epidemic. People with HIV/AIDS turned to Lambda Legal when they were denied medical treatment or insurance coverage, were dismissed from their jobs, or evicted from their homes. Lambda Legal's efforts led to a 1983 ruling that disability laws prohibit discrimination against people with HIV/AIDS. Lambda Legal also fought for the privacy rights of HIV/AIDS patients.

Another issue of concern to Lambda Legal and their clients was sodomy laws. An early victory came in 1980 when the New York Court of Appeals, relying on the state constitution of New York, declared the state's sodomy statute unconstitutional. The following year the United States Supreme Court declined to overturn the decision.

A related case, *New York v. Uplinger*, reached the Supreme Court in 1983. Lambda Legal attorney William Gardner represented Uplinger, who had been arrested under a loitering statute for soliciting an undercover police officer. The soliciting statute was ruled unconstitutional by the New York Court of Appeals on the grounds that if the law against consensual sodomy was not constitutional, then a law forbidding solicitation for a legal act was also not constitutional. On a technical ground the U.S. Supreme Court declined to accept the case, thus permitting the decision in Uplinger's favor by the New York court to stand.

After a devastatingly disappointing adverse ruling by the U. S. Supreme Court in *Bowers v. Hardwick* (1986), Lambda Legal redoubled their efforts on the issue; targeting state constitutions rather than the United States constitution, it succeeded in striking down sodomy laws in Kentucky, Tennessee, Montana, and, perhaps most satisfyingly, even in Georgia, where *Bowers v. Hardwick* had originated.

In 1992, Kevin Cathcart, who had been Executive Director of Boston-based Gay & Lesbian Advocates & Defenders, joined Lambda Legal as Executive Director. He quickly earned a reputation as leading strategist of the movement to achieve equal rights for glbtq people, as well as people with HIV.

Cathcart has presided over a period of great growth, both in the size of the organization and in the scope of its work. He oversaw the opening of several regional offices (Chicago, Atlanta, Dallas). From them and the New York headquarters and the Western Regional Office in Los Angeles, Lambda Legal responds to requests for help and information from thousands of individuals facing discrimination each year.

In the past twenty years, Lambda Legal's staff has more than quadrupled and the organization's budget has grown to just over \$10 million in 2012.

Lambda Legal was the lead counsel in two of the most significant cases in the history of the gay rights movement: *Romer v. Evans* (1996) and *Lawrence v. Texas* (2003).

In *Romer*, the Supreme Court invalidated a constitutional amendment passed by referendum in Colorado which impermissibly classified "homosexuals not to further a proper legislative end but to make them unequal to everyone else." In *Lawrence*, Lambda Legal represented two men who were arrested in Houston while having consensual sex at home. The case culminated in the Supreme Court of the United States not only striking down all remaining sodomy laws as unconstitutional, but also recognizing the dignity "as free persons" of homosexual citizens.

Cooperating attorney Michael Adams called the legal victory in *Lawrence* "a ringing declaration in support of the civil rights of gay people" but emphasized the need to press on in the struggle to end discrimination in employment, parental rights, and marriage laws and to protect people from anti-glbtq violence.

Preventing violence against glbtq youth has been a particular concern for Lambda Legal, which has used both lawsuits and education programs to keep young people safe at school. By holding schools responsible for protecting students from harassment and violence, and by supporting gay-straight alliances, Lambda Legal has sought to foster a healthy environment for queer youth.

In 2001 Lambda Legal filed an amicus curiae brief in the Nebraska Supreme Court in support of JoAnn Brandon, the mother of Brandon Teena, a transgender youth born female, who had been brutally raped and murdered in 1993. The court ruled in Brandon's favor, finding Richardson County Sheriff Charles Laux's "crude and dehumanizing" questioning of Teena after he reported the rape "beyond all possible bounds of decency" and further concluded that "the county did nothing to protect Brandon [Teena] from the threat posed by [John] Lotter and [Marvin] Nissen," who subsequently murdered him. Lambda Legal attorney David S. Buckel called the ruling "a strong message to law enforcement officers to treat victims of violence with respect and not let any personal biases show through."

Over the years Lambda Legal has addressed an ever-increasing array of issues--some broad in scope, such as fairness in employment and housing, and national immigration policy; others more specific, including anti-gay initiatives in various cities and states, concerns of older gay men and lesbians, and the rights of gay and lesbian partners of victims of the September 11 attacks. In addition to working through the courts, Lambda Legal conducts its educational mission through publications, media statements, and appearances by speakers at professional conferences, in schools, and at community forums.

Lambda Legal has also been involved in the quest for marriage equality (winning a groundbreaking victory in Iowa in 2009), fighting against the "Don't Ask, Don't Tell" military policy, and challenging the constitutionality of the Defense of Marriage Act.

From its distinctly modest beginnings, with a few dedicated volunteer lawyers working out of a spare room, Lambda Legal has grown to become the largest glbtq legal advocacy organization in the United States, and one of the most effective.

Lambda Legal's effectiveness is all the more remarkable given its relatively meager resources. Despite a recent growth in resources, it is small in comparison to the resources of the anti-gay legal organizations that it regularly confronts in increasingly conservative courts.

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[www.lambdalegal.org](http://www.lambdalegal.org).

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