

# Gay and lesbian judges say the bench needs more diversity

By Deb Price

NEWS WASHINGTON BUREAU

WASHINGTON — When Judge Mary Morgan walks into a courtroom, she's doing a little teaching on the side.

As a lesbian who is raising a child in San Francisco with her long-time partner, Morgan is a reminder to her colleagues that gay people have families too.

"Because of knowing us, other judges are much more familiar with and accepting of lesbian and gay families," says Morgan, who has been a Municipal Court judge since 1981.

"It matters that there is diversity on the bench," says Donna Hitchens, a gay judge who sits on the California Superior Court.

"It is not unusual for me to talk to people and say things like . . . my employment doesn't provide the same kind of benefits for my family

as those of a married couple.'"

Hitchens says people are usually surprised.

"It's not that they endorse that as a public policy," she says. "It just never dawns on them."

The presence of openly gay judges "changes the system," says Arthur Leonard, a professor at New York Law School who writes a newsletter on gay legal issues.

"The result over the long term . . . is that gay litigants will get a fairer shake," he adds.

Rand Schrader, a Los Angeles Municipal Court judge who was the second openly gay judge appointed in the country (there are roughly a dozen openly gay judges in San Francisco, New York and Los Angeles), says it is important for a gay judge to be a role model, to set an example of judicial decorum and rectitude.

But Herbert Donaldson, a Municipal Court judge in San Francisco, said he will take some activist posi-

tions. He was arrested at a demonstration in Washington protesting the *Bowers vs. Hardwick* decision, which upheld homosexual sodomy laws. No one filed a complaint with the judicial performance board.

"My feeling is that when I took the oath of office, I didn't give up my right to free speech."

Gay judges say it is rare for anyone to question their objectivity.

Jerold Krieger, a Los Angeles Superior Court judge, was recently struck from a case by the Boy Scouts of America, which is being sued by a gay man who wants to be a Scout leader. In California, both sides may strike a judge without specifying a reason.

Adds Krieger about the threat of gay judges having their objectivity questioned: "I look at myself as women judges must have felt and other underrepresented groups must have felt — that there's always the problem of that accusation being made."