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Badger Poll™ #12, Release #4  
University of Wisconsin Survey Center  
University of Wisconsin Madison  
December 22, 2003

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HOMOSEXUALITY, GAY MARRIAGE, AND THE LAW  
by G. Donald Ferree, Jr.

Issues of homosexuality intersect a number of different aspects of people's views -- morality, tolerance, civil rights, and general social policy to name a few. A whether one takes a "pro-gay" or "anti-gay" stance depends for many on which dimension the emphasis is placed. When it comes to abstract morality, many Wisconsin residents view sexual behavior outside the "conventional" bonds of marriage with some reservation.

Thus, when asked about "a married person have sexual relations with someone other than the marriage partner", more than eight in ten respondents (83%) described that as "basically wrong". Another one in eight (13%) said it "depends on the situation". Only a handful (2%) found such behavior free of moral taint ("not wrong").

Women and men were similar, with the former several points less likely to call this action wrong. There is very little difference across age groups, with all four falling between 80% and 85% in terms of the proportion calling such relations basically wrong. Christians (both Roman Catholics and others) were about ten points more likely than those with a non-Christian or no religious preference to label it wrong. One of the biggest differences comes in terms of self-described party identification, with more than nine in ten Republicans, but "only" three in four Democrats and Independents saying breaking one's marriage vows is basically wrong.

Homosexuality as such comes in for a less frosty reception. Using the same categories, just over half (54%) call "sexual relations between two adults of the same sex" basically wrong. Adding in the just shy of one in five (18%) who say it depends on the situation means that just about three in four have some moral reservation about homosexual behavior -- almost one in four (23%) say it is "not wrong".

Groups differ, but do not follow quite the same pattern as was found when the issue was a married person having sex with someone other than his or her spouse. Men are almost twenty percentage points more likely than women to condemn homosexuality as basically wrong, which means that fewer than half of all women so label it. (Women are also more likely -- 28% compared to 18% -- to say it is "not wrong"). Again, Republicans were clearly less accepting of the morality of this behavior than either Democrats or Independents, about half of whom called it wrong. Condemnation on moral grounds increases modestly as one moves up the age ladder, from just below to just above one in two, until one reaches the over sixty group, among whom almost three in four say homosexual relations are wrong.

A similar pattern is observed for religion (about ten point differences).

It is worth noting that, for every group examined, the proportion saying homosexual behavior is basically wrong is smaller than that saying it is wrong for a married person to engage in extramarital sex. It should also be noted, however, that this involves not merely sex outside marriage (which would also include sex between unmarried heterosexuals) but the implicit "cheating" on one's spouse. In any event, it is clear that the public does not -- on balance -- regard homosexual behavior with moral approval.

Moral disapproval (or more exactly lack of moral approval) by no means exhausts the question however. When the issue is whether "you think homosexual relations between consenting adults in private should be legal or not", the answer is "yes" by a five to three (58%-32%) margin. This means that residents are clearly more "open" when it comes to questions about what should be legal than what is moral. (And recent court cases have made it pretty clear that attempts to outlaw homosexuality won't pass constitutional muster in any event).

Women were slightly more open to legal homosexuality than men. Democrats were more in favor of it than either Independents or Republicans (meaning that Independents were closer to Democrats on the moral dimension, but closer to Republicans on legality). There is a sharp decline in the sentiment that private homosexual behavior should be legal as one moves up the age spectrum, dropping from three in four among the youngest group to only four in ten among those sixty and over. Roman Catholics were the most in favor of homosexual behavior being legal, with other Christians less open to this than were non-Christians or those with no religious preference. Still, especially granted the clear direction of the law recently, while in every group except the over sixty years one a majority backs legal homosexual behavior, a substantial minority in many groups is unfriendly to the principle of the court decisions.

Gay marriage extends beyond the legality of private behavior to its endorsement by society and certain public policy consequences. Tapping these additional dimensions brings about a decrease in "pro-gay" or "tolerant" or "liberal" views. When asked to express approval or disapproval of "laws allowing homosexual people to marry members of their own sex", state residents DISapprove by about a two to one (62%-30%) margin.

With the exception of the youngest age group, which endorses gay marriage by about five to four, the balance of opinion in all gender, age, political, or religious groups examined is against gay marriage, but the onesidedness of views differs. Thus, while a clear majority of both men and women say "no" to gay marriage, the latter splits three to two and the former three to one. Democrats come closest to a split, with more than twice as large a proportion backing gay marriage as among Republicans. Those of non-Christian or no preference are more accepting than Christians, but still oppose it by three to two. Support for gay marriage is only one fourth as high among those sixty and older as it is among those below thirty (and as noted, the youngest group is the only one with a balance of opinion favoring gay marriage).

The word marriage and its links with the "traditional" arrangement sanctioned by the state seems to be important. When the focus was shifted to "what have been called civil unions, where without calling it marriage people of either sex can register partnerships that give them most of the legal advantages husbands and wives now have", overall opinion is split, 44% approving and 48% disapproving.

Groups fall in about the same relative positions (thus women were about fifteen points more likely than men to favor gay marriage and about the same amount more likely than men to favor civil unions), but on this issue some groups favor the idea on balance, while others oppose it. Overall, civil unions find Democrats opposed to Republicans, and those under forty-five opposed to those over that level, and a majority of women in one camp and a (stronger) majority of men in the other.

The highest degree of acceptance of homosexuality is shown when the focus is on civil rights and anti-discrimination. "Laws guaranteeing homosexuals the right to live wherever they want to, just like anyone else" comes in for onesided (80%-14%) approval. The relative positions of groups is similar to that found four legalizing homosexual behavior if one takes into account the fact that the residents tend to be more backing of anti-discrimination laws than of legalizing the behavior itself. In no group examined do fewer than seven in ten approve of fair housing laws for gay people.

These basic questions were also asked on a Badger Poll conducted in August of this year, after the Supreme Court decision striking down sodomy laws but before the controversy over this fall's decision in Massachusetts. Comparable results are shown in the accompanying table. They show a great deal of stability, differing by a maximum of four percentage points and typically only one or two (which are so small as to present little convincing evidence that these differences represent any actual shift in the population overall as opposed to chance fluctuations due to sampling). In any event, they suggest a basic stability in each of the underlying dimensions.

Several questions sought to tap into reaction to recent legal developments. Respondents were reminded of the Massachusetts Supreme Court decision ("decided the constitution of that state required that same sex couples should be able to get married the same way a man and a woman can now") and asked their opinion. One in three favored it (15% strongly, 18% somewhat) while six in ten opposed it (46% strongly, 15%). The negative balance is noteworthy as it the asymmetry that strong feelings were much more likely to be of disapproval than of approval.

With one exception (those under thirty, who favored the decision by about three to two) all groups were against it, though to varying degrees. The pattern of asymmetry (where those on the negative side were relatively more likely to say they felt strongly than was the case for those on the positive side) was evident across groups, which tended to fall in roughly the same relative positions we have seen on other items.

At present the decision of the Massachusetts Supreme Judicial Court is limited to that state, but there is some sense that this legal issue may not remain contained within the borders of the Bay State. Specifically, "if existing laws are not changed" the possibility "that a court decision in the future will legalize same sex marriages here in Wisconsin" is viewed as very likely by one in twelve (13%) and somewhat likely by 41%. One in four (27%) say it is not very likely, and one in eight (12%) say it is "not likely at all".

Men see this as more likely than women, Independents and Republicans think it could more easily happen than do Democrats, That means that for gender and party, the more "pro-gay" groups are somewhat less likely to think the courts will mandate same sex marriages. Age presents an interesting pattern. As one moves up the age spectrum (which usually means also moving away from acceptance of homosexuality), the perceived likelihood of courts stepping in goes DOWN (the proportion thinking this is somewhat likely or more drops from seven in ten

	August-December Comparisons	
	AUG	DEC
Married person with non-spouse		
BASICALLY WRONG	85%	83%
NOT WRONG	1	2
DEPENDS ON SITUATION	11	13
DON'T KNOW	1	*
REFUSED	2	2
Same sex consenting adult		
BASICALLY WRONG	58%	54%
NOT WRONG	21	23
DEPENDS ON SITUATION	16	18
DON'T KNOW	3	2
REFUSED	2	3
Consenting same sex private		
LEGAL	60%	58%
ILLEGAL	30	32
DON'T KNOW	6	7
REFUSED	4	2
Gay marriage		
APPROVE	32%	30%
DISAPPROVE	60	62
DON'T KNOW	6	6
REFUSED	2	2
Domestic partnership		
APPROVE	48%	44%
DISAPPROVE	47	48
DON'T KNOW	4	5
REFUSED	2	2
Fair housing for gays		
APPROVE	83%	80%
DISAPPROVE	12	14
DON'T KNOW	3	4
REFUSED	2	2

among the youngest to just over four in ten among those over sixty.

This raises the possibility of constitutional changes. In principle, "a state constitutional amendment defining marriage as being between one man and one woman" garners more than two to one (64%-29%) support. Men like the idea better than women, Republicans better than Independents or Democrats, Christians better than non-Christians. Age presents an unusual pattern, with the most favorable group being the sixty and older, and the least those between thirty and forty-four. But a majority within each group seems open to this idea.

Amending the federal constitution garners a bit less support. Overall, this idea is favored by 58% and opposed by 35%. Groups tend to fall in the same relative position, but within each the idea of changing the national constitution produces results closer to balance (or further from onesidedness). The youngest respondents and Roman Catholics show the biggest difference when

one moves from the state to national level.

Overall, then, issues about homosexuality and public acceptance tap a number of different dimensions, and the public seems to distinguish among them. In particular, moral reservation does not translate into legal prohibition when it comes to behavior, and there is a clear "civil rights" constituency. But when that extends into positive endorsement, especially where "marriage" is concerned, many in the public draw a rather sharp line, to the extent of being willing to change the state (and to a lesser extent) federal constitution to stop the courts from enforcing an outcome which public opinion at least at this stage would not endorse.

Statewide Marginals and Percentages for Key Groups

What follows is the exact question wording for each of the items referred to in the release. All results shown are for the basic sample of state residents. The first column is the percentage of the entire sample giving each response. The second and third reports the percentages for men and women separately. The fourth, fifth, and sixth columns show self-described Democrats, Independents, and Republicans. Columns seven through ten group respondents by age. The final three columns depict those with a Christian religious preference other than Roman Catholic ("P"), Roman Catholics ("RC"), and those claiming a non-Christian or no religious preference ("OTH").

Q01. INTERVIEWER: (DO NOT ASK) Enter respondent's gender

	GENDER			PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
	TOT	M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
MALE	49%	100%	--%	47%	50%	50%	48%	48%	49%	48%	46%	49%	50%
FEMALE	51	--	100	53	50	50	52	52	51	52	54	51	50

GAY01. On a different topic... What is your opinion about a married person having sexual relations with someone other than the marriage partner--is it basically wrong, not wrong, or does it depend on the situation?

	GENDER			PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
	TOT	M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
BASICALLY WRONG	83%	81%	85%	76%	78%	94%	80%	85%	82%	85%	87%	88%	77%
NOT WRONG	2	2	1	4	--	--	7	*	2	1	*	2	2
DEPENDS ON SITUATION	13	14	11	19	18	4	12	13	14	11	11	8	19
DON'T KNOW	*	*	*	*	*	*	1	*	*	--	--	--	1
REFUSED	2	2	3	*	4	2	1	2	2	3	2	2	1

GAY02. What about sexual relations between two adults of the same sex--is it basically wrong, not wrong, or does it depend on the situation?

	GENDER			PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
	TOT	M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
BASICALLY WRONG	54%	63%	45%	46%	50%	66%	44%	47%	52%	72%	55%	58%	49%
NOT WRONG	23	18	28	30	26	16	35	32	21	9	20	22	29
DEPENDS ON SITUATION	18	16	20	22	18	14	17	16	22	16	20	17	18
DON'T KNOW	2	1	3	2	3	1	2	3	2	*	2	1	3
REFUSED	3	1	4	1	2	2	1	3	3	3	2	1	2

GAY06. Do you think homosexual relations between consenting adults in private should be legal or not?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
LEGAL	58%	55%	61%	68%	54%	54%	76%	65%	58%	40%	53%	64%	60%
ILLEGAL	32	35	29	26	34	38	20	26	32	48	38	29	28
DON'T KNOW	7	6	8	4	10	5	4	6	7	10	7	6	8
REFUSED	2	4	1	1	1	2	--	3	3	2	1	*	4

GAY07. Do you approve or disapprove of laws allowing homosexual people to marry members of their own sex?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
APPROVE	30%	23%	38%	43%	33%	18%	54%	36%	27%	14%	25%	29%	38%
DISAPPROVE	62	68	56	49	61	76	46	54	62	80	69	63	55
DON'T KNOW	6	6	5	8	4	5	--	8	8	4	5	8	5
REFUSED	2	3	2	1	3	1	--	2	3	3	2	*	3

GAY08. And how about what have been called civil unions, where without calling it marriage, people of either sex can register partnerships that give them most of the legal advantages husbands and wives now have.

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
APPROVE	44%	36%	52%	59%	48%	32%	62%	51%	42%	30%	40%	46%	49%
DISAPPROVE	48	56	41	36	46	60	36	42	48	62	56	45	43
DON'T KNOW	5	5	6	4	4	6	2	5	8	6	3	8	5
REFUSED	2	3	1	1	2	1	--	3	2	3	1	--	3

GAY09. How about laws guaranteeing homosexuals the right to live wherever they want to, just like anyone else. Do you approve or disapprove of such laws?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
APPROVE	80%	76%	85%	86%	77%	76%	89%	86%	81%	70%	73%	86%	84%
DISAPPROVE	14	18	9	9	16	18	8	10	11	21	18	12	11
DON'T KNOW	4	4	4	1	5	4	2	2	6	4	7	2	3
REFUSED	2	2	2	4	2	1	1	2	2	5	2	1	2

GAY13. Recently, the Massachusetts Supreme Court decided the constitution of that state required that same sex couples should be able to get married the same way a man and a woman can now. Do you strongly favor this decision, somewhat favor it, somewhat oppose it or strongly oppose it?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
STRONGLY FAVOR	15%	11%	19%	24%	15%	7%	30%	17%	13%	6%	15%	12%	20%
SOMEWHAT FAVOR	18	15	21	22	22	14	31	22	16	11	13	22	20
SOMEWHAT OPPOSE	15	14	15	21	11	14	11	17	15	14	16	15	14
STRONGLY OPPOSE	46	55	37	31	45	62	28	38	47	65	52	46	39
DON'T KNOW	4	2	6	2	6	2	--	5	6	3	4	4	4
REFUSED	2	2	2	*	--	1	--	1	3	2	--	--	3

GAY14. If existing laws are not changed, how likely do you think it is that a court decision in the future will legalize same sex marriages here in Wisconsin? Very likely, somewhat likely, not very likely or not likely at all?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PREF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
VERY LIKELY	13%	17%	10%	9%	14%	18%	20%	14%	10%	11%	12%	14%	13%
SOMEWHAT LIKELY	41	44	38	39	43	39	49	46	40	33	45	38	43
NOT VERY LIKELY	27	20	34	34	25	25	22	27	29	30	26	33	24
NOT LIKELY AT ALL	12	13	11	12	13	12	8	7	15	18	13	8	17
DON'T KNOW	5	4	5	5	4	4	2	5	5	6	4	7	2
REFUSED	1	1	1	*	*	1	--	1	2	2	--	--	1

GAY15. Would you favor or oppose a state constitutional amendment defining marriage as being between one man and one woman?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PREF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
FAVOR	64%	69%	59%	55%	58%	78%	62%	57%	65%	72%	68%	72%	52%
OPPOSE	29	25	33	38	37	16	35	37	24	22	29	20	39
FAVOR FED. AMENDMENT	--	--	--	--	--	--	--	--	--	--	--	--	--
DON'T KNOW	5	4	6	7	4	4	2	5	8	4	3	7	5
REFUSED	2	2	2	1	1	2	1	1	4	2	--	1	3

GAY16. And would you favor or oppose amending the US Constitution to define marriage as being between one man and one woman?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PREF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
FAVOR	58%	63%	53%	49%	50%	72%	53%	51%	62%	66%	64%	61%	50%
OPPOSE	35	29	41	45	44	23	47	41	29	30	31	33	42
DON'T KNOW	5	6	5	5	6	3	1	7	7	3	5	5	7
REFUSED	2	2	1	*	--	2	--	1	3	2	--	1	2

QD01. Finally, just a few questions about you... What is your present religious preference?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PREF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
PROTESTANT	29%	28%	31%	23%	38%	32%	30%	22%	31%	37%	100%	--%	--%
ROMAN CATHOLIC	34	35	34	40	29	34	37	35	30	39	--	100	--
JEWISH	1	*	1	2	--	1	3	1	--	1	--	--	2
OTHER	23	23	23	22	19	25	19	28	25	14	--	--	67
NONE	11	11	10	12	12	6	12	12	12	5	--	--	31
DON'T KNOW	*	--	1	--	--	1	--	1	--	--	--	--	--
REFUSED	2	3	1	*	3	1	--	1	2	4	--	--	--

QD05. Generally speaking, do you consider yourself a Democrat, a Republican, an Independent, or something else?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
DEMOCRAT	26%	25%	27%	100%	--%	--%	23%	22%	30%	30%	21%	31%	28%
REPUBLICAN	34	34	33	--	--	100	38	36	27	35	36	34	31
INDEPENDENT	25	25	24	--	100	--	25	25	25	26	32	21	22
OTHER	10	11	9	--	--	--	10	13	10	5	7	10	13
NONE	3	2	4	--	--	--	4	2	5	1	2	4	4
DON'T KNOW	1	1	1	--	--	--	--	*	2	2	1	1	1
REFUSED	1	1	1	--	--	--	--	1	1	1	1	--	1

QD11. In what year were you born? (ENTER FOUR-DIGIT YEAR) (Calculated and grouped as below)

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
18-29	14%	14%	15%	13%	14%	16%	100%	--%	--%	--%	15%	16%	14%
30-44	30	30	31	25	30	32	--	100	--	--	23	31	36
45-59	32	32	32	37	32	26	--	--	100	--	35	28	35
60 and over	22	22	22	25	23	23	--	--	--	100	28	25	13
DK/REFUSED	1	2	*	--	--	3	--	--	--	--	--	*	2

\* denotes less than .5%

-- denotes 0%

HOW THE POLL WAS DONE

This BADGER POLL™ was conducted by the University of Wisconsin Survey Center as part of its ongoing program of research designed to benefit the research community and the people of Wisconsin, under the direction of G. Donald Ferree, Jr., Associate Director for Public Opinion Research of the Center. The media sponsors of the survey are the (Madison) Capital Times, and the Milwaukee Journal-Sentinel. The BADGER POLL™ is intended to be a "poll of record" for the state, investigating matters of concern to Wisconsinites including politics, culture, and their daily lives, adhering to the highest standards of polling methodology and rigorous independence.

A total of 510 randomly chosen state residents were interviewed for this survey by telephone between December 2 and 9, inclusive. Telephone numbers were generated by computer in proportion to the number of adults living in each area of the state. Theoretically, results from this survey have a "margin of error" of a little over +/- 4%. This means that, had we asked every eligible resident in Wisconsin, exactly these questions at the time the survey was conducted, there is only a one in twenty chance that the answers would differ by more than that in either direction from what we report here. There could be differences because of changes in question wording, events occurring in the meantime, or any of the practical difficulties involved in taking a scientific survey. Results based on subgroups are subject to a larger "margin of error".