

REBUTTAL TO THE CLAIM THAT PROPOSITION 11 WILL DESTROY WELFARE  
IN CALIFORNIA

The ballot argument against Proposition 11, which guarantees the right of privacy, claims that this right would emasculate California's welfare programs. It claims that the right of privacy might protect an individual from reporting his income and thus he could qualify for welfare regardless of how much he earned.

This is simply untrue. The argument seems to assume that an individual would not have to tell government anything. The very same argument would say that no one would have to pay taxes because they wouldn't have to report any income.

The simple truth is that all of our constitutional rights are limited by necessity. None is absolute. The common example familiar to everyone relates to the First Amendment -- the right to free speech. While we have the right to speak our minds, the courts have held there are certain limitations. No one has the right to shout "fire!" in a crowded theater when this is not true (See Metter vs. Los Angeles Examiner, (1939) 35 Cal App. 2d 304, 312; Voneye vs. Turner 240 S.W. 2d 588, 590).

In approaching the concept of the right of privacy, the California courts have taken the position that such right does not provide immunity from compliance with reasonable civil requirements by the State in the interest of public welfare, and does not bar legislative control of acts inimical to the peace, good order, and morals of

society. The State need only show that a subordinate compelling interest exists (City of Carmel-by-the-Sea v. Young (1970), 2 Cal 3d 259). In this case, the Court held that intrusion into privacy must be based on demonstrated compelling need and that it not be overly broad. The statute must have some rational relationship to the effectuation of a proper state purpose (Griswold v. Connecticut, supra, 381 U.S. 479, 497 (142 Ed. 2d 510, 522, 855 Ct. 1678, 1689) ). Thus, California would have every right to request information on a welfare recipient's income, assets and number of dependents. It would not have the right to base eligibility for welfare on an individual's political views, who his or her acquaintances are, or a variety of other unrelated personal information.

Another example. California law requires responsible relatives to contribute to the care of their relatives on Old Age Assistance. This contribution is based on the relatives' incomes. The State requires that responsible relatives report their income. The right of privacy would not prevent the collection of this information but it would prevent the State from asking these citizens and taxpayers how they spent their leisure time and how much and where they spent money for this purpose. The State could only ask information which was essential to the implementation of the relatives' responsibility law.

In Shelton v. Tucker, supra, 364, U.S. 479, 488 (5 L. Ed. 2d 231 at p. 2371) the court held that "the breadth of legislative abridgment must be viewed in the light of less drastic means for achieving the same basic purpose". Thus, the public should be able to expect that in carrying out necessary government projects, care is taken to infringe as little as possible on individual rights.

It is clear, then, that Proposition 11 will not in any way prevent the collection of information necessary to implement California's welfare laws or any other State or local government program.