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The Queen City: Denver's Gay Community's fight for legal changes - 1973-1974

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“Diversity is beautiful and very human.” ~ Marge Johnson, Gay Coalition of Denver (1973)¹

Denver has always been diverse. Individuals while may not have left historical records for us to directly identify themselves especially when they have hidden identities. Some of these individuals are Lesbian, Gay, Bisexual, and Transgender (LGBT). Moving into the twentieth century LGBT individuals wanted to work toward gaining equality with individuals and with the laws. Groups like the Matachin Society (MS) and Daughters of Bilitis (DOB) formed to help move toward the goal of being recognized as equal by society. The formation of LGBT community groups in the mid-twentieth century helped LGBT individuals bring their voice to the way’s laws and law enforcement interpreted the law, and how these laws were either used or not used to harass or arrest the LGBT community. In a letter from the Gay Coalition of Denver (GCD) to Mayor William Nichols, Max Zall (Denver City Attorney) and Chief of Police Arthur Dill, “We do not, as homosexuals pose any threat to peace, as criminals do... Regardless of how any city official may personally feel, homosexuals, to exist, and do have the same rights that every citizen is entitled to... We have the freedom, under the First Amendment, to associate with whomever we please”.

² In Denver, the 1970s is a decade of movement toward equality for LGBT individuals. These changes for Gay Denver citizens have a new fight at a Denver City Council Meeting on June 23, 1973, and through a lawsuit filed in 1973 against the City and County of Denver where the LGBT community fought for changes specific city ordinances which openly discriminated against the gay community in Denver.

¹ *Gay Revolt at Denver City Council at Denver City Council, October 23, 1973, and how it changed our world*, DVD, narrated by Gerald A. Gerash, (Denver, CO, 2011).

² Letter from Cordell Boyce & Terry M. Mangun with the Gay Coalition of Denver, to Honorable William McNichols Jr., Mayor of Denver, Mr. Max Zall, City Attorney, Chief Arthur Dill, Chief of Police, Denver. February 12, 1973, Gay 1970-1979 Collection, Denver Public Library, Denver, Colorado.

This paper will explore through archive research, a documentary, newspaper clippings, and secondary works discuss the policy changes to city ordinances sought through the City and County of Denver which negatively impacted and interacted with the LGBT community before the 1970s and during the 1970s. The accomplishment of policy changes through the change of city ordinances, specifically in the changing of definitions, and use of language especially around "lewd acts." What makes this fight in Denver unique? Challenging a council and getting a settlement in court to date (1973/1974) had not occurred anywhere in the country.

One example of why the LGBT community was fighting for equality is through their treatment by the Denver Police Department (DFD) using the Johnny Cash Special. Sunny Colorado presents the opportunity for a day in the park. A park is a place for recreational activity and for some in the homosexual community a place to meet similar individuals for cruising. A favorite place to meet was in Cheesman Park or on the grounds of the State Capitol. While in the park, an individual approach with a large bus nearby, sharing he has free tickets to see a Johnny Cash concert and the bus is a ride to the concert. This bus is known as the "Johnny Cash Special" (also sometimes referred to as the "Johnny Cash Express").³ Once on the bus, another man approaches and asks, "Where's the action tonight?"⁴ Making a noise of any kind or answering the question, will have an individual immediately arrested for a "lewd act" by Denver Police as the man is an undercover vice squad police officer. The only way to avoid arrest is to get off the bus without making an utterance or addressing the question. Targeting of homosexual men and women through

³ *Gay Revolt at Denver City Council, Speech of Cordell Boyce.*

⁴ *Gay Revolt at Denver City Council, Speech of Cordell Boyce.*

harassment, arrest, and solicitation by the Denver Police Department occurred regularly in the 1970s. The "Johnny Cash Special" was a trap used by not only the Denver Police Department but by many police departments around the country to target, harass, and arrest gay individuals, mostly men, by tricking these individuals into agreeing to go on the bus, and even mentioning a "lewd act", the vice squad could arrest individuals.⁵ The lewd act laws that allowed for the arrest of men who did get on the "Johnny Cash Special" is why the LGBT community in Denver to fight back, protest, and make a movement to change the laws and ordinances of the City and County of Denver.

Colorado law for decades continuously discriminated against individuals who were not heterosexual. This discrimination was accomplished through the sodomy law until 1972 when the Colorado government abolished the state law⁶. In 1972 the City and County of Denver still had city ordinances. Through the wording and definitions of terms within the city ordinances, individual interpretation by law enforcement kept discrimination alive. As a response to Denver not changing its ordinances in the city of Denver 800 series laws, specifically, section 823, to align with the change in Colorado state law, the LGBT community of Denver set out to change the ordinance. These changes are accomplished through community organizing, demonstration, and lawsuits.

Community organizing in Denver came through the formation of the Gay Coalition of Denver (GCD). Gerald Gerash and his partner Lynn Tamlin, along with Terry Mangun,

⁵ *Gay Revolt at Denver City Council, Speech of Cordell Boyce and Letter from Cordell Boyce & Terry M. Mangun with the Gay Coalition of Denver, to Honorable William McNichols Jr., Mayor of Denver, Mr. Max Zall, City Attorney, Chief Arthur Dill, Chief of Police, Denver. February 12, 1973, Gay 1970-1979 Collection, Denver Public Library, Denver, Colorado.*

⁶ *Gay Revolt at Denver City Council at Denver City Council*

Cordell Boyce, and Marge Johnson, founded the Gay Coalition of Denver in 1972.⁷ The Gay Liberation Movement and the homophile movement was happening on both coasts with the goals of helping bring change the treatment of individual gay individuals. Gerald and the other co-founders saw that Denver needed a place for their voices to be heard. The GCD provided a resource to the Denver LGBT community through advocacy, legal assistance, a social place (via a coffee shop), and eventually through a local magazine publication titled the *Rhinoceros*.

Historiography

History of the LGBT community in Denver does not have a written history outside of a self-published book, master thesis, and Ph.D. dissertations. The history of Gay Denver does not have a written scholarly book. However, along with other communities, Denver was part of a larger collective movement which is known as the homophile movement. The way to understand the movement happening in Denver in the 1970s is through looking at the homophile movement and how the homophile movement occurred in other cities around the United States.

What is the homophile movement? The homophile movement started in the 1950s when in several cities around the country started Mattachine Societies. The concern of Mattachine Society was for an “understanding the cause of gay oppression and developed an analysis of homosexuals as an oppressed cultural minority.”⁸ Groups like the Mattachine Society with mostly gay men as members, and the Daughters of Bilitis (DOB) made of mostly lesbians, were critical organizations in shaping the future for organizations

⁷ *Gay Revolt at Denver City Council at Denver City Council*

⁸ John D’Emilio, *Sexual Politics, Sexual Communities The Making of a Homosexual Minority in the United States 1940-1970* (Chicago: The University of Chicago Press, 1983), 63

like the Gay Coalition of Denver (GCD) through their “neutral tones rather than assuming the stance of impassioned partitions.”⁹ Some of the helpful books to look at the homophile movement and helped to shape the thinking of the GCD’s formation and fight in the city council include John D’Emilio’s book *Sexual Politics, Sexual Communities The Making of a Homosexual Minority in the United States 1940-1970*, but also include , *Forging Gay Identities Organizing Sexuality in San Francisco, 1950-1994*, and an article by Anna Lvovsky "Cruising in Plain View: Clandestine Surveillance and the Unique Insights of Antihomosexual Policing."

In his book John D’Emilio one of the arguments he brings forward is that “some historians have begun to entertain the idea that human sexuality is a socially constructed, changing category.”¹⁰ His book looks broadly across the United States, but he does look specifically at Denver and the formation of the Mattachine Society in the city, which occurred around the same dates in Denver and around the country. Denver's Mattachine Society founded in 1956 because of Carl Harding and the creation of the Mattachine Society chapter in Denver helped to bring the convention for the Mattachine Society to Denver in 1958.¹¹ Harding argued that "Denver is a modern, progressive city," and this view continues into the 1970s when the GCD and other Denver community members went to the city council meeting.¹²

In her book, Elizabeth Armstrong argues around the importance of keeping the identity of groups as neutral as possible to outsiders. Acceptance of the gay community

⁹ D’Emilio, 109

¹⁰ D’Emilio, 4

¹¹ D’Emilio, 119

¹² D’Emilio, 120

especially during the 1950s and 1960s was growing in some areas of the country. The founding of the Mattachine Society and the Daughters of Bilitis is essential to bringing the foundation of what does work for LGBT individuals to meet, and to work together to help bring change.¹³ While members of the GCD do not mention any specific working with either the Mattachine Society or the Daughters of Bilitis (which were part of Denver community primarily in the 1960s), the work of all these groups led to the same outcome the homophile movement.

The police harassment and targeting of homosexual individuals happened not only in Denver but in many cities around the country. Anna Lvovsky's article looking specifically at the Mansfield, Ohio Police Department in the 1960s focuses on the cruising and what Denver law focused on, lewd acts. Her article helps to look at the cruising culture and for Denver helps to understand the need for secrecy among the LGBT community from outsiders. This secrecy led to the need to hide one's true self, and by the 1970s in Denver led to the need to be one's true self and change how the Police Department and society viewed Gay Denver citizens.

Denver City Ordinances:

Denver's city ordinances were outdated in 1973 following state law changes. The city ordinances in the 800 series followed specific language and definitions before 1974 and followed new language and clearer definitions after 1974. The changes sought by the LGBT individuals called for clarity of the definition of the 823 section and the word "lewd." The word lewd was defined in city ordinances of 1973 using the language of "lewd act" and

¹³ Elizabeth A. Armstrong, *Forging Gay Identities Organizing Sexuality in San Francisco, 1950 - 1994* (Chicago: The University of Chicago Press, 2002), 19

Indecency as defined under 823.3:

- 3.1 “include an appearance in a state of nudity or any indecent or lewd dress.
- 3.2 “shall also include indecent exposure of private parts. 3.3 an indecent, wanton, and lascivious act committed in the presence of another in a place open to the public.”¹⁴

As worded pre- January 1, 1974, the interpretation of what is considered lewd is left to individual interpretation which led to the Denver Police vice squad using lewd acts to target whomever they wanted.¹⁵ The targeting which led to harassment, arrest, and discrimination is the changes that were being sought by the LGBT community through the city council and the court system.

October 23, 1973 - City and County of Denver City Council Meeting

The LGBT individuals had enough with police harassment and arrest, and they chose to fight back. For Denver's LGBT community, one of the most massive demonstrations occurred on June 23, 1973, when approximately 300 LGBT individuals came to the City and County of Denver city council meeting to protest the proposed changes to city ordinance laws. The series of city ordinances considered for revision introduced to the Council in council bill (c.b.) #666, series of 1973 section 8 of the Revised Municipal Code.¹⁶ The council bill specifically looked at the lewd act definition and wording, part of the wanted

¹⁴ Revised Municipal Code- City and County of Denver, Paul Hunter Collection, Box 3, FF 25-39, History Colorado, Denver, Colorado

¹⁵ *Gay Revolt at Denver City Council at Denver City Council*

¹⁶ “Proceedings of the Council City and County of Denver October 24, 1973”, 15191. City Clerk's office, City and County of Denver, Denver, Colorado. From email correspondence between Nick Ota-Wang and City Clerks office, March 14, 2019.

Minutes received as an email attachment.

changes by the community. The need to even have individuals from the LGBT community unite at a city and county of Denver council meeting came after the Gay Coalition of Denver tried to meet with council leaders to discuss the proposed changes months before October 23, 1973.¹⁷

The Gay Coalition of Denver through their monthly newsletter and word of mouth sent out requests for individuals to come to the city council meeting to help voice opinions and at the minimum help to show community support around the wanted changes. In GCD's October 1973 newsletter details about the actual city council meeting which include "the date is set for Tuesday, October 23 at 7:30 pm... anyone can speak at the hearing but you must sign up-to-do so arrive at the meeting by 7:30, go to the city and county clerk who will be sitting toward the left front of the chambers, give her your name and whether or not you wish to speak for or against the bill."¹⁸ For the individuals wanting this meeting to happen, getting the details out about when and where individuals could come and have their voice heard was extremely important. One of the concerns the Gay Coalition of Denver is whether anyone would show to the city council meeting.¹⁹ The GCD concerns were unwarranted as on the night of October 23, 1973 "every seat, line of walls, and corridor were filled by LGBT community members."²⁰ Out of the 300 individuals who showed up and waited until the end of the council meeting to speak, 36 individuals signed up to add their voice to the opposition to the proposed changes. The (includes a list of 36 individual names, full list of names provided in the appendix)" had many Gay Coalition of Denver

¹⁷ *Gay Revolt at Denver City Council at Denver City Council*

¹⁸ Gay Coalition of Denver Newsletter #4, October 1973, Gay Coalition of Denver Newsletter, C305.90774 G254ne, Western History Collection, Denver Public Library, Denver, Colorado

¹⁹ *Gay Revolt at Denver City Council at Denver City Council*

²⁰ *Gay Revolt at Denver City Council at Denver City Council*

members, and other community members ready to speak.²¹ Reaching the point of needing to bring so many people to the City and Council office came through many attempts at reaching out to the city council members for meetings, and with no actual response from the city council, the frustration led to the number of LGBT individuals going to this meeting.

The testimony shared by the 36 speakers at the city council meeting not only helped shape the understanding of the problem for some but helped to transform the acceptance of others. The leaders of the Council had the members of the LGBT community in the meeting, but the original plan was to limit their time to only 30 minutes total for all 36 speakers. This is only about 50 seconds each.²² 10:30 pm is when the Council was to hear from members of the LGBT community (about three hours from the start of the meeting). Gerald and other members of the Gay Coalition noticed that the crowd was starting to get smaller as the longer individuals had to wait. He and other members of the Gay Coalition sent around a petition to ask for their time to be changed to 10:00 pm. 129 individuals signed this petition which helped move the time up to 10:00 pm.²³

To start the meeting off, the bill writer for the ordinance changes introduced his goals of the bill and its intended purpose. Once the meeting started, Councilmember James Nolan who was the author of the ordinance changes spoke about the goals. The "goals at the time to the best of my knowledge at this time [are to] eliminate some aspects of the criminal ordinances which are no longer applicable because of the integrated way they were enacted many years ago... to bring ordinances in line with the criminal code of

²¹ "Proceedings of the Council City and County of Denver October 24, 1973", 15191, and Gay Coalition of Denver Newsletter #5, November 1973, Gay Coalition of Denver Newsletter, C305.90774 G254ne, Western History Collection, Denver Public Library, Denver, Colorado

²² *Gay Revolt at Denver City Council at Denver City Council*

²³ *Gay Revolt at Denver City Council at Denver City Council*

Colorado." ²⁴ Councilman Nolan was not on the side of the LGBT community. However, Councilman Roberts was on the side of the LGBT community, and he challenged Councilman Nolan by asking, "why is it that in the bill under definitions three terms are not defined in the bill, what is profane, lewd, and ____ (the third word was not clear enough to hear in the recording)," which promoted the city attorney John Stoffel to respond saying "this particular section came from 824.1-2 of the present of the 800 series. Words used defined in case law. Case law is what is used to define statues." ²⁵ The city attorney is breaking out how to read and understand how the la interprets the definition law, and how words are important to defining the statues that everyone follows. The problem of certain words, like lewd, is that the definitions were not clear. Roberts continues by asking toward the City Attorney "my concern is that our responsibility is to pass what we consider to be responsible legislation... How does the enforcement come to proceed in enforcing whatever these terms mean? Are they to study case law to decide what to do out in the streets?" ²⁶ The city attorney responds "I would only say in regard to that a couple of comments. Number one that it does not create difficulty in the past. Been in effect for some time. We have in the police department enforcement through the city attorney office." ²⁷ The problem with this exchange is that the city attorney cannot answer how or why the Police chose to interpret language in a certain way only to say that there have not been problems

²⁴ *Gay Revolt at Denver City Council at Denver City Council*, the time between 6:47 - 7:29 & transcription notes by Nick Ota-Wang, March 2019.

²⁵ *Gay Revolt at Denver City Council at Denver City Council*, Time: 7:50 - 9:07, & transcription notes by Nick Ota-Wang, March 2019.

²⁶ *Gay Revolt at Denver City Council at Denver City Council*, Time 9:08 to 10:08, & transcription notes by Nick Ota-Wang, March 2019.

²⁷ *Gay Revolt at Denver City Council at Denver City Council*, Time: 9:08 to 10:08, & transcription notes by Nick Ota-Wang, March 2019.

in the past. This exchange leads to the speakers all of which provide their own stories and context to the lived experiences of LGBT individuals with these city ordinances and the enforcement of these laws by the Denver Police Department through harassment and arrest.

The speakers all came with different reasons for wanting their voices heard. The individuals who spoke brought forward four primary concerns to the Council: challenge of meeting with the Council before the meeting to discuss their concerns, how the councilmen were not representing the individuals in their districts properly, how the ordinances as currently written affect members of the LGBT community, and the legal impact of how the lewd acts affected individuals and Elected officials have the duty to represent those that brought them into their leadership position.

Two speakers speak to the challenges they or the GCD faced in scheduling times to meet with various councilmembers prior to this council meeting. One Lynn Tamlin speaks directly to these challenges in getting opportunities to speak with the councilmen directly, and the other Terry Mangun speaks to the GCD's challenges in getting the opportunity to meet with the Council.

As a member of the GCD, Lynn Tamlin was an important part of trying to set up meetings with the different councilmen. A 21-year-old, gay male from Wyoming who lived in Denver the night of the council meeting, he was not going to share the legal voice or discuss the challenges to the laws from an academic standpoint as shared by Dr. Tobias. Instead, discussed how the laws allowed for harassment of the LGBT community in Denver, and how the Gay Coalition of Denver had been trying to set up appointments with the city council members with little success.

Tamlin discusses the struggle to even have meetings with his elected representatives on the city council. He attempted to speak with Councilman Hentzell and Councilman Blue with no return call and told by Councilman Hentzell when attempting to meet "I do not have any the time to meet with you. I do not have anything against homosexuals. I have a very busy schedule." ²⁸ Councilman Burke says, "if gay people do not like it in Denver they can go to Glendale." ²⁹ As Lynn pointed out to the council "according to the Kinsey report of 1948 approximately 10% of the Denver population [are gay people]". ³⁰ This stat from the Kinsey report of how many individuals demonstrated the potential number of LGBT individuals in Denver at the time of this meeting. The struggle for the Gay Coalition of Denver to get any meetings, being told they are too busy to meet and having quoted a council member suggesting constituents move to another city show the challenge that the LGBT community faced in changing hearts and minds.

Terry Mangun continues what Lynn Tamlin discusses with the challenges of getting to speak to members of the city council about the proposed changes. Mangun served as the Chair of the Political Committee for the GDC, and Mangun speaks to his nine-month struggle to meet with the Council. " I was promised 9 months ago, Gay Coalition was promised 9 months ago by [Councilman] Perry and the members of the Police Access

²⁸ *Gay Revolt at Denver City Council at Denver City Council*, Time: 13:26-14:07, & transcription notes by Nick Ota-Wang, March 2019.

²⁹ *Gay Revolt at Denver City Council at Denver City Council*, Time: 13:26-14:07 and 39:46-44:38, & transcription notes by Nick Ota-Wang, March 2019.

The second time is from the speech by Marge Johnson. She and Lynn both mention this anti-homosexual quote from Councilman Burke.

³⁰ *Gay Revolt at Denver City Council at Denver City Council*, Time: 13:26-14:07, & transcription notes by Nick Ota-Wang, March 2019.

Committee that we could have the chance to speak to that committee, and we would have a chance to bring that committee the grievances of the gay community in the city." ³¹

The councilman that both Tamlin and Mangun tried to meet with claim to not have any issue with gay citizens, but they do not want to take the time to hear their concerns. Both councilmen help to remind everyone of the importance of electing individuals who will represent everyone in their community. While the challenge still exists even today to have representation that represents everyone the lack of willingness to meet and the struggle to have voices heard is loud and clear.

Two speakers speak directly to their concerns about councilmembers not representing their communities and the negative perspective this leads for them. The first speaker to mention this is Richard Griffin. The second is Terry Mangun. Both men discuss their concerns in pointed and respectful manners.

Griffin discusses the responsibility of the Council to represent who elected them when he says "I find it very hard to love my country if I cannot respect my city council. I think everybody here...are here for the promise of the bill, promise with the Police, and city government." ³² Losing faith in one's elected officials occurred with these city council members and occurs today. The important remembrance is to bring forward your voice and fight for the changes you wish to see happen. Griffin came to speak to help bring forward the changes, even if he did not have much to say, he said a lot telling the council members a brief reminder of what their duties are.

³¹ *Gay Revolt at Denver City Council at Denver City Council*, Time: 17:35-22:04, & transcription notes by Nick Ota-Wang, March 2019.

³² *Gay Revolt at Denver City Council at Denver City Council*, Time: 10:55-12:06.

Terry Mangun reinforces Griffin's opinion by directly calling out the councilmen. By having constant challenges to meet with the city council members, Mangun argues to the councilman sitting before him that "they have failed to accept [their] responsibility to the gay community in the city... and [they] do not want to talk about it, deal with it, face it, or realize that they are the people that elected [them]." ³³ This lack of feeling of representation carries into the proposed ordinance according to the Gay Coalition leadership, and other LGBT Denver citizens are trying to maintain the old statues, and do not clarify and define certain words like "lewd" with a proper and precise definition. A clear definition can help to legally protect the LGBT community from the harassment and arrest they had been experiencing with the Denver Police Department for years by creating a clear, and enforceable definition which police and community members can understand and enforce the law.

Four of the speakers (the majority of the speakers) came to the council meeting to tell the councilmen how the city ordinances as written affected them and how the proposed changes were a move forward but did not help completely alleviate all their concerns. These speakers are Liz Matthews, Dr. Lester Tobias, Cordell Boyce, and Marge Johnson. Two of the speakers were community members with no affiliation with the GCD (Matthews & Tobias), and two were GCD representatives (Boyce & Johnson).

In their speeches, Liz and Lester bring voices from the community and expert opinion. Liz brings her concerns from the voice of a local lesbian, and Lester brings the voice of a professional and an ally.

³³ *Gay Revolt at Denver City Council at Denver City Council*, Time: 17:35-22:04, & transcription notes by Nick Ota-Wang, March 2019. & Rocky Mountain News, February 17, 1973, Council unit plans to study Gay Coalition complaints

As a community member, Liz can bring her experiences as a citizen to the understanding and views of the councilmen. Liz Matthews brought a lesbian perspective to the council meeting. In her testimony she said:

"As a feminist, I am against any bill which punishes anyone going against sexual boundaries, as this bill, this particular section against the lewd act, enables the vice squad to arrest gay males, and against the word of offering. In effect punishing homosexuals the same way that society punishes females who transcend their sexual boundaries in their career or in any other way... Therefore I reject it, I think it's unconstitutional".³⁴

The idea of rejection and being unconstitutional is shared not only by Matthews but also by others. The idea of rejection of the rights for LGBT people was happening in the broader US society at the time.

Dr. Tobias was not part of the LGBT community and instead was an ally³⁵. Dr. Tobias came with expertise from the mental health community. He held a Ph.D. in Psychology and was a psychologist and educator in the Denver community. Similar to other mental health professionals he followed the *Diagnostic and Statistical Manual of Mental Disorders* (DSM). The changing view about homosexuality encouraged him to speak in front of the Council. In 1973 the American Psychological Association removed homosexuality from being listed as a mental illness from the DSM.³⁶ Some in the mental health community in Denver had a changing view of homosexuality and as Dr. Tobias told the council members:

³⁴ *Gay Revolt at Denver City Council at Denver City Council*, Time: 12:24-13:13, & transcription notes by Nick Ota-Wang, March 2019.

³⁵ Letter from Dr. Lester Tobias to Gerald Gerash, June 19, 1973, Gay Coalition of Denver, Folder 8, MSS 1151, History Colorado, Denver, Colorado

³⁶ https://psychology.ucdavis.edu/rainbow/html/facts_mental_health.html

"Homosexual behavior is no less normal than heterosexual behavior, that homosexuals are no less normal than heterosexuals and except for the great amount of discrimination to which homosexuals they have just as much ability to maximize their potential. Although some individuals regard the gay liberation movement as an attempt to proselytize for homosexuality, this movement is, in fact, simple: the overdue assertion of the rights of a deeply persecuted minority group. It seems clear that the proposed ordinance could be used in the same manner as existing ordinances to harass and oppress decent homosexual citizens in our community who ask no more than to live their own lives in peace, with dignity, and free society".

³⁷

As an expert, Dr. Tobias brought forward new perspectives that the other speakers did not. One important one is the "overdue assertion of the rights of a deeply persecuted minority group."³⁸ Others in their speeches hint at this idea, but Dr. Tobias helps bring it forward for the first time in the council meeting. He helps to emphasize the idea brought by other speakers in the night that they wanted to live their lives in peace without having to worry about.

In a letter from Dr. Tobias to Gerald Gerash, "it appears to me that the law is specifically prejudicial to homosexuals if not in intent, then at least in its enforcement. As a heterosexual, I have often publicly engaged in courting behaviors that have been completely socially acceptable. However, my homosexual counterpart engaging in the same behavior would be deemed guilty of a crime." ³⁹ Allies like Dr. Tobias helped to bring the perspective of the councilmembers from a place of historical ignorance to a place of tolerance and possibly accept that homosexuality was part of society and their districts.

³⁷ *Gay Revolt at Denver City Council at Denver City Council*, Time: 37:39- 39:31, & transcription notes by Nick Ota-Wang, March 2019.

³⁸ *Gay Revolt at Denver City Council at Denver City Council* & transcription notes by Nick Ota-Wang, March 2019.

³⁹ Letter from Dr. Lester Tobias to Gerald Gerash, June 19, 1973, Gay Coalition of Denver, Folder 8, MSS 1151, History Colorado, Denver, Colorado

While nothing can directly prove this change, in his documentary Mr. Gerash discusses the change in the room, including how individuals had a change after hearing Dr. Tobias speak. Having the voices of two individuals speaking to the Council helped to bring a human and academic perspective to the meeting.

Marge Johnson backed the statements from the individuals who spoke before her.

What she provided the all-male Council that the men who spoke before her could not is her experience as a gay woman. She said to the City Council:

“We are denied the right to live the lifestyle of our choosing. As a gay person, I am subject to arrest for merely my presence in a gay bar. I cannot hold hands with another woman in public. I cannot walk in public with my arm around another woman. I cannot dance with another woman. I cannot kiss another woman in public. And yet this behavior these expressions of affection between a man and a woman in public are quite acceptable since what they do is seen as courting behavior and what is seen as lewd and insidious.”⁴⁰

By describing what she cannot do but what a heterosexual person can do, Marge brilliantly moved into what the ordinance and proposed changes do negatively for LGBT individuals in Denver after telling the Council about her personal experiences. These “laws tell us who and what we are is wrong. That our particular sexual preference is deviant, is a perversion, and if we choose to act on our preference to do so in the privacy of our own homes.... We are finished with being defined by others, defiled by others, and being regulated to second-class citizens with second-class rights.”⁴¹

Gerald Gerash and Terry Mangun bring the voices of how the ordinances as currently written affect the legal rights for individuals. Their fellow citizens talked about

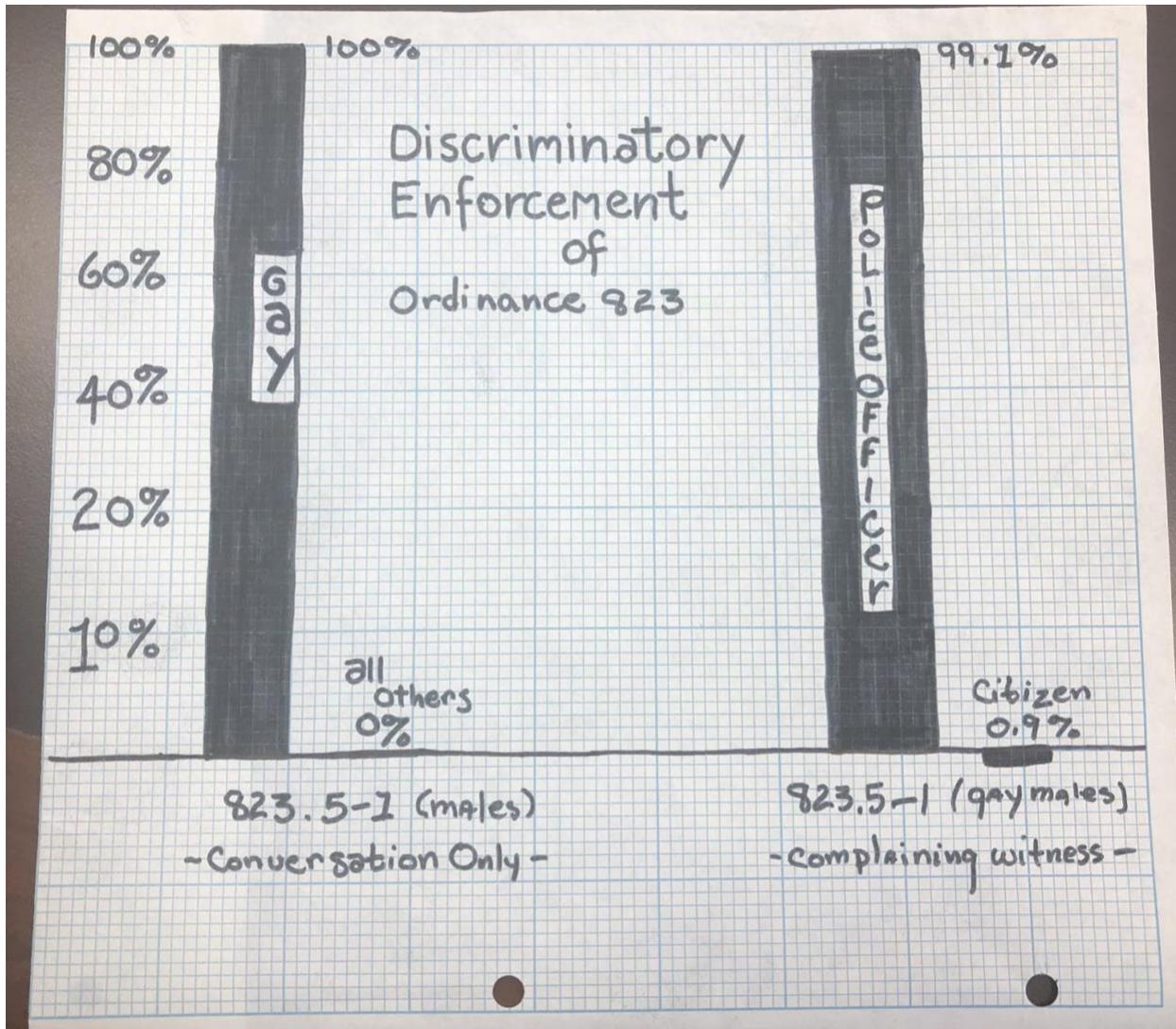
⁴⁰ *Gay Revolt at Denver City Council at Denver City Council*, Time: 39:46 - 44:38, & transcription notes by Nick Ota-Wang, March 2019

⁴¹ *Gay Revolt at Denver City Council at Denver City Council*, Time: 39:46 - 44:38, & transcription notes by Nick Ota-Wang, March 2019

more of the cultural and social reasons, Gerash and Mangun helped to bring the legal perspective to the Council.

The testimonies by Gay Coalition members who brought some of the strongest voices as to why the ordinances as written in the law were allowing for the police harassment, discrimination, and arrest of the LGBT community, especially gay men. Each of the speakers brings forward different examples of how the current ordinances help the Denver Police Department to harass, discriminate and arrest LGBT individuals under the “lewd” language of the current laws.

As a lawyer, and as a gay man, Gerald can directly address how the Vice Squad's interpretation of the law affected himself as a gay man and other gay individuals. Gerald's speech to the Council primarily focused on how the Denver Police Department's vice squad members were using the lewd part of the law to target the LGBT community, especially gay men. As part of his presentation, he presents a slide to how the arrest patterns of the vice squad are arresting gay men for a conversation about sexual acts in private. His graph looks explicitly at Ordinance 823.



42

This graphic based on the defendants that Gerald represented. Approximately 50 men represented in the graph arrested for lewd acts based on a conversation only. The vice squad members would be dressed in plain clothes, approach a GBQ male and arrest him for only talking about acts he would be interested in doing. The complaints are not coming

⁴² Gay Revolt at Denver City Council at Denver City Council, Time: 22:28-29:25, transcription notes by Nick Ota-Wang, March 2019 and Gay Coalition of Denver, Folder 8, MSS 1151, History Colorado, Denver, Colorado

from the general public but coming from the Vice Squad members only.⁴³ Showing this graphic after opposition from the Council President could only happen because Councilman Irving Cook insisted that he wanted to see the slide now and not after the council meeting, Gerald recalls that there was a shift in the room. The councilman seemed to be more relaxed and less wary of the chamber full of LGBT Denver citizens.⁴⁴ By bringing visual evidence the argument, Gerald was making to the Council was hard to ignore. Citizens were being harassed and arrested for just being themselves. Having even Councilman Hook stand up and say he wanted to hear the community's side confirmed humanity and citizenship as argued by Gerald in the documentary.⁴⁵

Cordell Boyce was the Coordinator for the Gay Coalition. Boyce discusses the harassment of the Denver Vice Squad in Gay Bars. Boyce describes how "a couple of vice officers would come into a bar, single out a couple of people and arrest them for no reason. These cases would go trial, and there were no convictions because the arresting officer would not show up to court."⁴⁶ By arresting individuals and then not coming to court, this showed that the officers either could not back their arrests as legitimate or these officers were choosing not to continue the conflict. The example of arrests for no reason is what the Gay Coalition is hoping to help stop with the changes to the city ordinances and to grant full

⁴³ *Gay Revolt at Denver City Council at Denver City Council*, Time: 22:28-29:25, & transcription notes by Nick Ota-Wang, March 2019 and Gay Coalition of Denver, Folder 8, MSS 1151, History Colorado, Denver, Colorado

⁴⁴ *Gay Revolt at Denver City Council at Denver City Council*, Time: 29:26 -30:34, & transcription notes by Nick Ota-Wang, March 2019 and Gay Coalition of Denver, Folder 8, MSS 1151, History Colorado, Denver, Colorado

⁴⁵ *Gay Revolt at Denver City Council at Denver City Council*, Time: 30:47-31:34, & transcription notes by Nick Ota-Wang, March 2019 and Gay Coalition of Denver, Folder 8, MSS 1151, History Colorado, Denver, Colorado

⁴⁶ *Gay Revolt at Denver City Council at Denver City Council*, Time: 34:09-37:21, & transcription notes by Nick Ota-Wang, March 2019

civil rights with the removal of the sodomy law language from the city ordinances. The Police seemed to be arresting individuals because they were not heterosexual, for being who they are. This bias by the Police is not provable because there are no police accounts available however the number of arrests, and the focus on LGBT establishments can lead to this assumption.

The lawsuit - Gay Coalition of Denver vs. City and County of Denver

The LGBT individuals who came to the city council meeting demonstrated their dislike of the current laws and the proposed changes with this amount of influence helping to shape the future of the Council in the next election. In 1975 the first two women were elected to the Council, and the Council sees a shift in political affiliation.⁴⁷ The downside to the city council meeting is that no decision the night of the meeting, and the ultimate decision would take months to arrive. The initial lawsuit filed on June 27, 1973 and the final settlement reached on September 19, 1974.⁴⁸ The just over a year this took in the courts helped the GCD and members of the gay community fight for the change in laws they wanted. While this took just over a year, filing suit and getting a settlement was the first history.

Civil Action-37520 is the previously mentioned lawsuit from the Gay Coalition of Denver to the City and County of Denver where the plaintiff is representing the "approximately 50,000 persons in the Metropolitan Denver area who are homosexually-oriented and who may be individually affected and damaged by the defendant's discriminatory and unlawful enforcement of unconstitutional ordinances in the City and

⁴⁷ Denver Post, May 21, 1975, 6 City Council Incumbents Win

⁴⁸ Paul H. Hunter collection, Box 3, FF 32 "Gay Rights - Civil Actions Civil Action No. C.27520 - Court documents", History Colorado, Denver, Colorado

County of Denver, as argued in court by the GDC lawyers. ”⁴⁹ The Denver Police Department was sending officers in plain clothing to engage with homosexual men and if any interest or engagement of a sexual act (even in private) agreed upon the officer would arrest the gay man for a "lewd" act.⁵⁰ Additionally, that the harassment of gay men at gay bars another establishment through jaywalking tickets at known gay establishments. Between the arrests and jaywalking tickets, the LGBT community were unsafe, unwilling, and fearful to be their true selves.

The legal battle the lawsuit brought both sides to fight for offending and defending the actions of the Denver Police Department. The attorneys for both sides went back and forth with the eventual outcome of a settlement. This settlement was a significant move forward for the gay community in Denver.⁵¹ A major large agreement brought through the legal briefs back and forth between the attorneys is how individuals who commit certain crimes are to be enforced by the Denver Police Department no matter their sexual orientation or gender expression. These include laws pertaining to public Indecency, deviate sexual intercourse, loitering, exposure, disorderly conduct. Additionally, that oppression of homosexual individuals was no longer tolerated, public affection between same-sex partners shall not be held to arrest under public Indecency, and that a liaison officer is hired and work with the LGBT community.⁵² One outcome is the formation of a

⁴⁹ Paul H. Hunter collection, Box 3, FF 32 "Gay Rights - Civil Actions Civil Action No. C.27520 - Court documents", History Colorado, Denver, Colorado

⁵⁰ Paul H. Hunter collection, Box 3, FF 32 "Gay Rights - Civil Actions Civil Action No. C.27520 - Court documents", History Colorado, Denver, Colorado

⁵¹ Paul H. Hunter collection, Box 3, FF 32 "Gay Rights - Civil Actions Civil Action No. C.27520 - Court documents", History Colorado, Denver, Colorado

⁵² Paul H. Hunter collection, Box 3, FF 32 "Gay Rights - Civil Actions Civil Action No. C.27520 - Court documents", History Colorado, Denver, Colorado

Police liaison to the LGBT community who is to communicate with and work with the GCD on LGBT community issues.⁵³

Changes, as a result, the LGBT community voicing their opinions

The city council meeting did change the views of some of the councilman at least that night. From the perception of Gerash in his documentary.⁵⁴ In the November 1973 newsletter for the Gay Coalition of Denver, they report that "on Monday, November 5 the revision committee met to reconsider the bill and made it more repressive to gays". They removed the disorderly conduct ordinance but replaced it with the already declared unconstitutional state loitering statute.⁵⁵ Having the disorderly conduct ordinance removed "makes it impossible for the vice bureau to make arrests for talking in public about having sex in private."⁵⁶

January 1, 1974, brought changes to the city ordinances that the speakers at the Denver City Council meeting and the lawsuit fought for. Specifically, the new language around Indecency specifically around public acts.

802.11. Public Indecency. "An act of sexual intercourse; an act of deviate sexual intercourse; a lewd exposure of the body done with intent to arouse or to satisfy the

⁵³ Paul H. Hunter collection, Box 3, FF 32 "Gay Rights - Civil Actions Civil Action No. C.27520 - Court documents", History Colorado, Denver, Colorado

⁵⁴ *Gay Revolt at Denver City Council at Denver City Council*, & transcription notes by Nick Ota-Wang

⁵⁵ Gay Coalition of Denver Newsletter #5, November 1973, Gay Coalition of Denver Newsletter, C305.90774 G254ne, Western History Collection, Denver Public Library, Denver, Colorado

⁵⁶ Gay Coalition of Denver Newsletter #5, November 1973, Gay Coalition of Denver Newsletter, C305.90774 G254ne, Western History Collection, Denver Public Library, Denver, Colorado

sexual desire of any person or a lewd fondling or caress of the body of another person." ⁵⁷

The lewd act definition part of the ordinances saw no legal change in 1974, but the part about Indecency moved the language closer to being inclusive of all Denver citizens. Many changes and time working with the police department are required in the years to follow to help make all the city ordinances as inclusive as possible.

Does what happened in 1970s Denver affect the LGBT community of Denver today. Yes, because they started the change. The significance of having all the LGBT individuals at the council meeting led to a resolution from the City Council on October 20, 2003. In this resolution, the signs of change come through a few of the specific wording. The resolution resolves that "the Council hereby recognizes October 23, 2003; as the thirtieth anniversary of a turning point in the ongoing effort to make Denver a safe place for GLBT people and all citizens. That the Council hereby recognizes the courage of those who brought the concerns and needs of the LGBT community to the Council thirty years ago." ⁵⁸ The individuals who spoke at the council meeting were brave and courageous. Their bravery and courage help to make LGBT individuals safer today, with the ability to live their lives as their true and authentic self. Their efforts are thanked and will not be forgotten.

⁵⁷ Paul H. Hunter collection, Box 3, FF 32 "Gay Rights - Civil Actions Civil Action No. C.27520 - Court documents", History Colorado, Denver, Colorado

⁵⁸ Resolution No 50, Series of 2003, Denver City Council, received via email

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Appendix A: Individual speakers at City Council Meeting - June 23, 1973

Proceedings of the Council

15185

CITY AND COUNTY OF DENVER

DENVER, COLO. October 24, 1973

Meeting Date, Tuesday
October 23, 1973

6:30 P.M

THE COUNCIL OF THE CITY & COUNTY OF DENVER MET IN REGULAR SESSION

INVOCATION WAS GIVEN BY DR. WILLIAM H. MACKINTOSH

ROLL CALL

PRESENT: Burke, Caldwell, Hentzell, MacIntosh, Nolan, Perry, Rosenberg, Wyman,
Pres. Koch (9)
LATE: DiManna, Hook, Roberts (3)
ABSENT: Blue (1)

A public hearing was held on C.B.#666, Series of 1973, regarding the revision of Article 8, of the Revised Municipal Code. There were no speakers for. Speaking against: Richard Griffin, Paul Hunter, Elisebeth Matthews, Fred Zook, Terry Mangan, John Blume, Gerald Gerash, Atty, Delores Leone, A. C. Glenn, Rev. Alex Lukens, Paul Frawley, Robert Pindelski, Kathy Bonheim, Janet Louise Sergi, Daniel Bremer, Maurine Mrizek, Ethel M Matthews, Rev. Ronald Carnes, Philip Krasnowski, Georgianne Parker, Ron Porter, Lee L. Zittle, Wm. A.Lutz, Lynn Tamlin, Jeannie Franklin, Susan Allen, Reuben Cabbie, Wm. Reynard, Atty, ACLU, Jim Boatright, Cordell Boyce, Marjorie Johnson, Milo N. Gonser, atty. Rev. Fred Schimmel, Sr., Lester L. Tobias, Jeffco Mental Health Center, Janie Lara, Mike Bebo.