

# We're Here, We're Queer, And We're in the Public Record: Federal Government Documents on the LGBT Movement

The background of the slide is a photograph of the White House at night. The building is illuminated with vibrant rainbow-colored lights, with red on the left, yellow in the center, and blue and purple on the right. The sky is dark, and the overall atmosphere is celebratory and significant.

Jesse Silva  
UC Berkeley

Kelly L. Smith  
UC San Diego

# Brief Outline

- Methodology for surfacing documents
- Audience participation
- Selected Docs from 1789-WWII
- Impact of WWII
- Selected Docs from Post-WWII



# Methodology

- Full-text searching of PQ Congressional, LN Academic, American Presidency Project, etc
  - Pre-WWII: buggery, sodomy, pederasty, sexual perversion/inversion, hermaphrodite, homosexual, (homosexual coined in 1860's), sapphic, lesbian
  - WWII-present: homosexual, homophile, gay, lesbian, bisexual, GLB/LGBT/LGBTQ/LGBTQx, sexual orientation, sexual/affectional preference, cross-dresser, transvestite, transsexual, transgender, CIS, etc
  - Problem terms: hermaphrodite, gay, queer, lesbian (at times)
- Books and articles on LGBT history



# When did these terms first appear in the major U.S. documents?

- Terms
  - Homosexual
  - Lesbian
  - Bisexual
  - Transgender
- Major Documents from the Three Branches
  - Congressional Record
  - Public Papers of the President
  - Supreme Court Opinions



# Homosexual

- Congressional Record
  - Jan 19, 1927. Homosexual mentioned by Rep Kindred (NY) in reference to studies done on “sexual rejuvenation”
- Public Papers of the President
  - June 19, 1975. Ford gave a Special Message to Congress on Crime. He references “homosexual rape” happening in prisons
- Supreme Court Opinions
  - 1952. Sweeney v. Woodall.  
“He offered to prove that on entrance to the prison he was forced to serve as a ‘gal-boy’ or female for the homosexuals among the prisoners. Lurid details are offered in support of these main charges.”

# Lesbian

- Congressional Record
  - Feb 8, 1927 Lesbian mentioned by Rep Wilson (MS), in reference to a list of “dirty” plays in New York City.
- Public Papers of the President
  - June 6, 1991. GWB asked about the Episcopal church ordaining a lesbian. GWB is Episcopalian
- Supreme Court Opinions
  - 1964. *A Quantity of Copies of Books et al v. Kansas*. State attorney general obtained a court order under state law to seize and burn obscene books, including the title *Lesbian Love*. Supreme Court found the seizure was unconstitutional.

# Bisexual

- Congressional Record
  - Feb 20, 1945. Extension of Remarks (Appendix) by Joseph Clark Baldwin (NY) in reference to Caligula and the downfall of Rome.
- Public Papers of the President
  - June 1, 2009--Obama proclaims June 2009 as Lesbian, Gay, Bisexual and Transgender Pride Month
- Supreme Court Opinions
  - 1967. Boutilier v. INS.  
Boutilier was deported for being “constitutionally psychopathic” Bisexual is used in reference to reviewing expert opinions on psychology.

# Transgender

- Congressional Record
  - July 25, 1994 Sen. Helms (NC) complains about NEH funding an LGBT Film Festival in Minneapolis, MN
- Public Papers of the President
  - June 1, 2009--Obama proclaims June 2009 as Lesbian, Gay, Bisexual and Transgender Pride Month
- Supreme Court Opinions
  - 2012. Minneci, et al., v. Pollard.  
Appears in reference to courts ruling special populations like transgender inmate must be kept from foreseeable harm by other inmates

# Pre-WWII Documents



# Sample of Sodomy and Buggery Laws in the U.S. (Published in Fed Docs)

- *Laws for the District of Columbia. (1830)*
- *Laws passed by the Legislature of Florida. (1843)*
- *Report of the Secretary of the Navy, communicating copies of returns of punishments in the Navy, in compliance with a resolution of the Senate. (1848)*
- *Tenth Census, v. 21: Defective, dependent, delinquent classes: Report on the defective, dependent, and delinquent classes of the population of the United States, as returned at the tenth census. (1888)*



# 1873 Comstock Law

- "Suppression of Trade in, and Circulation of, Obscene Literature and Articles of Immoral Use"
- Prohibited the possession of and use of the Post Office to send:
  - Erotica
  - Contraceptives
  - Abortifacient
  - Personal letters containing sexually explicit information
- Long lasting negative effects on many issues dealing with sexuality and reproduction



# Sodomy and Chinese Exclusion

- *Report of the Joint Special Committee to Investigate Chinese Immigration.* (1877)
  - Testimony of Rep. Piper (CA):

Q. You spoke of their practice of sodomy on the voyage over?—

A. Yes, sir.

Q. Have you in your mind a single case, or is it a habit?—A. It is a habit. I would say that I have had sometimes thirty or forty Chinese boys leaving Hong-Kong apparently in good health, and on the voyage over, before arriving here, a voyage of two months, I have found them afflicted about the *anus* with venereal diseases. I have examined them and compelled the Chinese doctors to disclose what it was, and they admitted that it was a common practice among them. I have seen them in pollution quite frequently on ships, and often on shore in China, where it is a common practice, a common habit; I have seen it.



# Lesbian Murderer...

- *Transactions of the first Pan-American Medical Congress, held in the City of Washington, D. C., U. S. A., September 5, 6, 7, and 8, A. D. 1893.*

data of alienism for sometimes even an uncertain decision. Dr. Shrady says: "

The young woman was afflicted with an affection which Science, with a big S, calls psychopathia sexualis, and pronounces the subject a victim of a perverted sexual instinct. The pervert in this case attached herself to a Sapphic friend, whom she killed one day in a fit of jealous fury. On trial, the defense of insanity was made. The medical experts were, we believe, unanimous in pronouncing the case one of a primary degenerative insanity, and the jury brought in a verdict of insanity.

We do not wish to contradict the combined testimony of so many alienists with reputations evidently very high in Memphis. Technically, perhaps, the girl was best considered insane; but we can not avoid believing that if this alleged lunatic had been treated for worms, leucorrhoea, constipation, or some other of the frequent mechanical excitants of unhealthy sexual desire, or if she had been taken in hand early by those in authority and received a course of bread and water and, perhaps, some strong corporeal applications, she would not have become a Lesbian lover or a murderess. (Possibly, but this girl did become so and she was insane.)



# ...Also First Use of “homosexual”

- *Transactions of the first Pan-American Medical Congress, held in the City of Washington, D. C., U. S. A., September 5, 6, 7, and 8, A. D. 1893.*

sional obscurity. A lawyer of my acquaintance, of ability, but of lowly heritage he never cared to disclose, acknowledged to perverted homosexual instincts and impulses, and finally, under mortification and chagrin, and fear of disclosure of his perverted instincts, committed suicide. Cases like these are common.

This letter to you is all I leave behind. I can not write anything to my parents. The blow will probably kill my mother. I shudder to think of it. We might have been happy together had it not been for W. The W., your brother's family, your other rich friends, your high social and business standing, your high ideas of morality, which you never filled—but 'tis too late; the end must come. I don't see why God did not let me die that Saturday night. I suppose there was some purpose waiting till you had made the outlay and sacrificed so much. You see, the end is all the same. Good-bye, dear I., I won't wish you happiness; you will never have that again and you will follow in my footsteps some time. Men of our natures and sins must have their punishment, and ours comes in a terrible shape. You are mine in the light of heaven, and no family ties can claim you from me in death.

# Immigration Act of 1917

- *Immigration laws: Act of February 5, 1917 : rules of May 1, 1917.*
  - Sec. 3 prohibited “persons of constitutional psychopathic inferiority”
  - According to Chin and Vilazor (2015):

Prevailing pseudoscience at the time held that homosexuality was a psychological ailment, and thus the Immigration and Naturalization Service (hereinafter INS) held that homosexuality was evidence of “constitutional psychopathic inferiority” and grounds for exclusion.<sup>14</sup> Keeping in mind that homosexuality would not become listed as a “sociopathic personality disturbance” until Volume 1 of the Diagnostic and Statistical Manual of Mental Disorders (hereinafter DSM-1) in 1952, it is interesting that the 1917 Act never actually mentions homosexuality.<sup>15</sup> At a time in history when the moral depravity of homosexuality was not even publicly debatable, it is additionally strange that Congress chose to include homosexuality among the medical exclusions rather than the “moral exclusions,” such as prostitution.



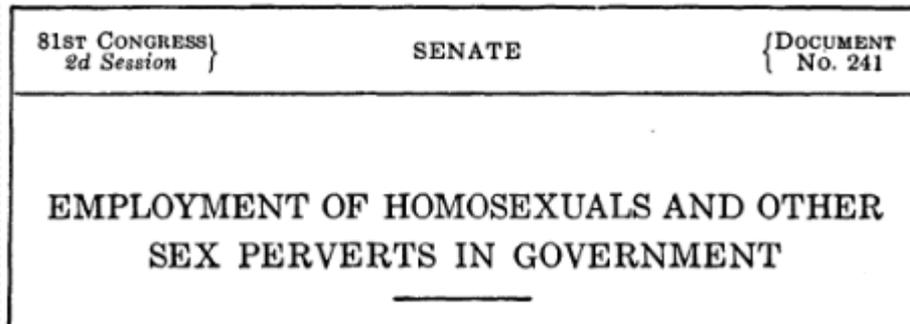
# World War II

- Major social upheaval in the U.S.
  - Massive migration of men and women across the country and around the world
- End of war, many people stayed in the major port cities
  - Better social and economic opportunities
  - Did not have to go back to their hometown
  - Major port cities include NYC, LA, SF
- Homophile organizations begin in LA, SF and NYC



# 1950's "Lavender Panic"

- Numerous hearings and reports about the employment of homosexuals in the federal government
  - Homosexuals seen as a security risk, could be blackmailed



## EMPLOYMENT OF MORAL PERVERTS BY GOVERNMENT AGENCIES

MAY 25 (legislative day, MARCH 29), 1950.—Ordered to be printed

Mr. McCLELLAN, from the Committee on Expenditures in the Executive Departments, submitted the following

Senator Hoey. This is a continuation of the hearings we had before in which we are investigating the homosexuals and what effect they have upon the Government as a security risk and the general subject like that.



# 1950's Lavender Panic cont'd

- *Executive Order 10450* (1953)
  - First inclusion of “sexual perversion” as basis for removal from federal employment (Section 8(a)(1)(iii))
- Most “famous” to lose his job is Frank Kameny
  - Fired from the Army Map Service in 1957
  - Sued for his job and the Supreme Court denied appeal in 1961

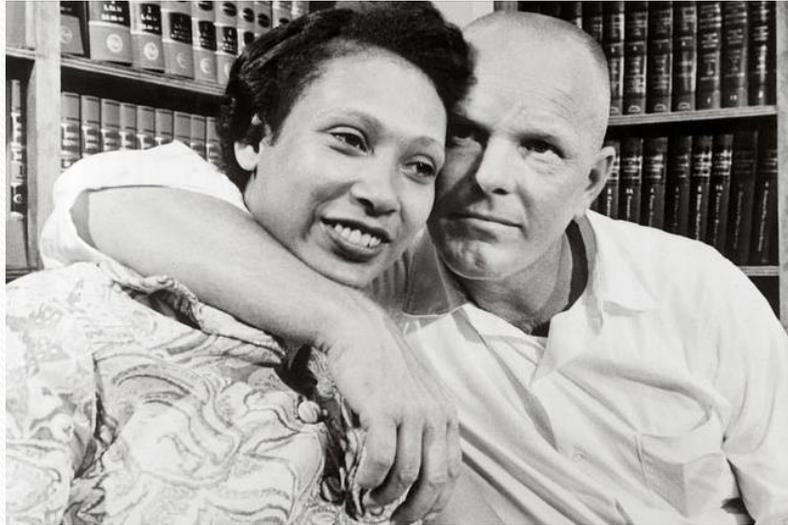


# 1958—Supreme Court Offers a Glimmer of Hope

- One, Inc v. Olesen
  - First SCOTUS case dealing with homosexuality.
  - Post Office declared ONE magazine obscene under Comstock laws and therefore unmailable.
- The entire opinion:
  - 241 F.2d 772, reversed. Eric Julber for petitioner. Solicitor General Rankin, Acting Assistant Attorney General Leonard and Samuel D. Slade for respondent. PER CURIAM. The petition for writ of certiorari is granted and the judgment of the United States Court of Appeals for the Ninth Circuit is reversed. Roth v. United States, 354 U.S. 476.



# 1967: Loving v. Virginia



“Marriage is one of the “basic civil rights of man,” fundamental to our very existence and survival.... To deny this fundamental freedom on so unsupportable a basis as the racial classifications embodied in these statutes, classifications so directly subversive of the principle of equality at the heart of the Fourteenth Amendment, is surely to deprive all the State's citizens of liberty without due process of law.”



# June 28, 1969 Stonewall Riot

**4 POLICEMEN HURT IN 'VILLAGE' RAID: Melee N**  
*New York Times (1923-Current file); Jun 29, 1969;*  
ProQuest Historical Newspapers: The New York Times with Index  
pg. 33

## 4 POLICEMEN HURT IN 'VILLAGE' RAID

Melee Near Sheridan Square  
Follows Action at Bar

Hundreds of young men went on a rampage in Greenwich Village shortly after 3 A.M. yesterday after a force of plainclothes men raided a bar that the police said was wellknown for its homosexual clientele. Thirteen persons were arrested and four policemen injured.

The young men threw bricks, bottles, garbage, pennies and a parking meter at the policemen, who had a search warrant authorizing them in investigate

**N.Y. Homosexuals Protest Raids**

*The Washington Post, Times Herald (1959-1973); Jul 1, 1969;*  
ProQuest Historical Newspapers: The Washington Post  
pg. E2

## N.Y. Homosexuals Protest Raids

NEW YORK, June 30 (AP) — Police cleared the streets in the Sheridan Square area of Greenwich Village early Sunday as crowds of young men complained of police harassment of homosexuals. Three persons were arrested.

The Stonewall Inn has been the focal point of the disturbances since a police raid early Saturday and an ensuing melee resulted in 13 arrests and injuries to four policemen.



# July 1, 1969 Norton v. Macy

- D.C. Circuit overturned the discharge of a homosexual NASA budget analyst and admonished the agency to show a “nexus” between homosexual conduct and the requirements of the federal job.
- “Civil Service Commission (CSC) explained its policy for the first time, indicating that it did not exclude “homosexuals” per se—only people who engaged in “overt” homosexual conduct that became public through an arrest or general knowledge.” Eskridge (2004)



# 1970's

- *Equality Act of 1974*
  - “Prohibit discrimination on the basis of sex, marital status, and sexual orientation”
- *Pro and Cons of Legalizing Victimless Crimes*
  - 1975 CRS Report
- *Civil Rights Amendments of 1975*
  - To prohibit discrimination on the basis of *affectional or sexual preference*, and for other purposes.



# 1970's Continued

## Ford 1976

### GOVERNMENT FUNDS FOR HOMOSEXUAL CONFERENCE

[1.] Q. Yes, sir. I have a problem. There is money coming from your office to fund something in San Antonio that many people are very unhappy with. We need your help, sir. That is funding for the homosexual conference.

THE PRESIDENT. It is my understanding that an organization here was awarded by the National Endowment of Humanities to the extent of \$5,000. We are looking into it. We understand—I can't give you a firm answer today—we are looking into it. We understand there are allegations that in the application that was made, that there were some misstatements made. Whether that is true or not, I can't honestly tell you here this morning. I can only assure you that if there were misstatements made to justify the award, appropriate action will be taken.

## Carter 1978

It's important that you keep this Democratic team together. It's important that you participate Tuesday by giving us your vote and your support. And I ask you to do so, to make the greatest nation on Earth even greater in the future with a strong Democratic team and you being part of it.

Thank you very much, everybody. God bless you all.

I also want to ask everybody to vote against Proposition 6.

NOTE: The President spoke at 1:20 p.m. at the K Street Mall. In his opening remarks, he referred to Leo T. McCarthy, speaker of the California State Assembly.

Proposition 6 is an initiative statute on the California ballot which would prohibit the employment of homosexuals in the State school system.



# ERA (presentation on it's own?)

- *Equal Rights Amendment to the US Constitution*
  - “Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex”
  - Failed to gather enough states for passage
  - Carter: “The main obstacle to the ratification of the ERA in Illinois and in Georgia and in the other States that have not yet made this decision is the allegation that it is only supported by radical kinds of people. And the question of homosexuality and the question of abortion and religious beliefs and the sharing of restrooms and the destruction of families—these artificial arguments are put forward, and they can best be knocked down by a person who's known to be sound and committed and balanced and patriotic, with a stable family and a good job. Those are the kinds of people who must speak out.” (1980)



# 1980-Present: Many Documents



# Federal Response to HIV/AIDS

- Could be a presentation on its own (many books and articles)
- See aids.gov timeline: <https://www.aids.gov/hiv-aids-basics/hiv-aids-101/aids-timeline/>
- Reagan did not say AIDS in public until 1987
- AIDS prompted the U.S. to talk about sexuality and health.



# 1980's Continued

- Congress
  - Gerry Studds (MA) outed during 1983 congressional page scandal
    - Continued serving another 6 terms
  - Barney Frank (MA) outed via ethics scandal (1989)
    - Charge lead by Larry Craig (ID)
  - NEH/NEA Funding War (1980s-1990s)
    - Could be a presentation on its own
- Supreme Court
  - Bowers v. Hardwick (1986)



# 1990's Lowlights

- *1990 Decennial Census*
  - For those who reported as same-sex married couples or unmarried partners, one partner was changed to the opposite sex.
- Continued fights over NEH, NEA, HIV/AIDS funding.
  - Some really nasty public comments by Helms (NC), Dornan (CA) and others
- *1993 Don't Ask, Don't Tell*
- *1996 DOMA*



# 1990's Highlights

- *Immigration Act of 1990*
  - Removed homosexuality as grounds for exclusion
- 1990 *ADA*
  - Transvestism does not constitute a mental disability
- 1994 *ENDA*
  - First time this kind of bill gets a hearing
- 1996 *Romer v. Evans*
  - Discrimination that singles out LGB people is a violation of the 14<sup>th</sup> Amendment
- 1999 First Presidential Proclamation of Gay Pride Month



# 2000-Present Lowlights

- 2000 *Boy Scouts v. Dale*
  - Boy Scouts have a constitutional right to ban LGBT because of its 1<sup>st</sup> Amendment protected right to expressive association
- Various amendments proposed to the U.S. Constitution against same-sex marriage, including support from President GW Bush.
- No recognition of Gay Pride Month during the Bush presidency.
- Many people removed from military service during a time of war under DADT
  - 2001 Army comic book
- Congressional Scandals



# 2000 to Present Highlights

- Census
  - 2000: Sex is not changed in same-sex couples reporting as married, but relationship is changed to unmarried partners
  - Data on same-sex married couples available from 2010-present
- 2011 Dept of Ed hosts first LGBTQ Youth Summit
- 2014 EEOC files lawsuits on behalf of two transgendered people
- 2016 DOJ issues letter on transgendered students
- Since 2009, many agencies issue rules and guidelines on LGBT issues



# 2000 to Present Highlights: Congress

- 2009 *Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act*
  - Expanded federal hate crimes protections to sexual orientation and gender
- 2010 Repeal of DADT
- 2012 First elected openly gay Senator: Tammy Baldwin (WI)



# 2000 to Present Highlights: SCOTUS

- 2003 Lawrence v. Texas
  - Same-sex sodomy laws are unconstitutional
- 2013 United States v. Windsor
  - DOMA is unconstitutional
- 2015 Obergefell v. Hodges
  - 14<sup>th</sup> Amendment requires states to issue marriage licenses to same-sex couples



# 2000-Present Highlights: President

- 2009-2016 Obama declares June LGBT Pride Month
- 2009 Obama issues memorandum to extend benefits to same-sex partners to federal employees
- 2011 U.S. presses for LGBT human rights around the world
- 2015 White House lit up in rainbow colors for Obergefell decision
- 2016 Stonewall Inn to become a National Monument



# Want to read all these and more?

Check out the Libguide:

<http://ucsd.libguides.com/lgbtdocs>



# Questions and Thank You!

Jesse Silva  
UC Berkeley  
[jsilva@library.berkeley.edu](mailto:jsilva@library.berkeley.edu)

Kelly L. Smith  
UC San Diego  
[k5smith@ucsd.edu](mailto:k5smith@ucsd.edu)

