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The PRIDE Ban on Police: Experiences of LGBTQ+ with Policing in New York

A Thesis

Presented for the
Chancellor's Honors Program
at the
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Under the Advisement of
Dr. Tyler Wall

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Abstract

The ban of uniformed police officers in the New York City Pride March, and other LGBTQ+ events, is the direct effect of a history of criminalization and discrimination that the U.S. has perpetuated through legislation and policing tactics. Understanding the laws once enforced by police outlines the struggle in protecting ensured rights and protections in the present day.

Sodomy, sterilization, loitering, and discriminatory laws became unbearable for the community following the events at Stonewall, prompting activism and celebrations such as the annual Pride March.

This work outlines both anti-LGBTQ+ legislation and equal rights and protections

guaranteed to this community today to present reasons for the uniformed police ban in NYC

Pride. Responses to the ban by the police will also be examined, finding that LGBTQ+ officers

feel abandoned and betrayed in the uncertain atmosphere of Pride, equality, and police solidarity

in New York. Both groups must agree on what accountability looks like going forward to address the issue of the ban.

Keywords: LGBTQ+, policing, New York, Pride March, Uniform ban

Table of Contents

Introduction.....	3
A Timeline of Policing LGBTQ+.....	3
Sodomy Laws.....	3
Stonewall.....	7
“Walking While Trans”	Error! Bookmark not defined.
Policing Practices.....	9
LGBTQ+ Rights and Protections.....	12
Gay Liberation Movement.....	12
Legislation.....	Error! Bookmark not defined.
<i>Obergefell v. Hodges</i>	15
PRIDE.....	17
The First Pride March.....	17
Present Day Pride.....	17
NYPD in PRIDE.....	18
Uniformed Officers.....	Error! Bookmark not defined.
Undercover Cops	20
LGBTQ+ Police.....	20
Conclusion	21
References.....	23

Introduction

With growing tension between the American government and the LGBTQ+ community, the history of laws and legislation hindering individuals from personal freedom is especially important for understanding the current day effects from these decisions. One institution with the most oppressive and violent history with this group is the police, who are being excluded from LGBTQ+ events such as the Pride March in New York City. This decision made by the organizers of the Pride March, The Heritage of Pride, has faced both support and backlash from the LGBTQ+ community and police since its creation in 2021, which will be examined with an emphasis on the history of policing LGBTQ+ individuals in New York's past and present. The progression of events becomes clear in that the ban on police is a direct result of tension between the two groups. The final decision on police in Pride must be the one with the least harm done to all groups and individuals present: police, members of the LGBTQ+ community, and persons who are both.

A Timeline of Policing LGBTQ+

Sodomy Laws

Policing of LGBTQ+ persons (lesbian, gay, bisexual, transgender, queer/questioning, and more) in the U.S. dates back to the country's establishment, with people engaging in "sodomy" being given a death penalty. Broadly, sodomy was considered as engaging in a deviant sexual activity, usually involving anal or oral intercourse, and most commonly referred to in relation to homosexual men. At the time, there was a viewpoint that women engaging in sexual activities with one another was not considered sodomy, so it was extremely rare - or nonexistent - to see women charged with such crimes. About ten years following the creation of the first sodomy law, the sentence for sodomy ranged from death to a maximum of fourteen years of solitude or

hard labor in prison. In 1801, the death penalty was thrown out in favor of life imprisonment, only to change once again to ten years with no solitude or labor required in 1828 (Painter, 2004). This sentence seemed to satisfy both citizens and the government as it remained stable for years. New York then passed a law banning loitering and mask wearing, particularly with the purpose of stopping citizens from hiding from the authorities. Though, the wording of this bill would be especially important: “being masked or in any manner disguised by unusual or unnatural attire or facial alteration, loiters, remains or congregates in a public place with other persons so masked or disguised” (*PEN § 240.35*). While used to prevent tax evasion at the time, this law would be an effective method of policing LGBTQ+ persons in the future.

New York had its first sodomy case in 1861 with *Lambertson v. People*. Arrested for a “crime against nature” with another man, George Lambertson was found guilty by a jury and sentenced to nine and one-half years in prison. The judgment was later affirmed by a court, who stated that any change in the language of the indictment would not change the outcome (Parker, 1872, pp. 200-206). It was not until 1886 that the charge of sodomy would shift to include both men and women as well as expanding the year range for sentencing to five to twenty years - with the five year minimum being rescinded only six years later. The decision to include women under ‘who’ could be convicted of sodomy charges was paramount and evident of evolving ideas on sexuality and intimate behavior, yet later changes would show this was still being hidden through language used in sentencing.

Displaying this, two cases from 1903 and 1920, respectively, reported people charged with crimes of sodomy as “assaulting each other” in indictments. During this time frame, New York passed a sterilization law, of which was found unconstitutional in 1920 by the State’s legislature. According to Laughlin (1922), this bill was regarded as a “public health law, relating

to the operations for the prevention of procreation” and applied to the “feeble-minded” and other “defective” individuals (pp. 29, 81). It can be inferred that ‘sodomizers’ would be included in the defective category under which this bill operated. Though, the language of the act also references procreation, of which sodomy would not be considered as a way to ensure procreation. This seems to be a method of targeting individuals disguised as healthcare, more along the lines of behavioral intervention in its connection to genetics. Generally, sterilization was considered for persons with intellectual disorders, yet sometimes, criminals met requirements for the Board to follow through with implementing the law. Interestingly, there was much discourse on the heritability of criminality - in relation to sterilization in institutions - between NY doctors. Some believed sterilization to be a cure-all to society's woes, sparingly applied to a few situations, or completely unnecessary in the effort to better the American population (Laughlin, 1922, pp. 82-87). Despite there being years between the passing and repeal of the sterilization law in New York, Laughlin (1992) found that only 42 sterilization operations occurred between 1907 and 1921 (p. 96). This low number indicates that not many met the requirements for the operation, of which NY adopted language from the New Jersey law. Focusing on the type of conviction, examiners could call for a sterilization of sexual offenders if the charge involved rape or “to be sufficient evidence of confirmed criminal tendencies” (Laughlin, 1922, p. 118). The Board of Examiners were comparing rape to consensual activities between individuals of the same sex; this is despite language being changed in charges to reflect non-consensual violence such as assault, as stated previously.

At the same time of the discourse with sterilization in institutions, soliciting men in a public place was the focus of policies and policing efforts in New York City. Depending on the severity of the act, punishment might have been a charge of \$50, up to six months in jail, both of

the aforementioned sentences, or two years on probation. Women solicitors in the 1910-20s were thought to be forced into selling sex and “victims of social and economic forces,” not to be sentenced but to be provided treatment (Cohen, 2017, p. 924). It was during the period between 1920 and 1950 that New York Courts would sentence many men with sodomy and conduct-related charges, but the decisions were often overturned by an Appeals court. Compared to a death, life, or sterilization sentence, New York in 1950 lowered consensual sodomy charges to a misdemeanor, while other states continued to view it as a felony. Note that the maximum amount of six months was limited to consensual activities; acts with minors, using threats, or without consent resulted in harsher sentences. Many charges in the 1950s were described as ‘disorderly conduct’ rather than sodomy because policing efforts resulted in vague proof of the crime. Police would invite men back to their homes then claim that agreeing to go with them was “proof” of solicitation and/or an increase in the likelihood of future acts with other men occurring. In public places such as restrooms, seeing two men in the same stall - with or without the police officer seeing anything - may have been submitted as evidence. As such, several convictions were overturned by the appellate court due to insufficient evidence of “being an accomplice” to an act, lack of evidence proving penetration or fondling occurred, or entrapment by police (Painter, 2004). Contrary to the policing and criminalization of sexual activity involving people of the same sex, language in legislation continued to not reflect what was actually being criminalized. Also evident of laws at the time was the use of ‘being an accomplice’ to a sexual activity, indicating that only the penetrator would be given the entire sentence while the receiving person was deemed as an accomplice. This changed in 1962 to include all persons involved in sodomy until the criminalization of sodomy was repealed, yet another was enacted soon after that lessened the sentence to three months - excluding heterosexual, married couples. Many

considered the distinction between married and unmarried couples as discriminatory, but the Appellate Supreme Court upheld the law, claiming the distinction was required. When tactics to catch individuals in specific acts did not have many lasting results, police began focusing their efforts on raiding establishments frequented by gay men and women, such as the Continental Baths in NYC, in the late 1960s (Painter, 2004). This would create a hostile situation between the LGBTQ+ community and the police, of which the effects are felt in interactions and decisions made by both organizations today.

Stonewall

On June 28, 1969, plainclothes police officers entered the Stonewall Inn in Greenwich Village in the early hours of the morning under the direction of Seymour Pine. Part of a nationwide movement ‘cracking down on crime,’ police would enter establishments with search warrants and detain patrons for crimes unrelated to the purpose of the warrant. In this instance, the warrant involved investigating the mafia-run Inn for the illegal sale of alcohol but instead, the focus of the search was on ‘crossdressers.’ Led by Seymour Pine, officers demanded patrons to move to the restrooms and be subject to genital searches. People were singled out using the “three items of clothing” rule: one must wear more than three articles of appropriate clothing or be arrested (Sears, 2023). Many refused and responded with violence inside and outside of the Inn, leading the police to barricade themselves inside to avoid attacks from patrons and neighbors on the street. Following the initial response, the next six days of protests and violent interaction with police became known as the Stonewall Riots or the Stonewall Uprising (Thistlethwaite, 2007). This would be the start of a major unification of LGBTQ+ individuals across the country to start organizing for their own fight for freedom, of which was at times hindered by the efforts of police in the following few decades.

“Walking While Trans”

While legislation moved away from outright criminalization of same-sex activity, laws in the 1970s-80s centered on hidden efforts targeting marginalized groups. One such effort was the “Walking While Trans” Law, involving loitering in a public place and attempting to stop or engage in conversation with people passing by for the purpose of prostitution (*PEN § 240.37*). As the common name for this law insinuates, LGBTQ+ individuals were often targeted by police with transgender women as the primary focus of criminalization. Transgender persons are individuals whose gender identity does not correspond with their gender assigned at birth or of their presumed gender. As such, they may wear clothing that does not ‘fit’ what they ‘should’ be wearing based on others’ presumptions about them. It is likely police once again used the “three items of clothing” rule to single out ‘who’ should be arrested for loitering for solicitation of sexual activity. Police confirmed that the law was used to harass and profile women, especially transgender women and gender non-confirming persons. Wearing clothing not ‘fitting’ the person’s perceived gender implied cause for suspicion of criminal activity and created a reason for arrest. Multiple times, charges under anti-cross-dressing laws were fought against in court using privacy and discrimination laws as evidence of these being unconstitutional and/or “cruel and unusual punishment” under the Eighth Amendment (Sears, 2023). Despite appeals in the past, the ‘Walking While Trans’ law was not repealed in NY until 2021 following protests for LGBTQ+ rights and decriminalization efforts toward solicitation and prostitution. The Governor of NY at the time of its overturning noted that the bill was “archaic” and necessary to ban in the work towards “reforming our policing system” (McKinley & Ferré-Sadurní, 2021). Repealing anti-homosexual and solicitation legislation following the 1970s involved similar arguments against anti-crossdressing laws.

In 1980, the New York court appealed that consensual sodomy should not be considered a crime due to protection of rights in the U.S. Constitution. It could also be contented that the previous laws were discriminatory given married persons were not charged under the sodomy laws at this time; they applied to same-sex relations, exposing that the laws targeted specific individuals rather than the act of sodomy itself. As such, the sodomy law was found unconstitutional (Leagle, 2019). It was argued that the law violated personal privacy and equal protection and stated the state was only criminalizing sexual acts between persons of the same sex due to moral reasons, mostly related to traditional values (Painter, 2004). Involving soliciting a police officer, Uplinger was arrested and convicted for “deviant” sexual behavior, and the decision was upheld following an appeal. At a later time, the NY Court of Appeals voted 6-1 to dismiss the case, repealing the loitering law (American Psychological Association, 1984). It was cited that since the act was legal following *People v. Onofre*, then solicitation of the act - evident by the act of loitering - must also be legal (Painter, 2004). Following these decisions, police were forced to use other assumptions and ideas about LGBTQ+ persons to target this group. Many of the more hostile approaches utilized by police have been reinforced by policies of similar institutions, such as those of the U.S. military.

Policing Practices

Policies and procedures concerning LGBTQ+ in the military influenced police practices, gaining greater traction as the police became more militarized. Around the 1960s and 70s, the military either outright banned LGBTQ+ persons from service or discharged those associated with homosexual behavior. In 1981, Seamon (1999) notes that this ban was supported by the Department of Defense on the basis of maintaining order and soldier morale, claiming that it was “necessary” and that homosexuals would create “an unacceptable risk” despite it going against

protections established in the Fifth Amendment (p. 324; *10 U.S.C. § 654*, 1994). President Bill Clinton would revise the ban to a more forgiving yet still stifling “Don’t Ask, Don’t Tell, (Don’t Pursue)” policy, bridging the gap between an outright ban and total inclusion of LGBTQ+ service members. It was thought that sexual orientation was a personal matter - not to be disclosed in a work setting - but still not up for disclosure on the threat of dismissal (Seamon, 1999, p. 322). Under this policy, simply stating of a non-heterosexual identity would result in an investigation, yet pursuing and asking about such things was also in violation of the policy, meaning the result of following protocol meant discharge for all parties involved. In 2010, President Barack Obama signed the “Don’t Ask, Don’t Tell” Repeal Act, ending the policy in the U.S. military in 2011 (Lowrey, 2021). Yet, this action did not mean that the idea of ‘keeping quiet’ stopped; if anything, the fear of targeting and discrimination upon reveal continued the trend into recent years.

In the effort to decrease crime, policing became more militarized with an increase in the use of ‘No Knock’ warrants, SWAT teams, and more damaging weaponry. The already strict and hostile police become more likely to target those who were not considered non-threatening, especially following the 9/11 attacks in New York. The idea of “Don’t Ask, Don’t Tell,” to just not say anything and to not ask, became a well-known practice within several institutions and in the general public. Becoming more militarized caused a trickle-down effect of policies and assumptions moving from the military to the police, that of which may include the beliefs surrounding LGBTQ+ in the force. Less powerful groups of people - women, non-heterosexuals, gender-nonconforming - may not be excluded in policy following the aforementioned decision, but social exclusion continues to be a tactic for these institutions to remain as they are, mostly male-dominated with a proclivity for violence. As such, policies and assumptions encouraging

targeting of LGBTQ+ can have increasing brutal effects with more dangerous practices and weapons being used by police.

While numerous anti-LGBTQ+ laws have been repealed, the history of using these laws to justify targeting practices and police stops remain in the institution of policing despite these changes. In 2015, the United States Transgender Survey found that 40.3% of respondents reported involvement with police within a year. This translates to over nine thousand individuals having police interactions, which the chance increased with involvement in sex or other criminalized work (Stenersen et al., 2022, p. NP23532). Assumptions of LGBTQ+ persons being involved in prostitution - such as in the 'Walking While Trans' law - may lead to more emotionally hostile and/or violent police encounters regardless of actual association with prohibited activity. Also, intersectionality of identity increases the likelihood of experiencing police brutality. Groups such as racial minorities have similar presumptions of criminality in policing, so belonging to more than one marginalized group - such as identifying as a Black, trans woman - can act as factors adding to frequent arrest and sentencing.

As demonstrated in past legislation and sentencing, language is very important in policing marginalized groups. Many of the charges against men and women resulted in reduced sentences due to changes from "sodomy" to less severe offenses (at least considered as such at the time): assault, disorderly conduct, deviant behavior, etc. The definition of sodomy has changed in current NY law to reflect "deviant sexual intercourse" done without someone's consent and is a felony (Long Island University, 2023). Language-wise, it has shifted in meaning to include non-consensual acts, as consensual intercourse of any kind involving persons of the same sex has been legalized. Though, there may be negative connotations related to LGBTQ+ individuals regarding its past connection with criminalization. As sodomy - with the negative

connotations associated with non-consensual acts - was used in reference to same-sex activity, LGBTQ+ persons now may have to face assumptions of such behavior, resulting in unwarranted criminalization by officials across the justice system in police targeting, sentencing, and incarceration. Federal and state laws and policies have drastically changed since the founding of the United States, allowing more security and freedom for LGBTQ+ individuals and organizations to thrive.

LGBTQ+ Rights and Protections

Gay Liberation Movement

Previously, some groups made headway in social categories in certain, more friendly locations, but widescale change was not secured. This was until instances of violence against LGBTQ+ places and people caused a shift, Gaining substantial ground following the Stonewall Inn Uprising, the gay liberation movement led the entire community in the search for rights and protection afforded by various institutions and governments - both state and federal. To do so, a more aggressive and political approach had to be taken to unite individuals across the country in the fight against oppression. Political activism resulted in voices previously gone unheard to be spread through news coverage, newspapers, and word-of-mouth. The LGBTQ+ community could afford to be more open and honest about their lives while presenting a united front, such as in the Gay Liberation Front and Gay Activist Alliance. The GBL arranged marches through cities, fundraised, and published information in a newspaper, generally acting as space for like-minded individuals to come together to share their ideas and make decisions for a plan of action (Downs, n.d.). This larger, less focused group would be the starting point for many other LGBTQ+ organizations that would go on to create change as well, especially for other marginalized groups who were not as supported within other activist groups. For example, the

battle for rights often excluded people of color, those of who were forced to work separately from predominantly white LGBTQ+ activist organizations. One of the most famous activists for transgender and people of color rights was Marsha P. Johnson, a leader of street marches and community services in the 1970s. She was noted as a main source of inspiration for LGBTQ+ rights during and following Stonewall (*About Marsha P. Johnson*, n.d.). Her story shows the complicated history of activism within the LGBTQ+ community with excluding other marginalized groups. Overall, it was an attempt to white-wash the movement and discard the importance of the effect of social power and the intersectionality of identity within activism itself.

The road to securing equal rights for the LGBTQ+ community has been long and tumultuous with decisions made then rescinded, promised protections ensured then discounted. Most of the rights and protections afforded to non-binary, gender non-conforming, transgender, and non-heterosexual persons are the result of decisions made by courts - such as the right to same-sex relationships without facing criminal convictions - and additions to previous laws. Traction in the fight for rights came in the 1980s with the passing of anti-discrimination laws and the court decisions to decriminalize consensual same-sex intercourse as well as loitering for the purpose of solicitation for the same. These decisions remain important for current cases and thoughts on the legality of LGBTQ+ existence in the U.S. Following the cases and first protective laws, gender neutral language and non-discriminatory measures have been used to establish freedoms for all groups regardless of status and circumstance. Though, this stance on gender and sexuality has only recently been taken by policymakers, the difference seen in analyzing past laws and current additions to legislation.

Legislation

LGBTQ+ protections came about in a variety of anti-discrimination laws concerning employment and housing with later advancements made following activism for equal rights. As a general protection, the Fourteenth Amendment ensures that there can be no denying equal protection of persons under the law (U.S. Const. amend. XIV, § 1). Yet, other legislation would be passed to further fortify this statement. In 1945, the Ives-Quinn Anti-Discrimination Bill was passed in New York, protecting against discrimination in employment. Later, it was renamed to the Human Rights Law and expanded to protect many people in a variety of situations, such as with employment and housing (Lichtash, 1945, p. 170). As an addition to this law, SONDA protects individuals from discrimination in these areas due to their sexual orientation, but transgender persons - their gender identities - were not protected under this law. GENDA added protections relating to gender identity and expression, including people who are transgender, gender non-conforming, and non-binary. Some actions prohibited under this law are asking questions related to gender identity in job interviews or denying restroom use based on gender (Gender Equality Law Center, (n.d.)). Both of these additions to the Human Rights Law in New York would be added before Congress passed the Equality Act in 2021, which is an anti-discrimination bill involving protections relating to public facilities on the basis of sexuality and gender. A highly controversial topic in 2023, the Act also addresses the illegality of denying entrance to shared areas - such as restrooms - based on someone's gender identity (H.R.5 - 117th Congress (2021-2022): Equality Act, 2021). Despite these protections established by the U.S. and New York governments, discrimination and backlash still occurs in everyday life for members of the LGBTQ+ community, just in more covert ways to disguise the inequality and prejudice.

In 1982, New York passed a regulation on workers not rejecting adoption applications “solely on the basis of homosexuality” (N.Y. Dep’t of Soc. Servs, 1981, as cited in George, 2015, p. 20). LGBTQ+ second parents are able to adopt and foster in the state of New York following the decisions of NY’s highest court in 1995. In the past, issues involving birth certificates have arisen with female same-sex couples trying to adopt a child born to one of them. Also, sperm insemination in in-vitro fertilization efforts should similarly be considered with a legal agreement to avoid complications (*LGBTQ Adoption*, 2020). In 2011, New York passed the Marriage Equality Act, granting same-sex couples the right to marry and all benefits and protections that come with marriage in the state. These include state taxes, insurance, health care, inheritance, spousal privilege, and parental rights. Civil servants - those working for the government - are required to issue licenses to those seeking them and that meet requirements, but religious organizations do not have to perform marriage ceremonies. Other organizations involved with adoption, employment, and benefits still cannot discriminate based on sexuality and marital status (*Know Your Rights*, 2013). Several states established same-sex marriages and unions legal before New York, and many courts would use the Fourteenth Amendment as evidence of marriage discrimination being unconstitutional. Despite various state legislation on same-sex marriage, the U.S. government would solve the differences between states’ laws in 2015.

Obergefell v. Hodges

Starting in the Ohio District Court, the Obergefell case addressed the legality of same-sex marriage bans. John Arthur and Jim Obergefell sought marriage in Maryland before the former passed from a terminal illness. They were able to marry outside Ohio, but the state would not accept Obergefell as Arthur’s surviving spouse on his death certificate. Another plaintiff with a

similar situation joined Obergefell in court and was added to the proceedings. The judge presiding over the case decided that treating same-sex and opposite sex marriages as different - regardless of where that marriage was registered - was probably unconstitutional (Geidner, 2013). While the Obergefell case would be paramount for LGBTQ+ decisions in Ohio, Jim Obergefell and other couples would join together to go against the remaining states banning same-sex marriage. Thirty individuals - fourteen same-sex couples and two men - claimed that denying the right to marriage and/or not having their marriage recognized was a violation of the Fourteenth Amendment. Given the status of other states' legislation, the District Courts all found the laws unconstitutional, yet a Court of Appeals found the bans within the right of the states (*A Brief History*, 2023). When moved to the Supreme Court, the ban on same-sex marriages and recognition of such was found unconstitutional. Marriage, as such, could be established as a fundamental right to all persons regardless of state intervention.

With the various laws passed providing protection for LGBTQ+ individuals and couples, police had to shift to be more accepting of same-sex couples, transgender and gender non-conforming people, and sexual minority groups. Tactics to police marginalized groups would not be supported by either the federal or state governments across the country. Though, shifts in American attitudes and an increase in political polarization has created an unstable system, allowing abuse of power and harmful events to be 'swept under the rug.' Despite these circumstances, the LGBTQ+ community is able to continue to provide support for the cause by uniting across the world in times of activism and annual celebrations, the most known being PRIDE.

PRIDE

The First Pride March

Following the Stonewall riots, the Christopher Street Liberation Day March, which would later be changed to the Pride March, was suggested by the Eastern Regional Conference of Homophile Organization (ECHO) in November 1969. The first Pride March was held on June 28, 1970, one year after Stonewall. As such, June is known as LGBTQ+ Pride Month, with the 22nd through 29th days being especially important for the celebration and promotion of LGBTQ+ rights. The March was headed by the bookshop owner Craig Rodwell, who was the leader of the Homophile Youth Movement, and Ellen Brody, a member of NYU's Student Homophile League. The two believed that there should be an annual reminder of the LGBTQ+ community's continued search for an assurance of their human rights. The March started in Greenwich Village - the location of the Stonewall Inn - going through Central Park to end in Sheep Meadow. Calls for Homophile organizations to join generated country-wide demonstrations, displaying LGBTQ+ organizational consolidation previous unseen. Shockley (2022) reveals a historian's experience, who noted that before the first Liberation March, "Never in history had so many gay and lesbian people come together in one place and for a common endeavor." Before Stonewall, demonstrations reflected a constrained and organized viewpoint, but the violence created an atmosphere of rebellion within the community. These protests and Pride Marches would get rid of the required dress code enforced by the Homophile Movement and bring about present day Pride traditions, as shown in Pride celebrations across the world.

Present Day Pride

Today, Pride Marches are organized by LGBTQ+ organizations across the world, including Heritage of Pride in New York City. This non-profit is important for planning events,

ensuring safety, and opening up room for voices to be heard. Some events put on by Heritage are The Conference, The Rally, Pride Presents, Family Movie Night, Youth Pride, PrideFest, Pride Island, and the NYC Pride March. These events are supported by volunteers and an Executive Board for each event, all of which should reflect Pride's core values of promoting equality among LGBTQ+ and other communities (Anon. 2023). As shown across events across the world, one of the key items and ideas associated with Pride is the rainbow flag, created in 1978 by artist and gay activist Gilbert Baker to represent the many individuals within the LGBTQ+ community and their sexualities (Archie and Griggs, 2022). It has become the main representation - as an umbrella symbol - though more flags for the various sexualities within the spectrum have been created now. Overall, Pride Marches are events to display pride for being a member of the LGBTQ+ community, to learn and educate, and activate for the promotion of equality for all oppressed people.

NYPD in PRIDE

Heritage of Pride takes the safety of event-goers very seriously and seeks to create safe spaces free from worry of criminalization and police violence, acknowledging the history of abuse towards several marginalized groups within the community. As such, police have been banned from marching in their uniforms during all celebrations and recruiting during events until at least 2025. To ensure safety and wellness, Heritage affirmed that a private security firm will provide officers and fire squad members not associated with police (Anon, 2023). With the New York Police Department's increasing efforts to show solidarity with the LGBTQ+ community by ensuring protections, establishing outreach units, and searching for officers part of the community, the ban will not be seen in a favorable light by police. Though, the decision comes

with a differing of opinions within the community as well, since Heritage claims to be promoting equality at their events.

Uniformed Officers

The uniform ban in Pride Marches in NYC reflects a larger issue of targeting and violence of marginalized groups throughout history and in the present day. In a demonstration of LGBTQ+ pride that was kickstarted by the events at Stonewall, having police present - especially uniformed police officers - seems to be a display of all the harm done to the community in one symbol: that of the police. So, placing a ban on the constant reminder of past policing, especially in a celebration with origins at Stonewall, appears as the best method for LGBTQ+ safety. The response to the ban has been mixed and varied depending on the argument used in either supporting or opposing this decision. Some claim that excluding police officers, regardless if they are wearing a uniform or not, is discriminatory itself. Others consider the police ban as a reflection of Stonewall-era attitudes towards police and necessary in cutting out the fear of and anger towards police going forward (Streefkerk, 2021). This stance on uniformed officers in Pride recognizes the long history and continued policing of marginalized groups - trans and Black persons especially - as well as the realization that police have never made up for the wrongs of the past. While the NYPD has made some changes, including the introduction of an LGBTQ+ Outreach Unit, the tension remains. In the first year of the ban, police not only showed up at the March but also appeared in riot gear. Eight people were arrested and pepper spray may have been used on some in Washington Square Park (Sherman, 2021). This reaction by police escalated the strain, resulting in more current evidence of police violence against the LGBTQ+ community to be used to reinforce the necessity of the ban. In 2023, the Pride March in NYC has yet to come, but it seems that police officers will not be attending in uniform.

Uniformed police will still be at the Marches, but they have moved to the outskirts of the main event, acting as traffic control and ensuring general safety. Though, the police ban does not stop police from marching out of uniform.

Undercover Cops

Undercover can be taken in two ways: going to Pride as a police officer or as a member of the LGBTQ+ community. These involve either hiding intentions for attending the event or a part of the self, part of personal identity, that would otherwise be displayed through wearing of a police uniform. Given the police ban is actually a uniform ban in the March, police are still able to attend outside of the uniform, both as an event-goer and as an officer policing the event. It seems that rather than getting rid of the policing, as many people think this ban would do, the goal of Heritage was to decrease the image of police at LGBTQ+ events to ensure safety. Yet, having hidden police reflects back to targeting efforts done by police in enforcing loitering laws: becoming one with the crowd to look out for ‘criminals’ within the population. Being hidden rather than explicitly labeled as “police” may make the community feel safer, but knowing that police may be part of the March without seeing them may do the opposite of what Heritage wants. Having the perceived opposition unseen can create more fear and a pushback against policing efforts, particularly affecting LGBTQ+ members of the police force who would want to display pride in their identity as an LGBTQ+ officer.

LGBTQ+ Police

Police who are part of the LGBTQ+ community have historically marched in Pride Parades in NYC displaying both the rainbow flag and the police badge proudly. The ban on police uniforms negatively affects these persons, who feel the ban is a step back towards equality and is actually increasing tensions rather than being a form of transformative justice. One such

organization of LGBTQ+ officers is the Gay Officers Action League (G.O.A.L.) released a statement on the exclusion of queer officers. Of which, Heritage claims they were working with GOAL to come to a compromise of wearing no police-related images (such as a badge), eliminating part of police identity (Kumamoto, 2021). Similar to in the past, the LGBTQ+ community is excluding individuals based on characteristics - in this case their career - in order to be more unified and safe, but the ban is creating a greater distance from the goal of transformative justice that organizations such as Heritage seeks. Inclusion and equality has been part of several LGBTQ+ organizations' core values for years, and the police ban on uniforms is excluding important members of the community with which they hope to protect and represent.

Conclusion

How are the police to show solidarity with and inclusion within the community if they are being excluded? How are police to make up for and be held accountable for past instances of violence and injustice when they cannot share the same spaces? Are LGBTQ+ officers supposed to choose between two important parts of their identity to feel like they belong? Placing a ban on uniformed police officers may generate a feeling of safety for people who have historically been targeted by police, but it also goes against the values that LGBTQ+ organizations and individuals seek to uphold. The NYPD must take into account the institutional power that the police hold, realizing that the history of criminalizing LGBTQ+ people cannot be hidden behind rainbow police cruisers. The LGBTQ+ community must also recognize their own history of excluding certain groups who are deemed as "unwanted," such as Black and trans activists in the 1970-80s who fronted many events considered as the foundations of Pride today. Rather than enforcing the ban, which disproportionately affects queer police officers - especially Black and Brown cops, members of both institutions must decide what it means to "be held accountable" for past actions

by police. Without understanding on both sides, nothing will be accomplished in the long run of enforcing the ban, which as seen has already produced discord within both associations. Having the NYPD and police across the country be held accountable should be the main goal of organizations in place of resulting to discriminatory practices historically used by those in power in which LGBTQ+ are trying to free themselves from. To use such practices would be hypocritical and in conflict with equality for all. A solution to this issue would be to take organizations out of the picture of decision-making, and have the people themselves decide on if police in uniforms should be banned from Pride Marches, if they want police out-of-uniform present, if the values of Pride should be upheld to work towards a strong and equal relationship between LGBTQ+ and the NYPD.

References

- 10 U.S.C. § 654*. Massachusetts Institute of Technology. (1994). Retrieved May 1, 2023, from <http://web.mit.edu/committees/rotc/code.html>
- About Marsha P. Johnson*. Marsha P Johnson Memorial Elizabeth Native and Transgender Activist for LGBTQ+ Rights. (n.d.). Retrieved May 4, 2023, from <https://ucnj.org/mpj/about-marsha-p-johnson/>
- American Psychological Association. (1984). *New York v. Uplinger*, 467 U.S. 246. American Psychological Association. Retrieved May 1, 2023, from <https://www.apa.org/about/offices/ogc/amicus/uplinger>
- Anon. (2023). *About Heritage of Pride*. NYC Pride. Retrieved May 2, 2023, from <https://www.nycpride.org/about-pride/our-mission>
- Archie, A., & Griggs, B. (2022, June 1). *It's Pride Month. Here's what you need to know*. CNN. Retrieved May 5, 2023, from <https://www.cnn.com/2022/06/01/health/pride-month-explainer/index.html>
- A Brief History of Civil Rights in the United States: Obergefell v. Hodges*. Howard University School of Law. (2023, January 6). Retrieved May 4, 2023, from <https://library.law.howard.edu/civilrightshistory/lgbtq/obergefell>
- Cohen, A. J. (2017). Trauma and the Welfare State: A Genealogy of Prostitution Courts in New York City. *Texas Law Review*, 95. Retrieved April 20, 2023, from https://kb.osu.edu/bitstream/handle/1811/86428/LAW_CohenA_TexLRev_95_2017_915.pdf?sequence=1&isAllowed=y
- Downs, J. (n.d.). *The Gay Liberation Movement*. Bill of Rights Institute. Retrieved May 4, 2023, from <https://billofrightsinstitute.org/essays/the-gay-liberation-movement>

FindLaw Staff. (n.d.). *New York Consolidated Laws, Penal Law - PEN § 240.35*. Findlaw.

Retrieved April 18, 2023, from <https://codes.findlaw.com/ny/penal-law/pen-sect-240-35.html>

FindLaw Staff. (n.d.). *New York Consolidated Laws, Penal Law - PEN § 240.37 Loitering for the purpose of engaging in a prostitution offense*. Findlaw. Retrieved April 20, 2023, from <https://codes.findlaw.com/ny/penal-law/pen-sect-240-37.html>

Geidner, C. (2013, July 22). *Ohio Officials Ordered To Recognize Gay Couple's Marriage*.

BuzzFeed News. Retrieved May 4, 2023, from <https://www.buzzfeednews.com/article/chrisgeidner/ohio-officials-ordered-to-recognize-gay-couples-marriage#.kv2g0GdkQ>

Gender Equality Law Center. (n.d.). *New York State Laws on Gender and Sexual Minorities*.

Retrieved May 3, 2023, from <https://www.genderequalitylaw.org/lgbtqnys-laws>

George, Marie-Amelie. (September 23, 2015). *Agency Nullification: Defying Bans on Gay and Lesbian Foster and Adoptive Parents*. Harvard Civil Rights- Civil Liberties Law Review (CR-CL), Vol. 51, No. 2, 2016, Columbia Public Law Research Paper No. 14-487,

Retrieved May 3, 2023, from <https://ssrn.com/abstract=2674930>

H.R.5 - 117th Congress (2021-2022): Equality Act. (2021, March 17). Retrieved May 4, 2023,

from <https://www.congress.gov/bill/117th-congress/house-bill/5>

Know Your Rights: Frequently Asked Questions About New York's Marriage Equality Act

(Updated: 2014). (2013, July 5). New York Civil Liberties Union. Retrieved May 3, 2023, from <https://www.nyclu.org/en/publications/know-your-rights-frequently-asked-questions-about-new-yorks-marriage-equality-act#1>

- Kumamoto, I. (2021, June 9). *Pride March's New Plan to "Ban" Cops Is Really Just Hiding Them*. VICE. <https://www.vice.com/en/article/dyvyyv/pride-marchs-new-plan-to-ban-cops-is-really-just-hiding-them>
- Laughlin, H. H. (1922). *Eugenical Sterilization in the United States: A Report of the Psychopathic Laboratory of the Municipal Court of Chicago*. Fred Klein Co. Retrieved April 19, 2023, from <https://repository.library.georgetown.edu/bitstream/handle/10822/556984/EugenicalSterilizationInTheUS.pdf>
- Leagle. (2019). *People v. Onofre: 51 N.Y.2d 476 (1980)*. Leagle. Retrieved May 1, 2023, from <https://www.leagle.com/decision/198052751ny2d4761481>
- LGBTQ Adoption*. (2020, July 2). Cops DiPaola Silverman, PLLC. Retrieved May 3, 2023, from <https://thecdslawfirm.com/lgbtq-adoption/>
- Lichtash, T. (1945). Ives-Quinn Act - The Law Against Discrimination. *St. John's Law Review*, 19(2), 170-176. Retrieved May 1, 2023, from <https://doi.org/https://scholarship.law.stjohns.edu/lawreview/vol19/iss2/18/>
- Long Island University. (2023). *NYS Laws and Penalties Regarding Sex Offenses*. Retrieved May 1, 2023, from <https://liu.edu/post/public-safety/jeanne-clery-act/NYS-Laws-and-Penalties-Regarding-Sex-Offenses#:~:text=Sodomy%20is%20always%20a%20felony,as%20described%20above%2C%20under%20rape.>
- Lowrey, N. S. (2021, March 1). *Repealing Don't Ask, Don't Tell: A Historical Perspective From the Joint Chiefs of Staff*. DTIC. Retrieved May 3, 2023, from <https://apps.dtic.mil/sti/citations/AD1145195>

- McKinley, J., & Ferré-Sadurní, L. (2021, February 4). N.Y. Repeals Law That Critics Say Criminalized 'Walking While Trans'. *The New York Times*. Retrieved May 1, 2023, from <https://www.nytimes.com/2021/02/03/nyregion/walking-while-trans-ban.html>
- Painter, G. (2004). *The Sensibilities of Our Forefathers: The History of Sodomy Laws in the United States*. Sodomy Laws. Retrieved March 28, 2023, from https://www.glapn.org/sodomylaws/sensibilities/new_york.htm
- Parker, A. J. (1872). *Reports of Decisions in Criminal Cases Made at Term, at Chambers, and in the Courts of Oyer and Terminer of the State of New York* (Vol. 5). William Gould & Sons. Retrieved April 19, 2023, from [https://cite.case.law/pdf/1262843/Lambertson%20v.%20People,%205%20Park.%20Crim.%20Rep.%20200%20\(1861\).pdf](https://cite.case.law/pdf/1262843/Lambertson%20v.%20People,%205%20Park.%20Crim.%20Rep.%20200%20(1861).pdf)
- Seamon, A. A. (1999). The Flawed Compromise of 10 U.S.C.. 654: An Assessment of the Military's Don't Ask, Don't Tell Policy. *University of Dayton Law Review*, 24(2), 319-348. Retrieved May 1, 2013, from https://heinonline.org/HOL/Page?handle=hein.journals/udlr24&div=16&g_sent=1&casa_token=&collection=journals
- Sears, C. (2023, March 15). *This Isn't the First Time Conservatives Have Banned Cross-Dressing in America*. Jacobin. Retrieved April 20, 2023, from <https://jacobin.com/2023/03/cross-dressing-law-united-states-history-drag-bans>
- Sherman, C. (2021, June 28). *Cops Were Banned From NYC Pride. They Showed Up With Riot Gear*. VICE. <https://www.vice.com/en/article/n7bd9q/cops-banned-nyc-pride-riot-gear>

Shockley, J. (2022, December). *NYC Pride March*. NYC LGBT Historic Sites Project. Retrieved May 5, 2023, from <https://www.nyclgbtsites.org/site/starting-point-of-nycs-first-pride-march/>

Stenersen, M. R., Thomas, K., & McKee, S. (2022). Police and transgender and gender diverse people in the United States: A brief note on interaction, harassment, and violence. *Journal of Interpersonal Violence*, 1–14. Retrieved March, 21, 2023, from <https://doi.org/10.1177/08862605211072161>

Streefkerk, M. V. (2021, June 20). *Why Pride organizers are banning cops*. Mashable. <https://mashable.com/article/pride-police-ban>

Thistlethwaite, P. (2007). Stonewall. *CUNY Academic Works*. Retrieved February 14, 2023, from https://academicworks.cuny.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1101&context=gc_pubs

U.S. Const. amend. XIV, § 1