

Purge to Plague: How Doctrine Became the Gay Man's Death

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LAH350: The Paper Chase: Law School and the Life of the Law

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April 18th, 2026

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The Original Sin –

The federal government did not simply discriminate against gay Americans. Instead, it built a system to do it. Beginning in the early 1950s, the United States government launched what became known as the Lavender Scare: a systematic purge of gay and lesbian federal employees simultaneously carried out with the anti-communist Red Scare. The events were driven by the claim that homosexuals were inherently susceptible to blackmail and thus posed a threat to national security. Through executive orders, congressional reports, and nationwide surveillance, sexual orientation was transformed into a federal disqualification. Thousands of federal workers lost their jobs; some took their lives. The system did not disappear after the Lavender Scare faded from public consciousness. It hid and embedded its framework of exclusion into political culture and institutions. This foundation would define the federal government's approach to the AIDS crisis nearly thirty years later.

The Lavender Scare was the original sin of federal LGBTQ+ persecution. Its DNA ran directly through the government's refusal to respond to the AIDS epidemic. This connection was neither coincidental nor merely a matter of historical timing. The same government that declared gay people inherently untrustworthy in 1950 watched tens of thousands of gay men die from a preventable epidemic in the 1980s. It responded without urgency, compassion, or basic public acknowledgment. The link between these chapters in American history lies not in proximity, but in the same foundational conviction: gay lives were expendable.

The Architecture of Persecution –

In December 1950, a Senate subcommittee chaired by Senator Clyde Hoey of North Carolina released a report titled "Employment of Homosexuals and Other Sex Perverts in Government."

The report concluded that gay federal employees were “generally unsuitable” for government service and posed security risks. They were described as vulnerable to blackmail, emotionally unstable, and morally compromised (U.S. Senate, 1950). The committee’s language shows its intent: “One homosexual,” the report warned, “can pollute a government office” (U.S. Senate, 1950). No evidence supported the claim that gay employees had ever betrayed their country.

Three years later, on April 27, 1953, President Eisenhower signed Executive Order 10450. This turned the Hoey Report’s recommendations into federal law. The order listed “sexual perversion” alongside criminal conduct and drug addiction as grounds for investigation and termination from any federal position (Exec. Order No. 10450, 1953). It applied to both direct federal employees and private contractors, effectively setting a standard for employment discrimination across the American economy. During the order, between 5,000 and 10,000 federal workers were fired or forced to resign (Adkins, 2016). Those dismissed were permanently barred from all future federal employment.

The surveillance network that enforced these dismissals operated on an unsuspecting scale. In 1951, the FBI built a “Sex Deviates” file that would eventually contain over 330,000 pages. This file was used to share information regarding gay individuals with employers in both the public and private sectors (Charles, 2012). Investigators began interrogating colleagues, neighbors, and family members about the private lives of suspected employees.

The historical significance of the Lavender Scare lay not only in its cruelty but also in its deliberateness. The scare represented a “paradigmatic case of how modern power operates through neutralized procedures and depoliticized discourse.” It turned moral and political judgments into administrative decisions that deflected legal challenge (Tang, 2025). The Civil Service Commission enforced these standards. It was not incompetence that led to firings. It was

identity—violating the moral standards the government chose to enforce. Executive Order 10450 was meant to make moral judgment look like a security precaution, yet it was neither.

The Court's Confirmation of Exclusion: *Boutilier v. INS* –

The persecution was not limited to employment alone. In 1967, the United States Supreme Court made clear that the federal government's hostility toward gay people reached beyond the workplace. It extended into the fundamental question of who was allowed to remain on American soil. The same logic that had justified purging gay people from federal employment was now being enforced to justify removing individuals from the country entirely.

Clive Boutilier, a Canadian national, had lived in the United States for eight years when the federal government moved to deport him on the grounds that he was a homosexual and therefore was “afflicted with psychopathic personality” under the Immigration and Nationality Act of 1952 (*Boutilier v. INS*, 1967). The term “psychopathic personality” had been deliberately chosen by Congress as a precaution to exclude gay individuals from admission into the United States. Boutilier's psychiatrists testified that he was not a psychopath by any clinical definition. Yet the Court upheld his deportation; the 6-3 holding solidified Congressional intent over medical reality (*Boutilier v. INS*, 1967).

The decision in *Boutilier v. Immigration and Naturalization Service* shows the Lavender Scare's logic hardening into Supreme Court doctrine. The framing that justified firing gay federal employees—homosexuality as a character flaw unfit for trust—had become the legal basis for expelling people from the country. Justice William Douglas's dissent argued that “psychopathic personality” was constitutionally vague, clinically meaningless, and broad enough to condemn a large portion of the population (*Boutilier v. INS*, 1967). The majority did not dispute this vagueness; they simply did not care.

The First Resistance: Frank Kameny and the Petition to SCOTUS

Frank Kameny was a Harvard-trained astronomer who had served in World War II before earning his doctorate and working for the U.S. Army Map Service. In 1957, he was fired by the federal government solely because he was a gay man (The Kameny Papers, 1961). Under the logic of Executive Order 10450, his identity was sufficient grounds for removal. Not only was he fired from his position at the map service, but he was also barred from any government job in the country. While most men in his position quietly disappeared into private life, Kameny chose to fight back.

He appealed his dismissal through the courts, though time after time they sided with the government. Kameny eventually filed his petition pro se to the United States Supreme Court for the October Term of 1960 (The Kameny Papers, 1961). The case, *Kameny v. Brucker*, argued the federal government was treating gay Americans as second-class citizens. He saw such discrimination as morally impermissible and believed it should be treated equally to discrimination based on race or religion (Adkins, 2016). He framed anti-gay discrimination as a civil rights issue years before the argument would gain legal traction. The Court declined to hear his case.

The rejection did not stop him. Kameny co-founded the Mattachine Society of Washington, the city's first gay rights organization. It was built as a civil liberties group promoting gay rights through social action (The Kameny Papers, 1961). In 1965, Kameny organized the first public protest for gay rights outside the White House. Demonstrators carried signs demanding federal employment, honorable discharges, and security clearances—the rights the government had stripped away (The Kameny Papers, 1961). When the Civil Service Commission's chairman, John W. Macy Jr., replied in writing to the Mattachine Society in 1966,

his letter revealed the government's position. Macy wrote, "The Commission sees no third sex, no oppressed minority or secret society, but only individuals," judged solely based on their "overt conduct" (The Kameny Papers, 1961). The letter served as a dismissal. By refusing to see gay Americans as a group facing discrimination, the Commission claimed there was no protected class to be harmed. Thus, no law existed to protect them.

The First Judicial Crack: *Norton v. Macy* –

The legal argument Kameny made for over a decade found judicial footing in 1969. The D.C. Circuit decided *Norton v. Macy*. Clifford Norton was a GS-14 budget analyst at NASA who was fired after an off-duty encounter near Lafayette Square in Washington (Tang, 2025). NASA officials acknowledged that Norton's conduct posed no security risk, had no connection to his job performance, and was unknown to his colleagues. The government's only justification for his dismissal was that continued employment might prove "embarrassing to the agency" (*Norton v. Macy et al.*, 1969).

The D.C. Circuit rejected the justification without hesitation. The court held that the government cannot sustain a dismissal "merely by turning its head and crying 'shame'" (*Norton v. Macy et al.*, 1969). The ruling established what would become known as the rational nexus test. This required the government to demonstrate a specific and concrete connection between an employee's private conduct and actual job performance before dismissal could be held. The government's practice of treating gay identity as grounds for termination became insufficient.

The decision in *Norton v. Macy* neither invalidated Executive Order 10450 nor declared gay people a protected class under federal law. Its scope remained deliberately limited, but it held. The case was the first instance in which a federal court placed a significant check on the government's hostility. Paired alongside Kameny's continued organizational and legal pressures,

the cases began to shift what was legally defensible (Tang, 2025). By 1975, the Civil Service Commission rescinded its ban on homosexual federal employees. The framework that had once cost thousands their careers and livelihoods was finally dismantled. It was not because the government had a change of conscience, but because gradually the courts made it increasingly indefensible to maintain.

The Silence That Killed: Reagan and the AIDS Crisis –

The Lavender Scare did not end with the Civil Service Commission's 1975 policy change; rather, its logic mutated. The framework of dismissal and surveillance gave way to institutional indifference backed by the foundational conviction that gay lives had not warranted the attention of the federal government. The Centers for Disease Control published its first official report on AIDS in June of 1981. By the end of that year, 337 cases and 130 deaths had been recorded (Ortiz, 2023). The Reagan administration stayed silent; the White House said nothing; the president chose not to acknowledge. It was not until September 1985—four years into the epidemic—that Ronald Reagan first publicly acknowledged AIDS existed, and only because a reporter asked (Bennington-Castro, 2020). In the years of silence, over 12,000 Americans were dead. By 1990, the death toll would reach nearly 120,000. Many of those deaths were preventable.

The silence was not merely passive; Surgeon General C. Everett Koop—in charge of addressing national public health emergencies—was barred from speaking about AIDS during the entirety of his first term. In his own memoir, Koop wrote that he was completely unable to speak on AIDS for five and a half years, as the government staff instructed the press in advance that he would be unable to answer questions on the subject (Ortiz, 2023). The CDC's first national AIDS prevention plan was developed in early 1985 and rejected by Reagan's

administration on February 4 (Bennington-Castro, 2020). During times when the CDC and the National Institutes of Health needed resources, Reagan chose to cut budgets.

When the White House press secretary Larry Speakes was asked about AIDS during a 1982 press briefing, he responded to reporters that over 600 people had died, saying, “I don’t have it. Do you?” The press pool erupted in laughter (Ortiz, 2023). White House Communications Director Pat Buchanan publicly described AIDS as nature “exacting an awful retribution” on gay men (Ortiz, 2023). The federal government’s response was the Hoey Report, translated into a different language. The 1950 committee declared that gay people were morally corrupt and unfit for public service; similarly, the 1980s White House declared that gay people were morally responsible for a disease that was exponentially killing them.

Henry Waxman—the chair of the House health subcommittee—put it plainly: the government’s response would have been entirely different “if the same disease had appeared among Americans of Norwegian descent” (Bennington-Castro, 2020). He captured the same logic that had animated the Lavender Scare three decades earlier. The suffering of gay Americans had never required the same urgency or concern as the suffering of others.

The Courts Confirm the Persecution: *Bowers v. Hardwick* –

As gay men continued to die while the White House stayed silent, the Supreme Court issued one of its most consequential decisions. In 1986, a 5-4 Court upheld Georgia’s sodomy law in *Bowers v. Hardwick*. Michael Hardwick had been charged under the statute for consensual activity in his own bedroom. The majority opinion framed a narrow question: had the Constitution conferred a fundamental right upon homosexuals to engage in sodomy? The Court ruled against, grounding its analysis in the argument that such conduct was historically

condemned and carried no protection (*Bowers v. Hardwick*, 1986). Chief Justice Burger's concurrence reached to Roman law and Judeo-Christian traditions to reinforce the point.

Bowers v. Hardwick was decided at the height of an epidemic that took the lives of gay men across the country, in part because the federal government had already decided their lives warranted no protection. The Lavender Scare had constructed gay people as threats to the national order. *Bowers v. Hardwick* confirmed—at the highest level of American law—that gay people could be treated as criminals for consensual conduct done privately in their own homes. Though the forum had changed, the logic remained continuous. Notably, Justice Powell, considered the deciding vote, later stated that he may have erred (*Bowers v. Hardwick*, 1986). Yet that concession would arrive far too late for the individuals who bore the weight of that decision.

The Direction Change: *School Board of Nassau County v. Arline* –

A year after *Bowers v. Hardwick*, the Court moved in a fundamentally different direction. Gene Arline—an elementary school teacher in Florida—had been fired after recurring relapses of tuberculosis. In a 7-2 decision, the Court held that people with contagious diseases were entitled to protection under Section 504 of the Rehabilitation Act of 1973 (*School Bd. of Nassau County v. Arline*, 1987). The decision held that employers could not justify discrimination based on “fearful, reflexive reactions” to perceived contagion. What the statute was designed to prevent was precisely that—discrimination rooted in fear rather than fact.

HIV advocates immediately recognized *Arline*'s significance. The Court had established that contagiousness alone cannot justify exclusion, and that individuals “regarded as” having an impairment were entitled to equal protection (*School Bd. of Nassau County v. Arline*, 1987). These principles became the legal foundation for the argument that AIDS and HIV-positive

individuals were protected from the same exclusion the government had practiced for decades. Though the reasoning in *Arline* did not mention AIDS directly, the Court quietly supplied a legal framework that AIDS advocates would use to fight back.

The Weight of the Record –

The Lavender Scare and the AIDS crisis do not represent discrete episodes in the history of LGBTQ+ persecution in the United States. They constitute a single, unbroken narrative linked across decades by the same foundational premise. Through the face of mass suffering and death, the existence of gay Americans posed both a threat to the nation and a burden unworthy of protection.

Those whose careers were destroyed under Executive Order 10450 were never restored to their positions. The families fractured by a government that branded their sons as security risks received no meaningful redress. The tens of thousands who perished during the AIDS epidemic—while the federal government trivialized their suffering—cannot reclaim the years denied to them. These are not incidental losses; they are the direct result of calculated policy decisions rationalized by the same rhetoric the Hoey Committee put to paper in 1950.

Frank Kameny devoted nearly two decades to challenging a government that had rendered him unemployable solely based on his identity. The decision in *Norton v. Macy* provided a narrow legal opening. *Arline* offered subsequent generations a measure of protection. Yet the law moved slowly, incompletely, and far too late for those most affected. These histories demand more than acknowledgment that legal doctrine eventually shifted. They demand an honest accounting of what it cost. When a government decides that an entire group of people is inherently suspect, it does not merely change course when the pressure mounts. The harm it

causes does not disappear when the policy does. Those who lived under it bear the consequences long after the law has moved on.

The through-line from the Hoey Report to the White House press briefing, where 600 deaths became a punchline, is not difficult to trace. It only requires a willingness to look.

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