

HIV/AIDS AND HOUSING DISCRIMINATION IN AUSTIN, TEXAS: THE MORAL
MAJORITY AND THEIR IPSO-FACTO GENOCIDE

by

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ACKNOWLEDGEMENTS

To my family, for their continued love and support.

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ABSTRACT

This thesis asserts that an ipso-facto genocide of gay AIDS-afflicted males occurred in Austin, Texas, from January 1986 to January 1989. The genocidal event occurred due to the combination of the Moral Majority's rhetoric used to dehumanize the gay population, State-wide penal codes that criminalized homosexuality, the resultant pro-discrimination environment from dehumanizing rhetoric and criminalized homosexuality, a neoliberal economic policy that influenced the design of Austin's healthcare infrastructure, and AIDS. Genocide in this context is an ipso-facto event because it happened naturally after the culmination of the attributes mentioned above.

I. Introduction

The process of marginalization, alienation, and stigmatization is slow. It is not something that happens overnight in the blink of an eye. But rather, over many weeks, months, and years; it is an intentional and systematic process that is knowingly occurring to the affected individual. It is an insidious event that lives with them as they go about their day. Like cancer, it lays in bed with them at night—the knowing that eventually everything will be taken from them. They will lose their agency, and that there is nothing they can do to stop it. To begin the reconciliation process, we must give these individuals who experienced this process during the AIDS epidemic in Austin, Texas, a voice, that we acknowledge their pain, their suffering, that we recognize their lived experience, and that they know that they are seen and heard.

During the seventies and eighties, the United States experienced a movement by right-wing conservatives that attempted to reinforce conservative Christian ideology. This right-wing collective, known as the "Moral Majority," was raised by Richard Nixon's call to the "silent majority" and empowered by Ronald Reagan's successful election.¹ The Moral Majority sought to maintain the postwar belief in a nuclear family led by a heterosexual white Christian male as the majority American household. This value system became known as "family values."²

The Moral Majority, which consisted of Protestant, Catholic, and Evangelical Christians responded to the wave of social movements that began with the Black freedom struggle in the sixties in the United State and globally. These social movements sought to gain full citizenship previously unavailable to people of color, women, and queer people

¹ Self, Robert O. *All in the Family*. New York: Farrar, Straus, and Giroux, 2012, 6

² Self, *All in the Family*, 5

in the existing political and legal institutions. The Moral Majority viewed these social movements as an attack on family values and sought to prevent this by espousing neoliberal ideology through political action. To accomplish this, throughout the seventies and eighties, the Moral Majority successfully converted social welfare structures created during the Great Depression and onward from center-left institutions to private-free market institutions, or politically, center-right.³ The reformation of these welfare institutions creates an inextricable link between the social value system of the Moral Majority and neoliberal ideology.

During the sixties and after the Stonewall Riots in New York City, sexual minorities sought protection from discrimination based on gender and sexual orientation. This protection would grant them equality and equity throughout American life, ostensibly giving them the same quality of life heterosexual white males experienced. To counter this posited protected class, the Moral Majority reinforced their argument against any non-heteronormative lifestyle as deviant, criminal, immoral, and corrupting to American society and used these arguments to establish statutes and legislation that allowed for the state-sanctioned discrimination based on sexual orientation—thereby disallowing sexual minorities full citizenship.⁴ In Austin, Texas, from January 1986—to January 1989, in the midst of the AIDS epidemic, the combination of the Moral Majority's rhetoric and their neoliberal economic reformation of social welfare structures created an environment of ipso-facto genocide of gay men diagnosed with HIV/AIDS.

Genocide has long been a topic of debate in the 20th century. Many definitions and analyses around the term have been proposed to help define, determine, and categorize it.

³ Ibid

⁴ Ibid

Tony Barta suggests a definition of genocide in an essay in the edited volume *Relations of Genocide: Land and Lives in the Colonization of Australia* as an act imposed on one category of people to another that caused(s) great destruction, but this act is not the explicit intention of the State or policy, but instead that the destruction is the relationship between the affected population and hegemonic State.⁵

In his essay, Barte argues that genocide describes the relationship between the Aboriginal population and British colonizers. Although the British did not have a policy that deliberately imposed great destruction, their land acquisition policy and resource management made it such that the Aboriginal population simply *decreased*. Therefore, the relationship between the British colonizers' policies and its effect on the Aboriginals caused their destruction, as Barta terms it, a *genocidal society*. This term is adopted from understanding genocide as a *genocidal state*, often used to understand the relationship between Germany and the Holocaust.⁶

This thesis posits genocide in a rhetorical space between a genocidal state and a genocidal society, which I call an *ipso-facto genocide*. Ipso-facto genocide is slightly different from Barta's genocidal society. In Barta's genocidal society, the British State never used explicit rhetoric that called for genocidal destruction or dehumanizing rhetoric to the Aboriginal population. Instead, the destruction that occurred was implicit in the relationship between the Arboigini's and the state policy of the British. This essay will argue that the Moral Majority used rhetoric to dehumanize and stigmatize the gay and AIDS afflicted population, therefore differentiating this genocide from Barta's genocidal

⁵ Barta, Tony. "Relations of Genocide: Land and Lives in the Colonization of Australia." In *Genocide and the Modern Age: Etiology and Case Studies of Mass Death*, by Wallimann, Isidor; Dobkowski, Michael; and Rubenstein, Richard L., (Syracuse University, 1987), 237 – 251.

⁶ Bart, *Relations*.

society, but this rhetoric did not extend into their policymaking, making it ineligible for the term genocidal state. Therefore, the genocide that occurred was ipso-facto in nature because there was genocidal rhetoric socially, but no genocidal rhetoric legislatively.

This thesis will argue that the Moral Majority used explicit rhetoric that called for genocidal destruction of gay and AIDS-afflicted individuals. This rhetoric led to a fear-mongering process causing the public-at-large to stigmatize and alienate the gay and AIDS-afflicted population. Furthermore, and in combination, a conservative-driven neoliberal economic system existed that allowed for the destruction of the stigmatized population because it could not protect them during the AIDS epidemic. These elements, when combined, created an environment that allowed for ipso-facto genocide to occur. The victims of this genocide were primarily gay, white men between the ages of 20 and 35 who were infected with AIDS in Austin, Texas, from 1985 – 1989—although the crisis would certainly also affect people of color as well.

This thesis will seek to prove that, although genocide was not explicitly written in State policy by the Moral Majority, it was in alignment with their ideology, and due to the lack of healthcare resources for non-insured populations, the extermination of a targeted group of people occurred. This extermination occurred in a procedural process wherein each procedural step was dependent on the previous step or a stepwise process.

The stepwise process of extermination had five steps: 1) Rhetoric was used to dehumanize the gay population, create an environment of AIDS-related fear, and fear of gay males as criminals. 2.) The dehumanizing rhetoric and fear were used to justify discrimination. 3) The Austin legal process for adjudicating discrimination cases based on the local ordinance was so ineffective that the effects of discrimination could not be

countered with anti-discrimination laws. 4) Discrimination led to termination from employment. 5.) Once unemployed, neoliberal economic ideology caused decreased access to private healthcare and inadequate funding of indigent medical services. The culmination of this process, once tied to the AIDS crisis, had the effect of leading queer people to their death.

To understand the discriminatory aspects of the State's infrastructure, I will present the rhetoric (written ephemera) the Moral Majority used to argue for anti-sodomy legislation. This argumentative methodology was then used to support opposition to anti-housing discrimination ordinances, promote workplace discrimination, and create an atmosphere of alienation and dehumanization among AIDS-afflicted individuals. The thesis will conclude by showing that the only reason the genocide ceased was due to the State's inability to finance the extermination of this population due to the shifting of cost from insurance companies to the taxpayers that occurred when public hospitals had to take care of AIDS patients who were not insured. The process of the two main concurrent events, dehumanization of gay and AIDS-afflicted individuals, and the effects of neoliberal economic ideology on healthcare infrastructure, and their relationship with the AIDS epidemic and discrimination, are shown in the flow chart in Appendix A. First, we will begin by understanding the gay rights movement in Austin leading up to the AIDS crisis.

II. The Gay Civil Rights Movement in Austin pre-AIDS

In 1978, one of the Moral Majority's most fervent and outspoken anti-gay supporters, Anita Bryant, visited Austin. Austin's LGBT community created the Austin Human Rights Coalition (HRC) in reaction to her visit. The term "Human Rights Coalition" was used to exemplify the discrimination experienced by all women and men deemed "outsiders." By acknowledging that all struggles amongst marginalized groups such as African Americans, Chicanos, lesbians, and gay men, intersect and derive from the same group of people, the Moral Majority. Therefore, it was understood that the marginalization of one group is the marginalization of all groups, and only as a coalition fighting together would they succeed. Thus, while other "outsider" groups were fighting against their discriminations', such as African Americans battling segregation and feminists fighting workplace discrimination, the HRC, at this time, sought to address the marginalization of the LGBT community.⁷ The Austin Gay Rights movement officially began.

A significant hurdle to full-citizenship and LGBT integration in Austin was housing discrimination. Concurrently, at the State level in Dallas, Texas, Texas House Bill 21.06, which made sodomy between two males a misdemeanor, was also being challenged. Although, historically, winning in the courts or even getting any case involving sexuality heard was difficult, as sexual discrimination was viewed as a moral matter, not a legal one.

This changed in 1978 when the City of Austin (COA) charged The Driskell hotel with discrimination. With the City of Austin as the plaintiff, the city argued that the Driskell violated Austin's equal employment and public accommodation ordinances when they kicked out a homosexual couple for "same-sex" dancing. The city won, and a back in forth

⁷ David Morris Papers (AR.1991.003). Austin History Center, Austin Public Library, Texas, Folder 4

of appealing and overruling commenced, with the City of Austin ultimately prevailing. In this ruling, Judge Steven Russel stated this case "was and is one of human dignity, of the right to about one's daily life without being publicly marked as inferior, less than human."⁸ This case marked a turning point in local Texas politics and nationally as it was viewed as a critical first step towards addressing legislated sexual discrimination in court. Following this case, HB 21.06 was challenged by Don Baker in Dallas, Texas, and anti-discrimination amendments were proposed to Austin's Housing Ordinance No.77.

In 1979, gay rights activists local to Austin attempted to amend Austin's Housing Ordinance No. 77. This ordinance, passed in 1976, was congruent with the federal housing law that included the protected classes of religion, race, color, national origin, and sex. Gay rights activists claimed that because of the exclusion of sexual orientation, marital status, age, physical handicap, and occupation/parenthood, individuals were denied housing in Austin in a discriminatory manner. This thesis will only focus on sexual orientation.

To understand housing discrimination, the Human Relations Committee conducted a two-year housing study that drew data from the Austin housing census dating between 1880 – 1970, a questionnaire sent out to all known members of the LGBT community, and a questionnaire sent to random occupants of Austin.

From the members of the LGBT community that responded to the survey: "33.3% of respondents felt they were denied equal opportunity in obtaining housing or living quarters because they were gay; 53.1% felt they were denied equal opportunity in obtaining housing or living facilities because of marital status; 48.9% felt they were discriminated against for seeking housing with roommates; 27.8% felt they were harassed, treated

⁸ AF – H2030(13) – LGBTQ – General Folder 2 – Stanley, Dick, "Homosexuals Comfortable in Austin," *Austin American- Statesman*, March 8, 1981.

unfairly, or evicted by management because of one's sexual orientation; 92.1% of participants surveyed had been victims of discrimination or felt they had the potential to become victims."⁹ This data shows not just that gays and lesbians were discriminated against, or perceived that they were discriminated against, but that to successfully discriminate against them, one had to discriminate across many different categories such as students, unmarried couples, and males with roommates. That is why civil rights groups proposed the protection of sexuality/sexual orientation, marriage status, age, physical handicap, and occupation/parenthood.

The proposed amendment to Housing Ordinance No.77 resulted in a virulent backlash from the Moral Majority, and a polarizing debate ensued. Here the first stepwise process of ipso-facto genocide can be seen; dehumanizing rhetoric.

Opposition to the amendment came from two camps the Moral Majority and private landowners. The Moral Majority argued on the grounds of morality, and the landowners argued against state oversight in a free market.

The ideology of the Moral Majority can be seen in Figure 1. This figure features a letter David and Joanne F. Moore sent to Councilman Goodman in opposition to the proposed anti-housing discrimination amendment. Note in section 1 the conflation between homosexuality and criminal behavior. This argument is possible due to HB 21.06, as cited below, and based on morality. It states

Sexual Orientation. We presume this is a euphemism for overt homosexuality. This section is both useless and detrimental to our society. How is a landlord to know that prospective tenants are homosexual unless the practice of homosexuality is open and blatant? The issue would have to be raised not by the landlord, but by the prospective tenant.

⁹ Austin (Tex.). Human Relations Commission. Housing Patterns Study of Austin, Texas. Austin, TX: Human Relations Commission, 1979. Chapter 10, Housing Discrimination Against Homosexuals.

We do not believe the City of Austin should place a stamp of approval on conduct that is not only morally offensive to the majority, but still remains in violation of State Penal Code (Section 21.06, Texas Penal Code)¹⁰

The same conflation between immorality and homosexuality can be seen in Figure 2; oppositional anti-housing discrimination empyema from Grover and Lydia Fuch's, as stated in paragraph five.

Similar objections can be raised regarding martial status or sexual orientation, which are two categories listed in the act. This includes homosexuality and its practices. A landlord whose religious conviction hold that homosexual practices are sinful, could not but feel guild in allowing these practices in his apartment(s).¹¹

These two primary sources are letters from the households named above to their councilman and are located at Austin History Center. Their views of conflating and linking homosexuality to immorality, thereby giving landlords the ability to refuse housing to homosexuals, are not outliers but the norm. By drawing associations between homosexuality and culture of an "other," status as "second-class citizens," assumed immoral actions that are not only sinful but illegal, landowners were enabled to discriminate, alienate, and stigmatize, gays by assuming they were involved in de-facto criminal behavior, using state-sanctioned methodology made available by H.B 21.06.

In response to these arguments of the Moral Majority and their associated lobbying effort, Austin voted in a majority conservative city council from 1977 – 1979, and the issue of amending Housing Ordinance No. 77 was halted.

¹⁰ Richard Goodman Records (AR.U.004). Austin History Center, Austin Public Library, Texas. City Council, 1977 – 1983, Folder 14/1.

¹¹ Goodman Records, Folder 14/1

By August 1981, four of the seven city council members supported amending the housing ordinance and adding the protected classes of creed, marital status, status as student, parent, age, and sexual orientation. On August 6th, a public hearing was held to debate the issue.

The Moral Majority showed up to the hearing as a coalition of conservative Christian churches. The coalition was named the Citizens for Decency and led the opposition against the housing amendment by raising a petition that read "It shall be unlawful to deny housing on the basis of sexual orientation" on the upcoming ballot during the January 16th, 1982, election. To counter Citizens for Decency, Citizens for a United Austin was founded and led by Janna Zumbrun.¹²

Citizens for a United Austin was a political action committee explicitly organized to rebuff the local political actions of Citizens for Decency. Their member base was derived from clergy, feminist, labor leaders, minority leaders, local businesses, and elected officials. To counter Citizens for Decency, they implemented seven steps: 1.) Created an organizational structure, 2.) Formed Campaign Executive Committee, 3.) Developed a projected budget, 4.) Consulted with various experts (marketers, attorneys, campaign experts), 5.) Planned the campaign, 6.) Fundraised 7.) and initiated the voter registration drive.¹³

On the day of the hearing, the members of Citizens for Decency arrived up to four hours early, packed the room, and made statements about the amendment such as "[this

¹² David Morris Papers (AR.1991.003). Austin History Center, Austin Public Library, Texas, Folder 9 – Newspaper Clippings 1984-1985, Morris, David. "Council May Add Gay Provision to Austin Fair Housing Law."

¹³ Austin Lesbian/Gay Political Caucus Records (AR.Z.018). Austin History Center, Austin Public Library, Texas, Folder 2/12.

amendment] would turn Austin into another San Francisco with rampant child molestation, sex in public, and sadomasochistic parlors on every corner."¹⁴ Referencing San Francisco and associating child abuse with gay people was a common tactic used by the Moral Majority to correlate the gay community with criminal behavior. This strategy alluded to the effect that increased homosexuality would allow for "deviant" and indecent behavior to permeate through the moral fabric of society and corrupt America from within, destroying family values.

Private landowners, such as The Austin Apartment Association, Austin Realtors Association, and Austin Home Builders Association, stood in opposition, although not affiliated with the Moral Majority. These organizations' arguments rested on their rights as private property owners stating there was too much government interference in the private market and not enough evidence of discrimination. Although the landowners did not associate with the Moral Majority, the free-market and the Moral Majority were inextricably linked. The right-wing viewed the nuclear family with a heterosexual white Christian male breadwinner as the cement that maintained America's socio-political hegemony, and any disruption to that was a disruption that could be considered deviant. The end economic goal of Austin landowners was that of neoliberal ideology, capitalist, decentralized, and unregulated – allowing for maximal profits. Therefore, for the free market to be maintained at maximal strength, any nonconformist category seeking full citizenship must be quashed.

To counter the claim that discrimination did not exist in a significant manner, Janna Zunbrum, of ALGPC/Citizens for United Austin, invoked the Housing Pattern Study that

¹⁴ Morris Papers, Folder 9. "Council May Add Gay Provision to Austin Fair Housing Law."

exemplified the discrimination of homosexuals and all other marginalized groups. Even though it appeared that the Moral Majority was the true majority because of the way the hearing was televised, which they were not, the City Council passed the amendment on February 18th, 1982. Additionally, the amendment was passed as an emergency procedure, therefore disallowing a petition to ratify to occur in not less than two years.¹⁵ Concurrently, at about the same time, in 1981, HB 21.06 was being challenged in Dallas.

¹⁵ David Morris Papers (AR.1991.003). Austin History Center, Austin Public Library, Texas, Folder 9 – Newspaper Clippings 1984-1985, Morris, David. “Austin City OKs Gay Rights Amendment.”

Figure 1

Councilman Richard Goodman
City Hall, 124 W. 8th Street
Austin, Texas 78701

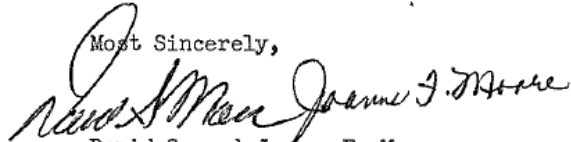
Dear Councilman Goodman,

We strongly urge that you oppose certain sections of the proposed "Fair Housing Ordinance." The sections we refer to are either useless or detrimental to our city. There sections are:

- (1) Sexual orientation. We presume this is a euphemism for overt homosexuality. This section is both useless and detrimental to our city. How is a landlord to know that prospective tenants are homosexual unless the practice of homosexuality is open and blatant? The issue would have to be raised not by the landlord, but by the prospective tenant. We do not believe the City of Austin should place a stamp of approval on conduct that is not only morally offensive to the majority, but still remains in violation of the State Penal Code. (Sec 21.06, Texas Penal Code)
- (2) Age. Surely citizens should not be denied the right to live among adults only in multi-housing situations.
- (3) Physical disability. This would be a useless requirement unless all housing is built or modified to accommodate the physically handicapped.
- (4) Marital Status. It would be wrong to endorse conduct that is morally offensive to the majority, and potentially damaging to the fabric of our society.

The Federal Guidelines for "Fair Housing" are certainly adequate for any worthwhile purpose such an ordinance can serve. To decriminalize conduct such as homosexuality or drunkenness is one thing, but to recognize it as an acceptable life style is quite another matter.

Most Sincerely,



David S. and Joanne F. Moore
7106 Meadowood Drive
Austin, Texas 78723

Figure 2

Austin History Center
3008 Fruth St.
Austin, Texas 78705
July 8, 1977

*Sent to Council
7/14/77*

Mayor Carole McClellan and
Members of the City Council
of Austin, Texas

Greetings:

We have procured a copy of the Fair Housing proposed ordinance which is up for final consideration soon. This letter serves as a bit of input from landlords who rent two apartments in the University area (3004 Fruth St.).

The ordinance lists many categories that are to be included over and above the usual race, color, creed, etc. It is to several of the new inclusions to which we foresee problems and consequently wish to file objections.

It appears that when we pay for a piece of rental property and then continue to hold title thereto by paying annual taxes, but surrender our right to choose our tenants, who are likely to be rank strangers, whose life styles, culture, and general behaviors are wholly unknown to us, we are relegated to second-class citizens rather than landlords.

The category of occupation includes prostitution, the world's oldest occupation. There are still those of us who reject prostitution and would like to be privileged to reject practitioners as tenants in our rental property. Moreover, there are people whose life-style does not include care of property nor personal cleanliness commensurate with our own standards. It is unthinkable that a landlord should be denied the right to refuse renting to those people.

Similar objections can be raised regarding marital status or sexual orientation, which are two other categories listed in the act. This includes homosexuality and its practices. A landlord whose religious convictions hold that homosexual practices are sinful, could not but feel guilt in allowing these practices in his apartment(s). Moreover, different apartments are furnished and decorated in different styles. Some have masculine appeal, some have feminine appeal, and some have family appeal. This should allow a landlord to specify whether he wishes to rent to males, females, or couples.

In the category of the physically handicapped, all kinds of problems would be encountered, not because of blatant discrimination, but because of structural difficulties, such as steps instead of ramps, doors too narrow to accommodate a wheel-chair or walker, bath facilities, or split-level floor-plan.

We have nice clean apartments that we keep in a "just-so" condition and if we cannot refuse prospective tenants with pets, smokers, loud music, and late-hour parties, we have no choice but to close the apartments. We have a next-door neighbor with a heart condition who needs rest and quiet, and as neighbors we cannot be unconcerned by creating conditions with which she cannot live.

Respectfully submitted,

Grover Fuchs
Grover and Lydia Fuchs
Lydia D. Fuchs

House Bill 21.06 was passed in the Texas legislature in 1973, making contact "between the genitals on one person and the mouth or anus of another person of same gender illegal."¹⁶ This penal statute replaced a previous iteration of a similar code that had made it a felony crime and applicable even to heteronormative couples. The new version carried a misdemeanor offense with a hefty 200-dollar fine and only be applied to gay males.¹⁷ This law provided the means for lawful discrimination and prejudice against homosexuals regarding housing and employment as they were made de-facto criminals.

In 1981, Don Baker brought the case against Dallas County DA Henry Wade. Baker was a schoolteacher, veteran, and gay rights, activist. He felt the need to challenge this law because of his lived experience growing up in Dallas. Baker stated, "[T]he only thing we knew about homosexuals were fag and queer jokes." It was not until his junior year at the University of Texas at Austin that Baker came out as gay and began "the long agony, the painful experience" of his life as a gay male in Texas.¹⁸ As Robert Self stated in *All in the Family*:

To come out, to be out, to leave the closet, was existential and political act. It meant claiming one's most authentic self and at the same time dealing a blow to the social order's persecution of consensual sexual choices and unconventional love. (220)

¹⁶ David Morris Papers (AR.1991.003). Austin History Center, Austin Public Library, Texas, Folder 9 – Newspaper Clippings 1984-1985, Morris, David. "Court Strikes Down Texas Sodomy Law."

¹⁷ Austin Lesbian/Gay Political Caucus Records (AR.Z.018). Austin History Center, Austin Public Library, Texas, Box 3, Folder 3/1 – Press Clippings 1985 – 1989. Fain, Jim. "Homosexual rule sensible decision," *Austin American-Statesman*, August 19th, 1982.

¹⁸ Austin Lesbian/Gay Political Caucus Records (AR.Z.018). Austin History Center, Austin Public Library, Texas, Box 3, Folder 3/1 – Press Clippings 1985 – 1989. Coggins, Cheryl. "Challenger of sodomy law praises Constitution," *Austin American-Statesman*, November 19th, 1982.

Baker hoped that this ruling would begin the process of eroding state-sanctioned discrimination, diminish the pain he experienced, and reduce the hostility the gay community faced in everyday life.

On August 17th, 1981, Judge Jerry Buchmeyer ruled in favor of Baker because the law violated an individual's right to privacy and equal protection. Gay rights activists saw this ruling as a pivotal win that would allow them to press forward in dismantling structural discrimination. Robert Schwab of the Texas Human Rights Foundation (THRF) said, "We are now going to move more expeditiously on a broad basis to enforce this decision throughout the state, eliminating any state action, legislative or administrative, that denies gay women and men equal protection, which they are constitutionally guaranteed." Although this win marked a step in the right direction for the gay rights movement, the Moral Majority reacted swiftly by appealing the decision and taking it to the 5th Circuit Court by 1985.

At the 5th Circuit Court, the ruling was overturned because this matter was one of morality and not legal. The majority judges stated, "to wit: the matter of law and morality, in view of the strong objection to homosexual conduct, which has prevailed in Western culture for the past seven centuries, we cannot say that [the Texas law] is totally unrelated to the pursuit of implementing morality, a permissible goal."¹⁹ This ruling harmed the gay and lesbian community. Molly Ivins of the *Dallas Times Herald* stated:

The real problem is that it provides a rationale for those who want to discriminate against gays. A city, a company, a school system can refuse to hire gays on the ground that they are criminals. Job discrimination is a serious problem for gays without having a serious statute on the books...for

¹⁹ Austin Lesbian/Gay Political Caucus Records (AR.Z.018). Austin History Center, Austin Public Library, Texas, Box 3, Folder 3/1 – Press Clippings 1985 – 1989. Ivins, Molly. "How can the government ban a human condition?" *Dallas Times Herald*, August 29th, 1985.

many gays the process of "coming out" of acknowledging their sexual orientation to their families, their friends, and their employers, is a long a difficult process. To have their condition be an indictable offense adds significantly to their burden...²⁰

Ivins's analysis of the ruling emphasized the issues of maintaining the criminality of homosexuality. With HB 21.06 overruled and reinstated, the criminalization of sodomy allowed for those *suspected* of engaging in sodomy to be discriminated against in the workplace. When the AIDS crisis arrived in Texas, this became a pivotal issue as workplace employment was necessary to have adequate healthcare insurance. Often those suspected of having AIDS, or even being around those infected, were fired, or more importantly, unable to obtain employment. Furthermore, this criminalization created a stigma that caused individuals to abstain from being tested for AIDS.

The argumentation seen by the majority court demonstrates the effective use of white male heteronormative behavior, or "Western culture," as moral and immoral behavior associated with homosexuality and males. When those two attributes are combined to make a criminal construct, the Moral Majority maintained its ability to attack any pro-gay behavior by virtue of immorality. The criminalization of sodomy was integral to the success of the Moral Majority's ipso-facto genocide and was the linchpin necessary for the discrimination imposed by the status quo on sexual minorities.

Although Austin City Council voted to approve the anti-housing discrimination amendment, it failed to implement effective anti-discriminatory measures, resulting in housing discrimination continuing throughout the eighties. Additionally, due to HB 21.06

²⁰ Ibid.

being overturned by the 5th circuit court in 1985, homosexuality was criminalized until Lawrence v. Texas in 2003. The failure to overturn HB 21.06 and allow its resultant discrimination to persist in employment and housing created a dangerous combination when AIDS arrived in Texas in the early eighties. The ineffectiveness of Austin's local anti-discrimination ordinance demonstrates how pervasive and influential State infrastructure like HB 21.06 was for allowing the successful discrimination of gay individuals. This heavily grounded infrastructure of discrimination at the State level and the decentralized healthcare infrastructure created an environment of ipso-facto genocide of gay males to occur in Austin. The precarious nature of healthcare in Texas is similar to healthcare across the United States due to neoliberal economic policy: decentralized, deregulated, private, and for-profit.

III. Neoliberal Healthcare Ideology

Healthcare in the United States comprises a private system of employment-based health insurance that came out of the 20th century due to the failure of the United States to implement a nationwide coverage plan (due to private insurers lobbying partisan allies).²¹ This system offered employers a wide latitude of authority when determining coverage decisions and gave doctors a large scope of autonomy at the individual level. Naturally, employment-based health insurance led to a large gap of uninsured people due to employment, being disabled, working jobs that didn't provide coverage, or being retired.

To alleviate the coverage gap, the United States enacted Medicare and Medicaid in 1965. These two programs significantly decreased the number of people not covered, but many were too poor to afford their insurance and made too much money to enroll in one of these programs.

As decentralized healthcare infrastructure persisted into the latter half of the 20th century, many problems arose around the cost-inflation of medical services. Cost-inflation occurred because of multiple reasons: physicians were able to charge a fee of what they saw fit for their service, physicians were able to charge these fees because insurers would reimburse the amount invoiced, and there was a lack of market competition since employers had control over which insurance their employees received, which determined which services and treatments were covered. Additionally, as uninsured individuals became sick, they would not seek medical care until they required hospitalization. Since it is illegal for hospitals to turn patients away, the hospital systems attempted to offset that cost by including the cost of providing care to an indigent population in other billable

²¹ Giaimo, Susan. *Markets and Medicine: The Politics of Health Care Reform in Britain, Germany, and the United States*. Ann Arbor: The University of Michigan Press, 2002, 149.

procedures.

In response to this cost-inflation, the government attempted cost-containment measures in standardizing fees for services, a peer-review system, and the implementation of health maintenance organizations or HMOs.

The theory behind an HMO is that it would form a collection of healthcare providers and services local to the insured, and this group of resources could provide the same capabilities as private health insurers, creating market competition. Private companies were to give their employees the option between a private health insurer and the HMO group. The presence of the HMO group was supposed to serve as a cost-containment measure by providing market competition which would cause the price for services to decrease. Although, in time, some HMOs became effective, when they were initially rolled out, many lacked the infrastructure necessary to be competitive with private insurance companies. Additionally, in the 1980s, the rise of for-profit private multi-state hospital corporations came into existence, which in many areas provided superior coverage than what an HMO could offer.²²

Another pertinent issue to acknowledge is that insurance companies were for-profit corporations held per their shareholders. Being beholden to profits made it such that they would choose whom to cover, whom to deny coverage, and how much the monthly premium per individual will be based on an applicant's medical history. If an insurance company felt that an applicant would need many resources, they would be offered a monthly premium that would often price out that individual, forcing them to pay for their

²² Giaimo, Susan. *Markets and Medicine: The Politics of Health Care Reform in Britain, Germany, and the United States*. Ann Arbor: The University of Michigan Press, 2002, 149 – 167.

healthcare expenses out of pocket. Or altogether, applicants would be denied coverage with certain pre-existing medical conditions or dropped from coverage if certain conditions arose.

Understanding the United States healthcare system during the early eighties as decentralized, suffering from cost-inflation, and was primarily provided by employer-based plans through private corporations with competing HMOs, accurately describes the healthcare infrastructure in Texas and Austin more generally. This model left many uninsured, and those insured were insured in a precarious nature as they had no government protection guaranteeing coverage if they were stricken with a disease deemed too costly for insurance coverage. Additionally, with insurance coverage tied to employers, individuals lost their health insurance once they lost employment. This neoliberal, decentralized, and private healthcare infrastructure conceded healthcare to corporations and individual actors, limiting the states' efficacy in providing indigent care. The neoliberal healthcare infrastructure was exemplified when AIDS came to Austin.

The combination of House Bill 21.06, the Moral Majority's rhetorical alienation of gays, and lack of centralized health care infrastructure created an environment where gays could be easily discriminated against with little to no state protection, or a pro-discrimination environment. This state-sanctioned discrimination made the suffering of untold numbers of gay possible by making an individual a de-facto criminal, thus allowing gays to be segregated from housing and work and allowing the denial of necessary health care resources appropriated or gave them an abstracted citizen status. This multi-level environment of state-sanctioned discrimination was exemplified when AIDS came to Texas.

IV. AIDS in Texas

AIDS or Acquired Immunodeficiency Syndrome is a syndrome that is caused by the Human Immunodeficiency Virus or HIV. The virus, AIDS, leaves the patient in an immunocompromised state which often resulted in opportunistic infections such as pneumonia (specifically *Pneumocystis carinii*) and Kaposi's sarcoma, which would result in death. Initially, AIDS was misunderstood as a type of cancer, and initial research was led by cancer institutions such as The University of Texas System Cancer Center. In Austin, AIDS was found almost exclusively in the gay male population. Other affected populations were hemophiliacs, intravenous drug users, and individuals receiving a blood transfusion.

The nuance of the affected population (gay males) is due to the transmission vector of AIDS being passed through blood, which is common during unprotected penetrative anal sex due to the micro-tearing that occurs in the anus. Initially, this transmission vector was not known, which led to alienation and stigmatization of the gay community.

The conflation of AIDS to the gay population due to the lack of understanding of the transmission vector created multiple problems: it gave the Moral Majority another avenue to defend the criminalization of homosexuality, it exacerbated the previous discrimination seen in housing and workplace, and it created a new space for discrimination: access to health insurance. The association of AIDS to gay males and its resultant discrimination is the fruition of Step 2, using dehumanizing rhetoric to justify discrimination.

The Moral Majority's association of AIDS to homosexuality and then immorality and criminal behavior is seen in the arguments for the recriminalization of sodomy in

House Bill 2138 (at this time, sodomy was legal, it was overturned in the 5th Circuit in 1985) and the attempted quarantine measures. House Bill 2138, introduced by Rep. Ceverha of Dallas in 1983, was a bill that sought to recriminalize sexual contact between two gay males as felonies offenses. As shown in Figure 3, located at Austin History Center, pro-HB 2138 postage was given out to individuals to send to their representatives stating their reasons for support of the bill. The letter states

I am very concerned about

- a. the possibility of contracting Acquired Immune Deficiency Syndrome (AIDS) if I or any member of my family should need a blood transfusion in the future.
- b. the possibility of contracting hepatitis or another disease by merely going out to a restaurant where practicing homosexuals serve as waiters and food handlers.
- c. the possibility of homosexuals being allowed to teach my children and grandchildren in the public school system of the state, if this bill is not passed.
- d. the prospect of homosexuals forcing their way on to the police forces of this state, if this bill is not passed.
- e. the violent tendencies that homosexual conduct brings out in people.²³

Figure 3 demonstrates the manipulation by the Moral Majority to construe AIDS with homosexuality and criminal behavior by equating homosexuality with "violent tendencies" and attempts to use that immoral construct to argue for a bill to recriminalize homosexuality. Another letter written by Alert Citizens of Texas (ACT), Figure 4.1 – Figure 4.5, uses the same rhetoric to support the passage of HB 2138. This letter refers to

²³ Austin Lesbian/Gay Political Caucus Records (AR.Z.018). Austin History Center, Austin Public Library, Texas. Box 3, Folder 4.

AIDS as a "gay plague" and "gay cancer," and although the statements in Figure 4.1 are scientifically factual, they are emphatically stated to create an atmosphere of fear and alienation against the gay population.

The fear-mongering and alienation are achieved by emphasizing in Figure 4.1, paragraph 3, that individuals who have "no contact" with AIDS patients may become infected and that this makes gay individuals and AIDS-stricken individuals "a direct threat to you and me." Further down, this "direct threat" is followed by the statement that "*their* diseases are killing innocent *non-homosexuals*." These statements correlate gay individuals and individuals with AIDS as a direct threat to the safety of "non-homosexual" individuals and are used to argue to alienate the gay population.

Figure 3

April __, 1983

The Honorable _____
Texas House of Representatives
P. O. Box 2910
Austin, Texas 78769

Re: House Bill 2138

Dear Representative _____:

I understand that you will be considering the above bill since you are a member of the House Criminal Jurisprudence Committee. I urge you to support this bill, mainly because of the numerous public health hazards caused by the homosexual conduct dealt with in the bill.

In addition, I am very concerned about

- a. the possibility of contracting Acquired Immune Deficiency Syndrome (AIDS) if I or any member of my family should need a blood transfusion in the future.
- b. the possibility of contracting hepatitis or another such disease by merely going out to a restaurant where practicing homosexuals serve as waiters and food handlers.

Austin History Center

- c. the possibility of homosexuals being allowed to teach my children and grandchildren in the public school systems of this state, if this bill is not passed.
- d. the prospect of homosexuals forcing their way on to the police forces of this state, if this bill is not passed.
- e. the violent tendencies that homosexual conduct brings out in people.

For all of the above reasons, House Bill 2138 should be passed, and I urge your prompt and courageous support of it. Please let me know your position on this matter as quickly as possible.

Sincerely yours,

Figure 4.1

ALERT CITIZENS OF TEXAS, Inc. History Center
P. O. Box 215064
Dallas, Texas 75221
(ACT)

Dear Concerned Texan:

Experts at the National Center for Disease Control are frightened. Why?

A "Gay Plague" is stalking America, and in addition to sexually active "gays," its latest list of victims includes both innocent babies and adults who have had no contact with homosexuals except to receive their blood through transfusions. The gay plague: AIDS (Acquired Immune Deficiency Syndrome).

Every 1979 AIDS victim is dead. All 1980 victims -- dead. Half of 1981's cases have died, along with one in five of 1982's victims.

AIDS -- "Gay Cancer" as some are calling it -- is nearly 100% fatal for 3-year sufferers, and because of possible blood-bank contamination (indicated by the fact that frequent blood recipients, hemophiliacs, hospitalized babies, etc., have been catching the disease), this plague is a direct threat to you, me and our loved ones in Texas. We can help protect ourselves -- but that comes later.

It's incurable. It's deadly. It's spreading. Texas is already the number five state in the nation in AIDS-related deaths, and the incidence is doubling every six months.

The latest scientific studies cause experts to theorize that recurring venereal disease infections, plus continual attacks of a mysterious virus (cytomegalovirus) that plagues 97% of all male homosexuals, combine to destroy the body's immune system.

In other words, the acts that homosexuals perform are making them sick . . . then dead.

Now, their diseases are killing innocent non-homosexuals, and a federal judge has further endangered the lives of thousands more innocent people in Texas.

TEXAS' SODOMY LAW THAT MADE SICKENING HOMOSEXUAL ACTS ILLEGAL HAS BEEN STRICKEN FROM THE LAW BOOKS BY A FEDERAL JUDGE WHO DECLARED OUR LAWS UNCONSTITUTIONAL. AS THE LAW NOW STANDS, ANY HOMOSEXUAL CAN PERFORM ANY ACT IN ANY CITY; "BATH HOUSES," "GLORY HOLES," "SEX CLUBS" AND SADO-MASOCHISM PARLORS -- ALL ARE LEGAL IN TEXAS.

WE ARE IN MORTAL DANGER!

Be warned, the next few paragraphs are disgusting, but we have to explain what homosexuals actually do to each other in order for you to understand how this plague probably originated.

Here's scientists' best guess at what causes AIDS.

Figure 4.2 follows this argument methodology (as it is the same document) but begins to interject more malicious assertions stating that

Homosexuals regularly have between TEN and Thirty sexual partners per month, and in homosexual "bath houses" and "glory holes," which mushrooms in numbers where sodomy is legal, homosexuals may have as many as thirty anonymous partners nightly

According to a recent study, homosexual teachers are 40 times more likely to assault their students in their care than "straight" counterparts.

In San Francisco, one in ten ordinary citizens reported being subjected to threats by homosexuals desiring homosexual acts with unwilling participants.

A 1980 New York Survey discovered that 48 percent of all homosexuals admitting to molesting at least 6 minors.²⁴

The assertions seen in 4.2 combine the methodological approach of alienation seen in 4.1 with the construct of criminal behavior, thus taking fear-mongering and stigmatization to the next level. Now, not only are gay individuals posing a direct threat to our society because of their disease, but now they act as sexually deviant criminals and threaten children.

Figure 4.3 brings these constructs together and posits a solution, H.B. 2138, the recriminalization of the gay population. The reinstatement of an anti-sodomy statute is achieved by stating, "that's why we must restore Texas' anti-sodomy laws." Furthermore, in Figure 4.3, note that before calling for the reinstatement of anti-sodomy legislation, the letter calls for comparing the gay population to "contaminated chemical waste dumps" and the appeal of "family values." Figure 4.3 ends by asking its recipients to forward the letter

²⁴ Austin Lesbian/Gay Political Caucus Records (AR.Z.018). Austin History Center, Austin Public Library, Texas. Box 3, Folder 4.

to anyone who will listen and reach out to their representative and support H.B. 2138. Figure 4.4 follows through by reiterating the threat gays pose to society and asking for donations.

Figure 4.4 reiterates the fear-mongering rhetoric of Figures 4.1 – Figures 4.3 by equating the gay lifestyle to “threaten[ing] to wipe us out” and conflating AIDS to smallpox, a disease that nearly wiped out Indian tribes. Figure 4.4 ends by asking for donations made to Alert Citizens of Texas.

The statements in Figure 4 by H Clem Mueller, MD, reinforce the argument that the Moral Majority conflated homosexuality and AIDS to create a criminal construct that threatened society writ large. To this end, HB 2138 should be enacted, and sodomy should be a felony offense. These articles of ephemera show that with the emergence of AIDS in Texas, the Moral Majority used AIDS as a vehicle to further discriminate against homosexuality and dehumanize the gay population. A central theme of the Moral Majority's argument for the criminalization of gays is that it would stop the spread of AIDS. The arrival of AIDS in Texas brought a new methodology discrimination with it, quarantine measures.

The quarantine discussion was short but important to note as it gives insight into the dehumanizing nature of being categorized as a gay male with HIV. Quarantine policy was not unique to Austin but was discussed in multiple locations with significant AIDS populations ranging from New York City to England. The discussion of quarantine in Texas came about due to an individual with HIV in Houston who was a sex worker.

This individual was determined to be "incurable" and sparked fierce debate throughout Texas in 1985. To fight quarantine, Glen Maxey, who was working in the Texas

House as an aide to Senator Oscar Mauzy, lobbied on the legislative floor and successfully secured the abandonment of quarantine measures. In this process, Maxey came out as gay, risking his political career to fight the abatement of quarantine measures. Ultimately, coming out had little effect on his political career and gave him prominence as a leader in Austin, among the various organizations fighting AIDS and AIDS discrimination. Dr. Mathilde Krim, a founder of the American Foundation for AIDS Research, said quarantine would "unleash a pandora's box of horror and direct public anger towards people fighting for their lives."²⁵ She was not incorrect; even though quarantine measures and HB 2138 failed, the anger, hostility, and stigmatization associated with AIDS were evident when AIDS arrived in Austin, as demonstrated in the workplace, housing, and healthcare discrimination.

The first AIDS patient in Austin was identified in 1983, the number of those affected grew exponentially, eventually capping at a 15-month doubling rate by 1990. The average life span of an AIDS patient was death two years after diagnosis, and the average healthcare expense at \$150,000, the average overall cost of \$500,000 once lost wages and work productivity were taken into consideration. In Austin, the average AIDS patient was a 27-year-old white gay male with a college education and a middle-class existence.²⁶

²⁵ AIDS Services of Austin Records (AR.1995.001). Austin History Center, Austin Public Library, Texas. Box 6, Folder 1 – Local Interest Clippings 1984 – 1986. Nather, David, "AIDS quarantine defended as 'last resort'," *Daily Texan*.

²⁶ Joe Vargo, "New AIDS cases double in Travis during '85," *Austin-American Statesman* (Austin, Tx), March 20, 1986.

Figure 4. 2

Dr. Paul Cameron, an expert on homosexual practices, ~~has~~ ^{has} ~~been~~ ^{been} ~~quoted~~ ^{quoted} ~~as~~ ^{as} ~~saying~~ ^{saying} ~~that~~ ^{that} ~~homosexual~~ ^{homosexual} ~~acts~~ ^{acts} ~~involve~~ ^{involve} ~~(in one way or another)~~ ^(in one way or another) ~~the~~ ^{the} ~~ingestion~~ ^{ingestion} ~~of~~ ^{of} ~~waste~~ ^{waste} ~~material~~ ^{material} ~~from~~ ^{from} ~~the~~ ^{the} ~~bowels~~ ^{bowels} ~~of~~ ^{of} ~~one~~ ^{one} ~~or~~ ^{or} ~~more~~ ^{more} ~~homosexual~~ ^{homosexual} ~~partners.~~ ^{partners.}

He and countless other medical experts also point out that many homosexuals regularly have between TEN and THIRTY sexual partners per month, and in homosexual "bath houses" and "glory holes," which mushroom in numbers where sodomy is legal, homosexuals may have as many as thirty anonymous partners nightly -- sexual contacts which spread venereal diseases like gonorrhea, syphilis, hepatitis A, hepatitis B, cytomegalovirus, amebic bowel disease, herpes and AIDS.

Obviously, there's no way medical experts can trace those who get infected by hundreds of anonymous nightly sexual contacts in order to give them adequate medical treatment, so their diseases become epidemic.

Of course, that casts the following facts in a new light:

- *Homosexuals carry half the nation's cases of syphilis, though they number less than 1/20th of the population.

- *Gonorrhea is seven times more prevalent among "gays" than "straights." Gonorrhea of the throat, a virulent disease, is epidemic among homosexuals.

- *97% of all gays are carriers of cytomegalovirus, the recurring virus that many doctors single out as a possible cause of AIDS.

- *In San Francisco, since the passage of "gay" rights laws in 1978, some sexually transmitted diseases have risen an alarming 2,500%.

- *Diseased homosexual food handlers in public restaurants were cited in the New England Journal of Medicine as a major cause of an outbreak of amebiasis and hepatitis A infections among straights in San Francisco and Minneapolis.

- *According to one recent study, homosexual teachers are 40 times more likely to assault students in their care than their "straight" counterparts.

- *Your federal, state and local tax dollars currently fund up to 46% of homosexual organizational budgets -- including an approved \$11.3 million by the Department of Human Services for one project alone in 1984.

- *In San Francisco, one in ten ordinary citizens reported being subjected to threats by homosexuals desiring homosexual acts with unwilling participants.

- *According to authoritative police sources, in a number of Texas cities, public restrooms at many upper class shopping malls and public parks are regularly frequented by homosexuals congregating there to engage in open homosexual acts, often during the noon hour when shopping or park-visiting mothers tend to send their children, unawares, into such restrooms.

- *A 1980 New York City survey discovered that 48% of all homosexuals admitted molesting at least six minors.

disappears. Augustine Hiscock Co Ar Sur

Investigative History Center

a public health standpoint, and the
d searching moral questions and family

of an overriding interest in controlling
protecting citizens from drunk drivers,
rumps.

cant sources of injury, disease and
sexual conduct and its related diseases

Laws 100

protection from an explosion of "sex
and the incurable diseases that are

to encourage passage of such laws.
 consisting of a number of doctors, lawyers,
 concerned about the various threats
 citizens of this State. Our plan is
 help today.

Honorable Gib Lewis, Speaker of the

House Bill 2138 (introduced by Hon. House quickly. It would reinstate isfy the federal courts.

ature could adjourn within 30 days
and we'll be defenseless for at
session convenes in 1985.

le to die from AIDS at the present

business associates, church contacts
of support for House Bill 2138.
aiming to defeat the well-financed,

largest contribution that you can send
 thing because we care, but we can't
 letter filled with vitally important
 ars we desperately need to continue

contain all the facts. It can't --
why we're distributing thousands of

Figure 4. 4

In that flyer, the untold story of what homosexuals do to the community, explained in clinical terms.

Point after fully documented point is offered for every fact in this letter, and dozens more surprising facts are given, along with reasons why we must restore Texas' homosexual sodomy laws without delay.

Will you help us distribute these educational leaflets? I believe that if Texans really knew -- I mean really knew -- what homosexuals do, they'd rush to protect themselves from the health menace.

"Gays" aren't gay; they're sick, and their lifestyle threatens to wipe us out unless we act immediately.

Remember the smallpox epidemics that literally wiped out entire tribes of Indians in the 18th and 19th centuries? Smallpox killed as many as 25 out of 100. AIDS deaths are nearing 50% of all reported cases -- and the horrifying toll is doubling every six months.

Imagine what it might be like by 1985 unless we restore sanity now!

Your immediate contribution of \$500, \$300, \$100, \$50, \$30, \$20 -- whatever you can send -- will be used to protect Texans from the gay plague, its perversion, diseases and sickness.

Every minute counts. Remember, failure to win decisively by strongly stating your opinion to the Texas Legislature could leave us without protection for at least two long years.

ACT today. Mail your cards, letters and notes to Speaker Gib Lewis or your State Representative; encourage your friends to write letters; and, please send us an urgently needed contribution in the post-paid reply envelope to help us get the word out to more people.

With only a few days left to ACT before the Legislature adjourns, time is of the essence.

Sincerely,

H. Clem Mueller, M.D.

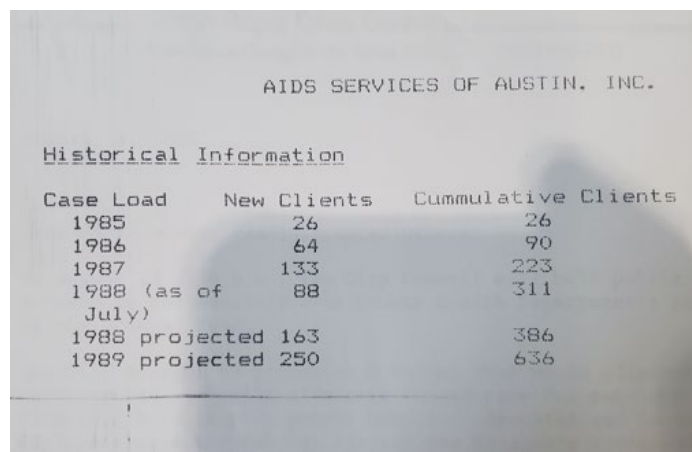
P.S. With a contribution of \$20 or more, we'll send a generous supply of our educational leaflets, The Gay Plague. You must get the full, uncensored facts; and this documented, shocking leaflet provides them. Give them to friends, educators, clergymen, politicians, loved ones -- and don't forget to keep one for your own protection.

²⁷ The irony of painting smallpox, a tool beneficial to colonization, in a negative light.

V. AIDS-Related Discrimination in Austin

The AIDS patient population grew exponentially in Austin, as seen in Figure 5.²⁸ Following the growth of AIDS patients was the growth of individuals reporting AIDS-related discrimination, specifically in housing, workplace, and access to healthcare. By 1985, several gay advocacy and civil rights groups noted that discriminatory practices were noticeably increasing and began to fight back.

Figure 5



AIDS SERVICES OF AUSTIN, INC.		
Historical Information		
Case Load	New Clients	Cummulative Clients
1985	26	26
1986	64	90
1987	133	223
1988 (as of July)	88	311
1988 projected	163	386
1989 projected	250	636

These groups included the Austin Lesbian Gay Political Caucus (ALGPC), led by Glen Maxey. During their July 1986 meeting, the ALGPC formed the AIDS-Related Task Force.²⁹ The AIDS-Related Task Force served as a local coalition of gay rights activists who specifically sought to address AIDS-related discrimination. In addition to the formation of the AIDS Related Task Force in 1986, the Human Relations Commission recommended to Austin City Council that it be necessary to enact ordinances specific to

²⁸ AIDS Services of Austin Records (AR.1995.001). Austin History Center, Austin Public Library, Texas. Box 2.

²⁹ AIDS Services of Austin Records (AR.1995.001). Austin History Center, Austin Public Library, Texas. Box 6, Folder 1 – Local Interest Clippings 1984 – 1986.

AIDS-related discrimination. And lastly, the AIDS Society of Austin (ASA), led by Paul Clover, sought to address the AIDS virus holistically, including AIDS-related discrimination. These three organizations formed the basis of AIDS advocacy in Austin, working directly with AIDS patients, Austin City Council, State Legislators, and Austin's healthcare infrastructure to address the three main issues surrounding AIDS-related discrimination in housing, workplace, and access to healthcare.

AIDS Society of Austin provided the most comprehensive service to the AIDS population. These services are seen in Figure 6. Figure 6 is a correspondence from ASA to Seton Medical Center asking for assistance in providing housing for homeless AIDS-afflicted individuals. The services offered by ASA reflect the marginalization and discrimination faced by AIDS patients. Specifically, the "Buddy System" and "Helpers." The Buddy System, first practiced in New York City, was a service specifically implemented to provide an AIDS patient with emotional and psychological support by providing a "buddy" to accompany the patient as they go through combating AIDS. The "helpers" were individuals who volunteered to assist AIDS patients with their domestic duties such as house cleaning, laundry, grocery shopping, hospital visits, and transportation. Also, note the food bank, a clothing bank, an assistance fund, and a housing task force. The services provided by ASA clearly show the reactionary measures necessary to fight the discrimination faced by AIDS patients, discrimination that was made possible by the Moral Majority's discriminatory rhetoric. By 1988, the number of discrimination cases increased significantly, and they were beginning to be documented internally at board meetings, as shown in Figure 7.1 through Figure 7.5.

Figure 7.1 is a document from an ASA board meeting showing the number of

clients needing legal services from January to April 1988 as 30 and the different types of legal services they requested. The legal services provided by ASA range from services that need attorneys to services that require more general research and are comprised of wills, probate issues, power of attorney, physician directives, insurance claims, employment discrimination, landlord and tenet matters, taxes, workers comp, false commitment, administrative appeals, real estate claims, general research, and other. Note "false commitment" above, there is much to speculate regarding the narrative of false commitment, but one thing is sure, the notion of such gives insight into the psychological impact of having AIDS and society's perception of AIDS patients.

Another monthly board meeting memo (Figure 7.2), exemplifies the financial impact of AIDS and the relationship between financial problems and legal services by demonstrating the necessity of creating resources and streamlining the procedures for bankruptcy, insurance, social security for the following volunteer legal counsel demonstrates how common of an issue this was. Additionally, Figure 7.2 shows 33 client intakes in one month, the same amount of client intakes between January and April 1988. The exponential rate of increasing client intakes shows how quickly AIDS was spreading in Austin. Figure 7.4 has similar findings to Figure 7.3.

The ASA's August 1988 summary of legal services (Figure 7.3), mentions Margaret Tucker. Margaret Tucker was a law intern that volunteered with ASA and managed their clients needing legal assistance. Comparing the legal assets of ASA between Figures 7.3 and 7.4 shows the increasing need for more in-house legal services.

Margaret Tucker left her internship at ASA but that her replacement will include one third-year law intern working four hours a week and one volunteer attorney working

ten to fifteen hours per week (Figure 7.4). The increase in legal representation indicates that discrimination is becoming more common and requiring more resources.

The last document (Figure 7.5) detailing the number of clients requesting legal representation. The rest of the internal documents were pulled from the archive at Austin History Center due to containing sensitive information. The above records found in AIDS Society of Austin's monthly board meetings for 1988 reflect the psychological, financial, and legal impact of AIDS. There is a clear line here drawing unlawful discrimination to AIDS.

Utilizing the legal system to fight AIDS-related discrimination was in place at the time was pragmatically impossible. This impossibility was due to the pace of the justice system and the fact that most AIDS patients did not live past two years from the date of diagnosis. Additionally, the burden of proof to prove discrimination was similar to the burden of proof in criminal cases, not civil matters, making winning in court significantly harder. According to Tom Doyal, an attorney representing these clients, "The issue with the [discrimination] cases is proving them...The law is just so slow and people are dying...Must the die in great privation before justice is done?"³⁰ Thus, Step 3 had begun; the legal process was so slow that anti-discrimination measures had no effect.

³⁰ AIDS Services of Austin Records (AR.1995.001). Austin History Center, Austin Public Library, Texas. Box 6, Folder 2 – Local Interest Clippings. Dick Stanley, "Pace of justice hampers efforts to fight AIDS bias," *American-Statesman*, September 28, 1987.

Figure 6

- 1) SUPPORT GROUPS: Weekly meetings are held for a) Persons with AIDS/ARC, b) Significant Others (family, friends, and partners), c) Parents, and d) Client Services Volunteers. An Alternate Healing Group also holds a weekly meeting.
- 2) COUNSELING: Referrals made as appropriate for emotional or spiritual counseling (ASA's Pastoral Care Services).
- 3) The BUDDY PROGRAM: Specialized training of volunteers who are then assigned to clients to provide emotional support on an individual basis. Over 120 persons have been trained; more than four dozen are assigned at this time.
- 4) HELPERS: Volunteers assist with day to day needs of clients such as cooking, cleaning, hospital visits, transportation, laundry, shopping, etc.
- 5) HOME NURSING: In some cases home visits by nurses are arranged for IV medications or injections. Help with bathing and personal hygiene may also be provided. Health assessments and education will be provided on a regular basis in the near future.
- 6) ADVOCATES: Volunteers assist clients with their application process for Social Security benefits, Medicaid, Food Stamps and other social assistance programs.
- 7) LEGAL ADVOCATES: Local attorneys volunteer their talents to provide wills, powers of attorney, and answer questions relating to business, employments, and other discrimination matters.
- 8) FOOD BANK: Groceries and other household supplies are available through the ASA Food bank. These are supplied by the Capitol Area Food Bank and individual donations.
- 9) CLOTHING BANK: Donated clothing is provided for clients in need.
- 10) PAUL KIRBY FINANCIAL ASSISTANCE FUND: ASA assists in payment of rent, utilities, hospitalization insurance, medications and other emergency expenses of financially needy clients through donations.
- 11) HOUSING TASK FORCE: Makes recommendations for both short and long term solutions to the clients with housing problems.

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³¹ AIDS Services of Austin Records (AR.1995.001). Austin History Center, Austin Public Library, Texas. Box 1.

Figure 7.1

LEGAL SERVICES TO ASA CLIENTS FROM JANUARY TO APRIL 1988		
Total clients served		30
Clients needing legal advice		14
Clients requiring legal service		16
Non-client legal question		2
General research questions		6
Breakdown of services by legal area		
AREA	PRO BONO	FEE
Will	4	1
Probate		1
Power of attorney	5	
Directive to physician	2	
Insurance	7	
Discrimination (employment)	5	
Landlord/tenant	2	
Tax	2	
Worker's Comp		1
False commitment	1	
Administrative Appeals	2	
Real Estate	2	
General research	5	
Other	2	

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³² AIDS Services of Austin Records (AR.1995.001). Austin History Center, Austin Public Library, Texas. Box 2.

Figure 7.2

July summary of Legal Services	
# Client intakes:	33
# Referrals to attorneys	10
Types of legal problems:	
wills	7
power of attorneys	2
debt/bankruptcy	6
employment discrim	2
insurance	7
directive to physician	4
social security	1
landlord/tenant	1
other	3
Projects:	
I have met with one of the volunteer attorneys to set up a procedure for handling debt problems. I am setting up folders on debt/bankruptcy, insurance and social security issues as they pertain to our clients in an attempt to create resources for the next legal volunteers at ASA.	

33

³³ AIDS Services of Austin Records (AR.1995.001). Austin History Center, Austin Public Library, Texas. Box 2.

Figure 7.3

August 1988 summary of Legal Services	
# Client intakes	27
# Referrals to attorneys	10
Types of legal problems:	
Wills	9
Power of attorney	5
Debt/Bankruptcy	4
Discrimination	1
Insurance	2
Directive to Physician	5
Social Security	1
Landlord/Tenant	2
Guardianship	3
Other	3
On August 30, 1988, Margaret participated in the first meeting of the Texas Young Lawyers Association AIDS and the Law Committee.	

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³⁴ AIDS Services of Austin Records (AR.1995.001). Austin History Center, Austin Public Library, Texas. Box 2.

Figure 7. 4

September 1988 summary of ASA Legal Services	
# Client intakes	17
# Referrals to attorneys	7
Types of legal problems:	
Wills	2
Power of attorney	1
Debt/Bankruptcy	2
Discrimination	
Insurance	3
Directive to Physician	2
Social Security	2
Landlord/Tenant	
Guardianship	
Criminal matters	3
Other	2

Margaret Tucker ended her internship on August 31. She is now working part-time at the Texas Human Rights Foundation. She also is continuing to volunteer several hours a week at ASA. Margaret and Janna met with ASA Legal Committee Chair Julie Oliver and committee member Caroline Scott to plan the transition from the summer program to the fall program.

Third year law student Kerri Dorman will be interning with ASA for four hours per week. Kevin Wilson, a licensed attorney, will be volunteering with ASA for about 10 to 15 hours per week. Julie Oliver has met with Kerri and will be meeting with Kevin to discuss their roles and agency procedures. Julie will provide supervision for both Kerri and Kevin.

The State Bar of Texas sponsors a program, the Attorney Emeritus program, in which retired attorneys and attorneys licensed in other states but not in Texas can provide volunteer legal assistance to non-profit agencies. The stumbling block for ASA is that the volunteer attorneys must be covered by malpractice insurance which is very expensive. Julie Oliver is exploring options for ASA's participation in this program.

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³⁵ AIDS Services of Austin Records (AR.1995.001). Austin History Center, Austin Public Library, Texas. Box 2.

Figure 7.5

A photograph of a handwritten document on lined paper. The text is written in cursive and lists various legal services provided by the AIDS Services of Austin (ASA) in October 1988. The document is organized into two main sections: a summary of client intakes and referrals, and a detailed list of legal problem types with their respective counts.

Oct. 1988 summary of ASA Legal Services	
# Client intakes	11
# Referrals to attorneys	8
Types of legal problems	
Wills / Estate planning	2
Power of attorney	2
Debt / Bankruptcy	3
Discrimination	1
Insurance	
Directive to Physician	1
Social Security	2
Landlord / Tenant	
Guardianship	
Criminal matters	2
Other	

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³⁶ AIDS Services of Austin Records (AR.1995.001). Austin History Center, Austin Public Library, Texas. Box 2.

During these years, specifically, 1986-1989, the ipso-facto genocide occurred because the legal infrastructure at the local level was ineffectual, and the rhetoric and legal infrastructure at the State level was enabling and overpowering due to the anti-sodomy law, H.B. 21.06, creating a pro-discrimination environment in Austin. Discrimination often began with workplace discrimination. Which is Step 4, discrimination led to termination from employment.

The exacerbation of workplace discrimination occurred due to the loss of employment following the progression of a patient's illness or the stigmatization of AIDS. Often AIDS patients became too ill to work and were terminated, or were terminated for being associated with AIDS. Following termination, the individual lost their health insurance and became personally responsible for their healthcare cost. Inadequate healthcare access and discriminatory practices amongst health insurers were due to the ability of a health insurer to deny coverage to individuals with AIDS and forcing individuals in the construct that surrounds homosexuality to take AIDS antibody tests.

VI. Neoliberal Healthcare Policy

The fight for access to health care was abstracted to the cost of treating AIDS patients without private health insurance coverage, which shifted the burden of payment to the taxpayer from the insurance corporations. Furthermore, it was two of the most essential qualities regarding healthcare were access to home health care and hospice care. Providing these services at the indigent level significantly decreased the expense of having a patient wait until they needed hospitalization and then seek care.

The cost-shifting from private insurance to the taxpayer is evident in the last paragraph of Figure 8, internal correspondence from the ALGPC to Frank Cooksey. In this correspondence, the ALGPC asks Cooksey to be cognate of whom he appoints to the Brackenridge Hospital's advisory committee. The ALGPC is asking Cooksey for this awareness because they are advocating for the increasingly affected AIDS population. In Figure 8, the ALGPC acknowledges that many AIDS patients will face unemployment and lose their private healthcare coverage. Thus, having to seek indigent healthcare at Brackenridge. Figure 8 states

Many of the persons with AIDS will be using services provided by public agencies... Because of the sudden debilitating effects of these diseases, the inability of the persons to maintain employment, and the lack of adequate private insurance coverage by many of those diagnosed, the Brackenridge Hospital Board will undoubtedly be faced with some unique and tough decisions over the next few years.³⁷

Additionally, in Figure 9, the ASA recognizes discriminatory employment practices and advocates for the importance of home health, hospice, and prophylaxis

³⁷ Austin Lesbian/Gay Political Caucus Records (AR.Z.018). Austin History Center, Austin Public Library, Texas. Box 2.

medicine administration for indigent patients in this correspondence with Seton Medical Center. ASA acknowledges the financial amount needed to care for AIDS patients in paragraph one, stating

The city also points out that national studies indicate that costs for patients with AIDS from time of diagnosis until time of death range from \$50,000 per case to \$140,000 per case, with the principal difference in total cost being the availability of home-based and hospice care. The debilitating effects of AIDS all too frequently deprives the young adult of his or her ability to be financially self-supporting. This leads to eventual loss of insurance coverage and, once savings has been depleted, cruelly impoverishes the formerly independent taxpayer.³⁸

The discriminatory aspects of denying AIDS patients with health insurance coverage stemmed from the ability of the health insurance company to prescreen their applicants for AIDS and deny them coverage if they were positive. Health insurance companies did this by categorizing AIDS patients into a construct that defaulted them to require an AIDS antibody test. This category was extensive and included multiple factors. To fight this discrimination, legislators had to protect several specific categories at the state level

...so the proposed regulation prohibits class attributes such as sexual preference, marital status, living arrangements, occupation, gender, medical history, beneficiary designation, zip code/ territorial application, may be used in establishing the applicants sexual orientation.³⁹

³⁸ Austin Lesbian/Gay Political Caucus Records (AR.Z.018). Austin History Center, Austin Public Library, Texas. Box 2.

³⁹ AIDS Services of Austin Records (AR.1995.001). Austin History Center, Austin Public Library, Texas. Box 2, Folder 2 – Local Interest Clippings.

Figure 8

8507

ALGDC

Austin Lesbian/Gay Political Caucus

P.O. Box 822, Austin, TX 78767

July 9, 1985

The Honorable Frank Cooksey
Austin City Council
P.O. Box 1088
Austin, Texas 78767

Dear Mayor Cooksey:

Over the past years, the Austin City Council has been open to the suggestions of the Austin Lesbian/Gay Political Caucus in appointments to City Boards and Commissions. We applaud that attitude and wish to continue this relationship in the future.

At the present time, you are considering a list of candidates for appointment to the advisory committee which oversees Brackenridge Hospital. The Austin gay community is facing perhaps the most significant problems that it has ever met because of the growth of cases diagnosed as Acquired Immune Deficiency Syndrome (AIDS). As of this week the Health Department has reported the thirtieth confirmed AIDS case in Travis County. This number is significant in that it does not include any of the persons who have been diagnosed as having AIDS Related Complex (a precursor to AIDS) or those who are being treated for other related illnesses. Health care workers estimate those in this second group number at least double the confirmed cases. More significantly, the Health department projections are that by the end of 1985 there will be 60 AIDS cases and several times that number of ARC cases.

Many of the persons with AIDS will be using services provided by public agencies; most will at some time avail themselves of Brackenridge Hospital treatment facilities. The unique problems faced by these persons will be a tremendous challenge for our public hospital. Because of the sudden debilitating effects of these diseases, the inability of persons to maintain employment, and the lack of adequate private insurance coverage by many of those diagnosed, the Brackenridge Hospital Board will undoubtedly be faced with some unique and tough decisions over the next few years.

The city also points out that national studies indicate that costs for patients with AIDS from time of diagnosis until time of death range from \$50,000 per case to \$140,000 per case, with the principal difference in total cost being the availability of home-based and hospice care. The debilitating effects of AIDS all too frequently deprives the young adult of his or her ability to be financially self-supporting. This leads to eventual loss of insurance coverage and, once savings have been depleted, cruelly impoverishes the formerly independent taxpayer. Added to this already intolerable situation is the expense of drug treatments such as AZT (azidothymidine) which cost anywhere from \$500 to \$1000 per month. Some insurance companies do not cover these drug costs and, unlike some other states, Texas does not cover it under the state Medicaid plan.

The terrible and heartbreaking financial dilemma facing most people with AIDS here in our very own community is that they are forced to choose between shelter, food, and the medicine which reduces opportunistic infections and hopefully prolongs their lives. Until now ASA has met the need for shelter by finding volunteers who are willing to share their homes with people with AIDS. Given the projected dramatic increase of AIDS cases over the next two to five years, this informal system of shelter is clearly inadequate. A better alternative must be developed or Austin will find itself in a situation similar to New York City where many people with AIDS have no place in the community to return to and therefore remain in the hospital at a staggering cost to the medical establishment and the public.

ASA has been monitoring this situation for the past year and, last spring, established a housing task force. The task force divided its work into three major areas: (1) Research into the property situation in Austin i.e. zoning, group home ordinances, property tax exemptions, and the options for securing a residential property in Austin (2) Development of a model for short term residential services where people with AIDS could live until other more permanent living arrangements could be located and their financial situation stabilized (3) Development of a model of hospice care in which patients would receive shelter on a longer term basis if needed. It was recognized that this third area was more complicated and would require a longer planning and implementation stage than the first two.

This quote demonstrates how specific attributes were used to justify the pre-testing of certain individuals when applying for health insurance coverage. Notice that some of these aspects were also fought for in the amendment to City Ordinance N0.77, such as marital status and occupation. Additionally, the delineation of spatial segregation and the protection of zip code/territorial application was noted in the Housing Pattern Study mentioned earlier. In Austin, the gay population was known to live east of IH-35. The way the law was ultimately written by the Texas Insurance Review Board (IRB) was such that if an applicant of these categories was tested, they all must be tested, and that an individual may not be refused insurance coverage for testing positive for AIDS. The wording of how the IRB justified discrimination was very overt

The State Board of Insurance...is trying to find a way to permit insurance companies to discriminate among classes of people on an actuarially sound basis but deny the companies the ability to unfairly discriminate. It isn't easy...⁴⁰

Ultimately, an inquiry from the Legislative Task Force on AIDS found that private insurers were so successful in discriminating against the AIDS afflicted population that the cost-shifting from private to public institutions was found to be fiscally unsustainable for the state of Texas.

⁴⁰ Ibid.

VII. The Legislative Task Force on AIDS

It was not until the Legislative Taskforce on AIDS presented its findings in January 1989 to the Seventy-First Legislature that the State recognized the need to address discrimination due to the economic impact AIDS was inflicting on the taxpayers of Texas. Unironically, the first statement of the report was, "AIDS demonstrates how economics and politics cannot be separated from disease."⁴¹ In the section entitled "Executive Report," this economic aspect was highlighted. The report estimated that lost State and local tax revenue from AIDS in 1988 was 110 million to 170 million and that by 1992 the financial loss will triple to 615 million. Furthermore, the Task Force's findings confirmed the discriminatory measures that the AIDS Society of Austin and others fought against in the previous decade. Specifically, the Task Force acknowledged discrimination of AIDS patients regarding their loss of employment, housing, and healthcare and the resulting dependence on indigent healthcare services following those losses. Figure 10 details the financial impact felt individually by AIDS patients and touches on workplace discrimination, stating

The devastating financial impact of HIV on those infected is clearly documented in this survey. Over one-half (54 percent) of the respondents with AIDS stated that they had spent all of their savings to pay for their illness. Forty-four percent indicated they were unable to pay for prescription medications. The majority (83 percent) of respondents with AIDS were employed at the time of their first HIV-related diagnosis. By the time of the survey, only 23 percent were still employed. The proportion of people with private insurance fell from 56 to 36 percent, and the proportion of respondents with AIDS who use county indigent facilities rose from 8 to 33 percent. Their median annual income fell from \$20,000 to \$6,000.⁴²

⁴¹ Legislative Task Force on AIDS. "AIDS in Texas: Facing the Crisis." Report to the Seventy-First Legislature, January 1989, 8.

⁴² Task Force, Facing, 31.

Figure 10 from the Legislative Taskforce on AIDS demonstrates the individual financial impact of AIDS. The economic impact is shown by documenting that over half of the individuals surveyed had spent their life savings on medical care to treat AIDS. Furthermore, the catastrophic effects of AIDS are reported by detailing individuals' pre-AIDS and post-AIDS-diagnosis employment status, median income, access to private healthcare, and their inability to pay for prescription medicine.

The estimated economic loss due to an individual's inability to work is listed in the Task Force's findings below in Figure 11.

...the income of a sample of 100 AIDS patients who died in July 1988 were projected forward... The value of earnings lost due to AIDS deaths is estimated at between \$900 million and \$1.4 billion in 1988. By 1992, it will range from \$3.1 billion to \$5.2 billion.

The projected economic loss in Figure 11 is based on individuals' reported incomes, their median age of 35, and the assumption that they were going to work, on average, for 30 years. In Figure 12, is the documented acknowledgment that insurance is not available for those with AIDS. Figure 12 states, "The State Board of Insurance survey of insurance carriers and health maintenance organizations documents that health insurance is not available for applicants with HIV."⁴³ The acknowledgment from the Task Force that health insurance was unavailable to AIDS patients is a demonstration of the efficacy of neoliberal ideology and its adverse effect on public health. The neoliberal aspect of an individual being unable to obtain health insurance is due to the attributes of neoliberal economic policy that advocate for deregulation, decentralization, and private for-profit enterprise. As

⁴³ Task Force, Facing, 74.

discussed, and to be discussed further, AIDS is expensive for shareholders. Due to this expense and deregulation, share-holders chose not to pay for AIDS, which was within their actionable realm of decision making. The decision not to cover AIDS applicants shifted the cost of AIDS to the taxpayers of the State of Texas. Figure 13 further documents the impact of cost-shifting from private health insurers to Texas taxpayers

Figure 10

The devastating financial impact of HIV on those infected is clearly documented in this survey. Over one-half (54 percent) of the respondents with AIDS stated that they had spent all of their savings to pay for their illness. Forty-four percent indicated they were unable to pay for prescription medications. The majority (83 percent) of respondents with AIDS were employed at the time of their first HIV-related diagnosis. By the time of the survey, only 23 percent were still employed. The proportion of people with private insurance fell from 56 to 36 percent, and the proportion of respondents with AIDS who use county indigent facilities rose from 8 to 33 percent (Figure 5). Their median annual income fell from \$20,000 to \$6,000. Since nearly three-quarters of the 280 respondents with AIDS were under the age of 40, loss of employment represents a profound loss of income and economic productivity to the people infected, their dependents, and society at large.

Figure 11

To estimate lost future earnings, the incomes of a sample of 100 AIDS patients who died in July 1988 were projected forward. These figures were then applied to all deaths estimated from 1988 to 1992. Calculation of future earnings was based on the identification of the occupational status from the death certificates of the sample patients, and their associated annual income data as reported by the U.S. Bureau of the Census. The estimates were based on the assumption that: 1) most people who died (average age of death was 35 years) lost about 30 years of employment, and 2) the labor force participation, occupational distribution, associated incomes, and the case fatality ratio are representative of all Texans who died from AIDS during the projection period. The value of earnings lost due to AIDS deaths is estimated at between \$930 million and \$1.4 billion in 1988. By 1992, it will range from \$3.1 billion to \$5.2 billion.

State and local tax revenues lost due to premature deaths from AIDS will be between \$110 million and \$170 million in 1988. The range of potential tax loss in 1992 will be between \$370 million and \$615 million (Figure 7).

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⁴⁴ Task Force, Facing, 37.

Figure 12

The State Board of Insurance survey of insurance carriers and health maintenance organizations documents that health insurance is not available for applicants with HIV. The survey also documents that the status of group health insurance is affected when one member in that group tests positive for HIV. In some instances, only that member is denied coverage; in others, the entire group is denied.

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The Legislative Task Force on AIDS identified the utilization of Texas' healthcare infrastructure and the financial strain it placed on the most significant metropolitan healthcare systems by calculating resources into dollar amounts. The Task Force found that by 1992, the resource requirements of the growing AIDS population will require more monetary resources than the largest hospital systems in Texas can provide. Figure 13 states

...the cost of inpatient and outpatient AIDS care in 1987 was \$44 million. Based on these costs, over the next few years, hospital costs for AIDS will dramatically increase from the range of \$88.5 million to \$102.7 million estimated for 1988 to between \$380 million and \$530 million in 1992... Projected AIDS-related costs for 1992 exceed the total resources required by hospital districts in Dallas, Houston, and San Antonio to meet all other needs.

These documents found in the sections "The Economics of HIV in Texas," and "Private/Commercial Health Insurance Changes," from the Legislative Task Force on AIDS demonstrate the fiscal effect of AIDS on individuals and hospital networks. The

⁴⁵ Task Force, Facing, 74.

individual cost is shown by displaying the cost to individuals to treat AIDS with their life savings and utilizing indigent healthcare services. Total healthcare cost is shown calculating the resource requirements of AIDS on hospitals into dollar amounts. These figures are used to assert that the financial responsibility of AIDS was shifted from private insurance corporations to public spheres. This cost-shifting is the direct result of the neoliberal ideology espoused by the Moral Majority's economic philosophy. The cost-shifting of AIDS treatment because of neoliberal economic policy to individuals is Step 5 of the stepwise process that enabled ipso-facto genocide.

Following the Task Force's economic findings, the Task Force investigated the loss of housing due to unemployment and discrimination. Figure 14 states

In the survey of people with HIV, 30 percent of the respondents with AIDS indicated they had lost their housing because of loss of income. Nine percent stated they had lost their housing because of discrimination. HIV-infected people who lose their homes due to poverty or discrimination must obtain residential programs or face homelessness.⁴⁶

Figure 14, from page 46 of the Legislative Task Force on AIDS, confirmed the need to address the housing concerns surrounding the AIDS afflicted population by identifying that nine percent of the respondents reported losing their homes to AIDS-related discrimination. The housing discrimination against individuals with AIDS is not a binary issue that can be identified in one step, but rather a series of allowed civil actions, that when combined, produce the effects of discrimination; outright housing discrimination is only one potential variable. The findings of this Task Force clearly enunciated housing discrimination (or any other discriminatory process), as an event that only a small percent

⁴⁶ Task Force, Facing, 46.

of respondents experienced. This may be an obfuscation of the real alienation and stigmatization that occurred. I assert that this is a nominal value to represent housing discrimination and not a value that truly represents the downstream effect of events that created housing discrimination, such as job loss and paying for AIDS-related medicine out-of-pocket.

In the section “Legal Issues” subsection “Discrimination” (Figure 15), discrimination is stated as a “reality” that inhibits AIDS treatment, and the reason for such is posited as a misunderstanding of the transmission vector. The report goes further, stating there is a relationship between AIDS-related discrimination and the financial impact of HIV and that if this discrimination is not addressed, the State will be unable to fight AIDS.

A broad range of [discrimination] violations is evident in the area of employment, insurance, housing, education, and health care. Stemming from fear and misunderstanding about AIDS and HIV infection, discrimination lies at the root of many obstacles associated with the epidemic.⁴⁷

The acknowledgment in Figure 15 that discrimination is caused by “fear and misunderstanding” of HIV/AIDS transmission affirms the success of the Moral Majority's rhetoric that conflated AIDS and homosexuality into a construct that is threatening to society. Figure 16 of the Legislative Task Force findings dives into employment discrimination in more detail.

⁴⁷ Task Force, Facing, 88.

Figure 13

To estimate total hospital costs of AIDS patients, the survey estimate of cost per case was multiplied by the number of Texans with AIDS who are alive. Calculations indicate that the cost of inpatient and outpatient AIDS care in 1987 was \$44 million. Based on these costs, over the next few years, hospital costs for AIDS will dramatically increase from the range of \$88.5 million to \$102.7 million estimated for 1988 to between \$380 million and \$530 million in 1992 (Figure 6).¹² The 1992 projections are staggering by themselves, but viewed in perspective, they are even more significant. Projected AIDS-related costs for 1992 exceed the total resources required by hospital districts in Dallas, Houston, and San Antonio to meet all other needs.

Figure 14

The Task Force heard repeated testimony on the pressing need for housing. In the survey of people with HIV, 30 percent of respondents with AIDS indicated they had lost their housing because of a loss of income. Nine percent stated they had lost their housing because of discrimination. HIV-infected people who lose their homes due to poverty or discrimination must obtain residential programs or face homelessness. A wide range of housing alternatives, including emergency shelters and shared housing arrangements, is needed.

Figure 15

The Task Force was confronted time and again with the realities of discrimination against people with HIV. A broad range of violations is evident in the areas of employment, insurance, housing, education, and health care. Stemming from fear and misunderstanding about AIDS and HIV infection, discrimination lies at the root of many of the obstacles associated with the epidemic. It directly contributes to the economic burden of the HIV epidemic. Discrimination also impairs the State's ability to mount an effective and swift attack against the spread of HIV. Discrimination against people with HIV, or their caregivers, is unjustified and has no public health basis.

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Figure 16

7. There was evidence that discrimination played a role in loss of employment for a substantial minority of pre-AIDS and AIDS respondents who lost their jobs. A significant number of the 34 pre-AIDS and 172 AIDS respondents who lost their jobs between the time of their first HIV-related diagnosis and the time of the survey were fired (39% and 23% respectively) either because of poor performance owing to their illness (9% and 7%), discrimination (15% and 11%) or other reasons (15% and 5% respectively).

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⁴⁸ Task Force, Findings, 194

Here in the Executive Summary of the Legislative Task Force of AIDS (Figure 16), there is another reference to workplace discrimination. The findings in the Executive Summary place workplace discrimination at 15 percent for pre-AIDS individuals and 14 percent for AIDS-afflicted individuals. More research is necessary to identify how workplace discrimination was defined and how pre-AIDS was defined. If one lost their home because they were unable to pay their mortgage due to workplace discrimination, did that individual answer affirmative that they lost their home to discrimination? What was pre-AIDS? A gay male? Although these questions about discrimination require additional research, what is affirmed is that workplace discrimination did occur to the extent that validates the claims made by attorneys like Tom Doyal and organizations such as AIDS Society of Austin. Figure 17 affirms that discrimination leads to “indigency and the subsequent need for public assistance.” Again, tying discrimination to economic policy. Which now may be understood as discrimination promoted by the Moral Majority and its impact within neoliberal economic healthcare structures.

Figure 18 from the section “Legal Issues” documents the difficulty victims of AIDS-related discrimination have in court, stating

Even with statutory safeguards, legal remedies can be illusory. People with HIV infection rarely survive to complete legal steps against discrimination complaints. Even when illegality and damages are proven, HIV-infected plaintiffs rarely live long enough to see the conclusion of legal proceedings. While awaiting court decisions, their productivity and medical needs may be threatened and they may become more reliant on public welfare systems.⁴⁹

⁴⁹ Task Force, Findings, 91.

The “Legal Issues” section of the Legislative Task Force on AIDS confirms the assertion made by attorney Tom Doyal of Austin, Texas when fighting AIDS-related discrimination cases, that local legal safeguards such as Austin’s AIDS-related discrimination ordinance, were ineffective, or as the Task Force describes it, “illusory.” Austin’s anti-AIDS discrimination ordinance was ineffective due to the length of time the civil court process took, often greater than two years.⁵⁰ Additionally, when the local illusory court process was combined with Texas’s state-wide systemic discrimination infrastructure or the successful discrimination efficacy of H.B. 21.06, an environment was created where there was no pragmatic societal protection from AIDS and gay-related discrimination in Austin. Due to the lack of protection against discrimination, Austin came to be in a pro-discrimination state. The creation of the pro-discrimination state was the product of the Moral Majority’s social ideology and enveloped Steps 1-4 of the Stepwise process to achieve ipso-facto genocide. Furthermore, The Legislative Task Force on AIDS acknowledged the construct of homosexuality in the section entitled “Education and Prevention Services,” subsection “Distinct Population Targeting.”

⁵⁰ It needs to be noted that Austin’s other anti-discrimination ordinances also existed in an “illusory” state. These other ordinances were the Housing Amendment that was passed in 1982 and Austin’s Equal Employment Opportunity Ordinance.

Figure 17

Discrimination is expensive. It often leads to indigency and the subsequent need for public assistance. When people lose their income and resources, they lose their financial independence. Ultimately, discrimination results in increased economic burdens and loss of revenue for local taxpayers.

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Discrimination also has direct public health consequences. Fear of discrimination causes many people to avoid HIV counseling and testing and, therefore, early medical treatment that could prolong their productivity and life. Furthermore, as long as HIV-related discrimination occurs, people will refuse to participate in epidemiologic studies necessary to document the spread of the virus.

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⁵¹ Task Force, Findings, 89.

Figure 18

Even with statutory safeguards, legal remedies can be illusory. People with HIV infection rarely survive to complete legal steps against discrimination complaints. Even when illegality and damages are proven, HIV-infected plaintiffs rarely live long enough to see the conclusion of legal proceedings. While awaiting court decisions, their productivity and medical needs may be threatened and they may become more reliant on public welfare systems.

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⁵² Task Force, Findings, 91.

VIII. Conclusion

What do the findings from the Legislative Task Force on AIDS mean? The Legislative Taskforce on AIDS findings vindicates, verifies, and creates fact-matter of the discriminatory allegations made by the ALGPC, ASA, and HRC on behalf of AIDS patients. The findings corroborate the claims that workplace, housing, and healthcare access discrimination occurred [were occurring]. The Legislative Task Force identified the cost-shifting of private to public funding of AIDS treatment and the impact that cost-shift had on healthcare resources of indigent populations and major metropolitan centers. The Task Force explicitly acknowledged that local anti-discrimination measures were ineffective at stopping discrimination against AIDS-afflicted individuals regarding workplace, housing, and access to healthcare.

Additionally, the Task Force implicitly stated that this discrimination extended to the gay population by acknowledging the construct of sexual orientation and sexuality by stating the need to introduce methods to protect and support gay-specific education. Finally, the Task Force tied the need to end discrimination to the economic impact of discrimination on the State. The facts unearthed by the Task Force allow us to organize the root causes that created this adverse environment for the gay and AIDS-afflicted population into the Stepwise process.

The Task Force connected several key arguments necessary to prove that an ipso-facto genocide occurred through a Stepwise process. Step 1 & 2: The Taskforce found that AIDS patients, who were almost exclusively gay males, were alienated, stigmatized, and discriminated against because of the fear caused by the misunderstood transmission vector, a fear purported by the Moral Majority's social ideology. Step 3: Once AIDS patients were

victims of discrimination, the legal process could not help them in an adequate amount of time. Step 4: Due to an inability to fight discrimination in the courtroom, AIDS patients lost health insurance, their job, or their home, which created severe financial hardships, often leading to homelessness. Step 5: The economic marginalization secondary to discrimination led to a reliance on sub-par social health services and ultimately death.

Were the findings of the Legislative Task Force able to create an environment that advocated for the safety and public health of gay males or AIDS-afflicted individuals? No, as demonstrated by Senator Parker's response to the question of what the Texas Criminal Justice system should do with individuals who test positive for HIV. Parkers reply: "Kill 'em," as shown in paragraph three of Figure 19.

When asked during the hearing what the criminal justice system would do to a person who tested HIV positive, Senator Parker responded, "Kill 'em." Although Parker contends that he was joking, ACT UP maintains that his words betray the climate of intolerance, discrimination and scapegoating that has characterized the reactions of government and society to HIV infection.⁵³

It is crucial to identify the temporal context of the statement made by Senator Parker as having been stated after the Legislative Task Force on AIDS released their final report in January 1989. The "Kill 'em" statement maintains the social ideology of the Moral Majority and demonstrates how pervasive and acceptable overt discrimination was. Furthermore, as seen in paragraphs one and two, pro-discriminatory legislation is still being attempted to pass in the Texas Senate. Figure 19 cites Senator Parker's bills, S.B. 574 and S.B. 163, which call for mandatory testing of certain "criminal" populations (prostitutes

⁵³ AIDS Services of Austin Records (AR.1995.001). Austin History Center, Austin Public Library, Texas. Box 2, Folder 6.

and drug offenses), and to label those populations, if they are HIV positive, as some type of “guilty” HIV carrier. Furthermore, in Figure 20, additional ephemera from ACT UP, other aspects of the Moral Majority’s social ideology are exemplified by legislation regarding the spread of HIV, sexually transmitted diseases, and pregnancy education.

Sec 1.03(j) All materials in the education programs intended for persons 18 years of age or older shall emphasize that sexual intercourse involving anal intercourse, and IV drug use involving the sharing of needles, are the primary methods of transmission of HIV infection. Homosexual conduct as defined by Section 21.06 of the Penal Code and Prostitution as defined by 43.02 of the Penal Code are criminal offenses under Texas law

Sec 1.03(k) All materials in the education programs intended for persons under 18 years of age shall emphasize sexual abstinence before marriage as the expected standard in terms of public health, and the most effective ways to prevent HIV infection, STDs, and unwanted pregnancies, and shall state that homosexual conducted in not an accepted lifestyle and is a criminal offense under Section 21.06 of the Texas Penal Code.

Sec 1.04 (1) Abstinence form sexual intercourse is the only protection that is 100% effective against unwanted teenage pregnancy, sexually transmitted diseases, and AIDS when transmitted sexually.

Sec 1.04 (2) Abstinence from sexual intercourse outside of lawful marriage is the expected societal standard for school-age unmarried persons.⁵⁴

In Figure 20, pro-discrimination legislation regarding AIDS/HIV and gay individuals are made not by denouncing them specifically but by promoting an educational narrative that purports abstinence as the key to stopping the spread of HIV and reminds the citizens of Texas that homosexuality is illegal. ACT UP draws a correlation between these

⁵⁴ AIDS Services of Austin Records (AR.1995.001). Austin History Center, Austin Public Library, Texas. Box 2, Folder 6.

acts of misinformation based on morality as tantamount to genocide due to the social engineering they produce. This type of genocide would be ipso-facto genocide, as defined by this thesis.

Figure 19

“Kill ’em”: Senator Parker’s Response to AIDS

ACT UP is a community-based, direct action organization committed to fighting discrimination against people with AIDS, people with AIDS-Related Complex, those who are HIV (Human Immunodeficiency Virus) positive and those perceived to be HIV positive. ACT UP denounces Senator Parker’s callous attempt at making AIDS an issue to joke about. We also reject the accompanying criminal justice bills providing for mandatory testing and the criminalization of HIV transmission that make Parker’s joke a frightening reality.

On March 14th, the Senate Criminal Justice Committee held a hearing on three bills pertaining to HIV infection, two of which are sponsored by Senator Parker. Parker’s bills (S.B. 574 and S.B. 163) provide for mandatory testing of all persons convicted of prostitution or drug offenses and would criminalize intentional HIV transmission. These bills reinforce the dangerous and uninformed beliefs that the risk of HIV infection emanates from specific groups rather than from specific practices; that AIDS can be cured by the identification of the “guilty” HIV carrier; and that anyone who is HIV infected is a potential murderer. Both bills demonstrate a continued failure to understand that education, behavioral change and adequate health care, not forced testing or imprisonment, will prevent the spread of HIV infection.

When asked during the hearing what the criminal justice system would do to a person who tested HIV positive, Senator Parker responded, “Kill ’em.” Although Parker contends that he was joking, ACT UP maintains that his words betray the climate of intolerance, discrimination and scapegoating that has characterized the reactions of government and society to HIV infection. No where in his bills does Parker provide for HIV counseling and education. No where in his bills does he consider the enormous potential for the abuse of individuals identified as HIV positive, both within the penal system and without. No where in his bills does he recognize that controlling the spread of HIV infection cannot be accomplished by labeling certain groups as diseased.

Senator Parker’s bills create the illusion that the legislature is actively responding to the AIDS crisis when, in fact, these laws bear no correlation to the actual health problems which must be addressed. His bills enact an actual death, by diverting crucially-needed funds from education and health care to unnecessary testing, and a social death, by seeking to criminalize people who are HIV infected. The real crime here clearly is not AIDS, but rather a legislator who would, both in jest and in law, condemn as criminal persons who are HIV infected.

16 March 1989

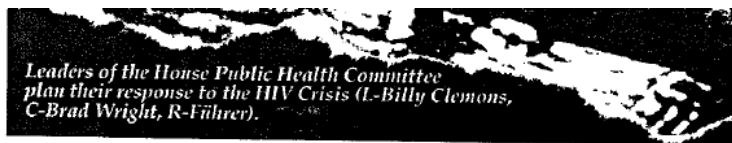
Figure 20

Sec. 1.03(j) All materials in the education programs intended for persons 18 years of age or older shall emphasize that sexual intercourse involving anal intercourse, and IV drug use involving the sharing of needles, are the primary methods of transmission of HIV infection. Homosexual conduct as defined by Section 21.06 of the Penal Code and Prostitution as defined by 43.02 of the Penal Code are criminal offenses under Texas law.

Sec. 1.03(k) All materials in the education programs intended for persons under 18 years of age shall emphasize sexual abstinence before marriage and fidelity in marriage as the expected standard in terms of public health, and the most effective ways to prevent HIV infection, STDs, and unwanted pregnancies, and shall state that homosexual conduct is not an accepted lifestyle and is a criminal offense under Section 21.06 of the Texas Penal Code.

Sec. 1.04 (1) Abstinence from sexual intercourse is the only protection that is 100% effective against unwanted teenage pregnancy, sexually transmitted diseases, and AIDS when transmitted sexually.

Sec. 1.04 (2) Abstinence from sexual intercourse outside of lawful marriage is the expected societal standard for school-age unmarried persons.



Is S.B. 959 the Legislature's Final Solution?

Senate Bill 959 as amended by the House perverts a health care issue into a means of legislating a fascist social and moral agenda.

In the name of morality, the House has dangerously undermined realistic and scientific means of dealing with the AIDS crisis.

In the name of morality the House has legitimized misinformation by choosing to continue a campaign of villification against groups whose behaviour it finds unacceptable. Prostitutes, IV drug users, homosexuals, and anyone engaging in sexual activity outside of state-sanctioned norms are referred to in the bill only for purposes of scapegoating and denial. The homophobic, racist and classist attacks imply that people in these groups are not worthy of the state's AIDS prevention and education programs, and gives those outside these "criminal" groups a false and potentially fatal sense of immunity.

In the name of morality, the House has effectively excluded meaningful AIDS education to persons 18 years of age or younger. Because of a misplaced emphasis on abstinence, rather than a concern for accurate information about actual sex practices, thousands of young people's lives will likely be sacrificed.

Should thousands lose their lives until the Legislature is willing to come to terms with the reality of the disease? Hasn't the 20th century seen enough of genocide as a means of social engineering?

This thesis defined the ipso-facto genocide of AIDS-afflicted individuals in Austin, Texas, as an event between January 1986 and January 1989. The former date, January 1986, was chosen because AIDS organizations in Austin identified the practical reality of AIDS in Austin, documented enough discrimination instances to warrant specific AIDS anti-discrimination task forces, and advocated for anti-AIDS discrimination ordinance through Austin City Council. The latter end of this timeline, January 1989, was chosen because, on that date, the Legislative Task Force on AIDS released their final report, which confirmed the discrimination that was fought against in Austin during these years. What was the social cost of the Moral Majority's ideology in Travis County between 1986 and

1989?

The Texas Department of State Health Services, Center for Health Statistics reports 7 deaths in 1987, 23 deaths in 1988, and 25 deaths in 1989.^{55 56} Furthermore, a total of 25 deaths were reported in 1986 in the article *New AIDS cases double in Travis during '85*. These reports total 80 deaths between January 1986 and January 1989. Although, an article from The Daily Texas by Jason Meeks gives more insight. He reports

As of Wednesday [June, 13th, 1990], there are 586 known cases of full-blown AIDS diagnosed in Travis County area since the first-reported local case in 1983.

Of those, 323 have died and 263 people in Travis county are living with the AIDS virus.⁵⁷

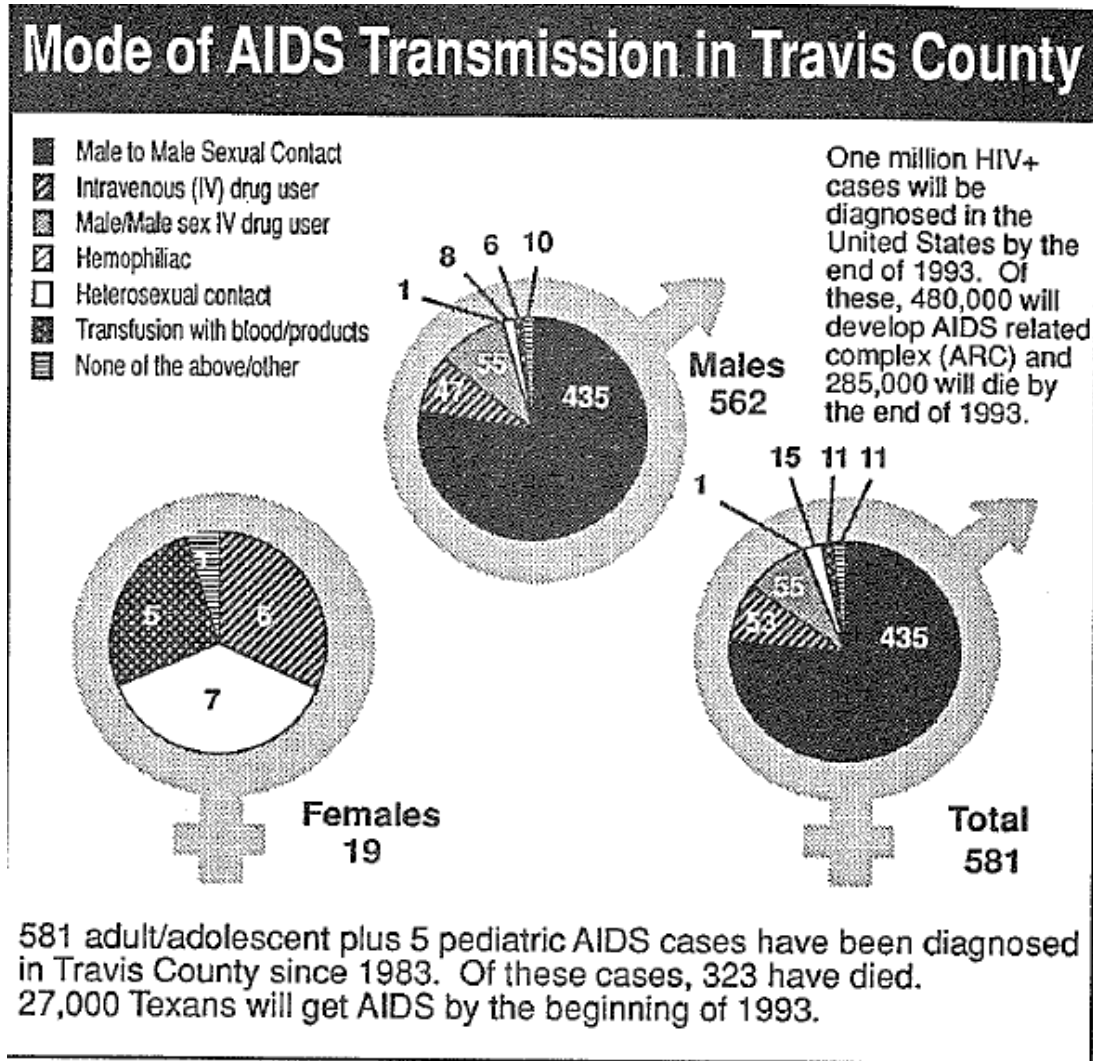
Of the 586 cases, 435 were identified as an infection that occurred through Male-To-Male sexual conduct, as seen in Figure 21, a pie graph associated with Meek's article.

⁵⁵ Texas Department of State Health Services, Center for Health Statistics. "Total AIDS Deaths, Travis County Residents, 1985-1989." 2021.

⁵⁶ Vargo, New Cases double.

⁵⁷ AIDS Services of Austin Records (AR.1995.001). Austin History Center, Austin Public Library, Texas. Box 2, Folder 6.

Figure 21



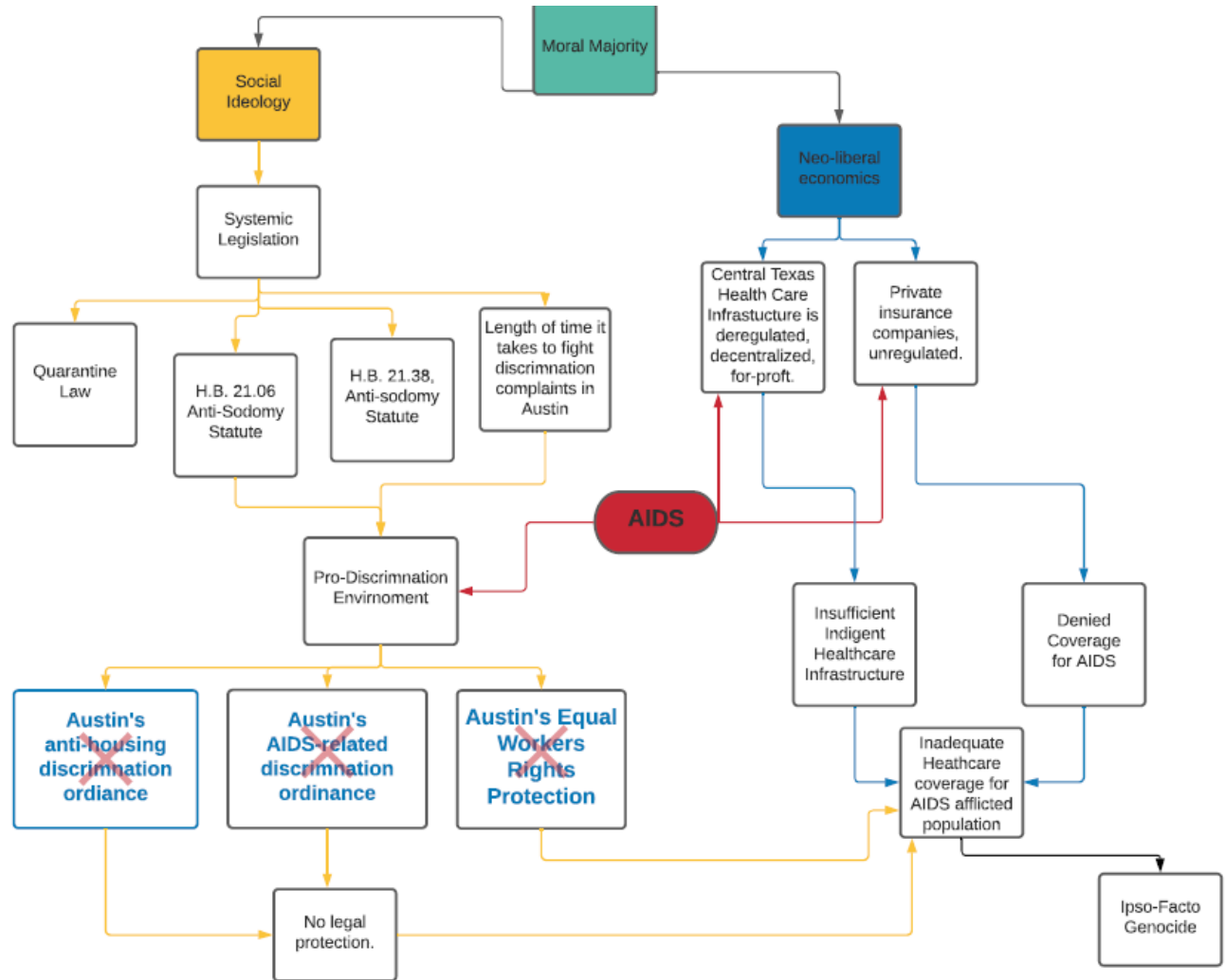
We can use these figures to deduce a rough estimate of the number of gay males who were AIDS-afflicted that died in Travis County between 1986 and 1989 as between eighty and two hundred. This value is essential because it helps contextualize the ipso-facto genocidal environment as an environment that may not be overtly obvious to non-afflicted individuals. The individuals who experienced, or witnessed this genocide, besides the victims themselves, were healthcare workers, family members, social workers, a small number of land and business owners, local government employees, elected officials, and

AIDS organizations' volunteers. These populations, when combined, make up a small percentage of the population, and their voice is representative of that. The point to make is that the majority population did not witness the destructive power of the Moral Majority's social ideology and their neoliberal healthcare infrastructure. Why should we understand this even as an ipso-facto genocide?

By understanding the relationship between gay and AIDS afflicted males in Austin, Texas between 1986 and 1989, and their surrounding social structures as a relationship of ipso-facto genocide, we give a voice to their needless suffering. These hundreds of individuals died because of the social ideology of another socially-politico hegemonic group. The ideology of this group, the Moral Majority, advocated for their alienation, dehumanization, limited citizenship status, and placed them into a criminal construct that created a pro-discriminatory environment. When AIDS came to Texas, it was used as a vehicle to fulfill the Moral Majority's ideology of extermination. These people died simply because they were unlike another group. The only reason the extermination ceased was that the Legislative Task Force on AIDS found that Texas could not finance the extermination of this construct.

Appendix

A.



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