Prohibitory Order

Postal Regulation, Citizen-Surveillance, and the Boundaries of Obscenity

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Since the late-nineteenth century, the United States Postal Inspection Service has policed and censored obscene materials flowing through the mail. As a part of such efforts, the USPIS published an informational brochure with a striking image covering its front page. In the foreground of the image, a pair of long bare women's legs in black high heels jut out from the bottom of an oversized piece of mail labelled "FREE CATALOG." The walking catalog-turned-woman is in mid-stride, ominously heading towards a quaint single-family home. Written in bold letters across the bottom of the image, the front cover of the brochure reads "Stop Unsolicited Sexually Oriented Advertisements in Your Mail." While this publication evokes the puritanical ethos of the Comstock Act's suppression of "obscene, lewd, or lascivious" materials, the USPIS brochure was in fact published in 2008 and remains a current source of information for postal patrons (*Act for the Suppression* 1873, 599; USPIS 2008).

The 2008 USPIS brochure was published in an effort to educate postal customers about the legal tools available to stop "unsolicited sexually oriented advertisements" from reaching their homes or children (USPIS 2008). Under current federal statute, individuals are able to prevent such materials by either issuing a prohibitory order against a mailer that has sent "pandering advertisements" or by signing up for a list maintained by the Postal Service of individuals who do not want to receive "sexually oriented" ads in the mail. These two statutory mechanisms—known as the Anti-Pandering statutes, authorized in the 1967 *Pandering Advertisements Statute* (*PAS*) and the 1970 *Sexually Oriented Advertisements Statute* (*SOAS*)—place the responsibility for identifying, surveilling, and repressing the distribution of obscenity on the individual. This policy strategy upended and reversed the top-down censorship of obscenity by judges, lawmakers, moralists, and the church by linking the mail recipient to the system of postal surveillance. The following essay explores the underlying history behind the 2008 USPIS brochure, examining how this reconfiguration of postal power emerged in 1967 as part of ongoing debates about the circulation of erotic media and the corresponding limits of the right to privacy.[1]

Intervening into a moment of great uncertainty about obscenity law, the two Anti-Pandering statutes wed together the individual, the home, and the Federal Postal Service to police the boundaries of private consumption amidst growing concern about the distribution of pornography. Historians of law, media, and sexuality characterize the eight years between the 1965 *Freedman v. Maryland* and

the more stringent 1973 *Miller v. California* Supreme Court cases as a period of thriving and relatively unregulated sexual expression heralded by loosening legal standards and new privacy protections (Bronstein 2011, 70-74; D'Emilio and Freedman 2012, 277-288; Gorfinkel 2017, 153-196; Schaefer 2014, 1-22; Strub 2010b, 146-178; Strub 2013, 202-208). In the face of mounting ambiguity about the status of obscenity, the *Freedman* case eased restrictions on the movie industry by striking down prior restraint and the use of state censorship boards. Several years later, the 1967 *Redrup v. New York* and the landmark 1969 *Stanley v. Georgia* Supreme Court cases furthered this liberal trend by affirming the constitutional protection of an adult's right to privately possess obscene materials. Together, these rulings helped create the conditions of possibility for the massive growth of the commercial pornography industry and a sharp increase of erotic media, giving way to the 1970s era of "porno chic."[2]

In response to this distinct rise in the public circulation and private consumption of pornography, advertisement-based distribution arose as a pivotal site of political, legislative, and popular concern. Symbolically, mail order advertisements represented the entry point for pornography to access the American home. Legally, advertising offered a constitutionally viable avenue for the state and federal regulation of obscenity. During this period, multiple Congressional hearings and an entire volume of the *Technical Report of the Commission on Obscenity and Pornography* were thus dedicated to the discussion of the growing threat of obscenity in the mail.

While immense attention was paid to the supposed problem of unsolicited mail order pornography, these materials accounted for a "relatively insignificant" portion of all mail advertising, at a mere 0.23%, and constituted only 4-5% of all pornographic media that adult men and women came into contact with during 1968 and 1969 (U.S. Government 1971a, 127; U.S. Government 1971b, 27). Furthermore, the Anti-Pandering statutes created a cumbersome, costly, and ineffective system that offered little help to the small number of patrons who received unsolicited advertisements (U.S. Government 1971a, 160–64). This new system of postal surveillance ultimately failed to "reduce the volume of sexually oriented mail" as unsolicited advertising *increased* between 1968 and 1969 (U.S. Government 1970, 109). Anti-Pandering legislation was thus an unsuccessful attempt to address a problem that had little impact on most postal patrons. Why, then, was there such outsized anxiety devoted to obscenity advertising in the first place?

Although the Anti-Pandering statutes were of little impact from a practical perspective, they mark a key turning point in mid-twentieth century pornography debates. By introducing "pandering" and "sexually oriented" as categories of control, these policies marked a distinct shift towards distribution as a new arena of federal obscenity regulation. Prior to the *Redrup* case and the passage of the Anti-Pandering statutes, the courts were locked into "a recurring conflict between state power to suppress the distribution of books and magazines and the guarantees of the First and Fourteenth Amendments" (Hixson 1996, 74). The legal limits of pornography distribution were disputed in a number of Supreme Court cases throughout the 1950s which were all somehow concerned with determining

the legal culpability of purveyors of pornography.[3] The Anti-Pandering statutes consolidated this debate around mail order advertising as a way to bring distribution under the purview of federal control.

Through this reconfiguration of regulatory scrutiny, policymakers sought to reconcile tensions between expanding sexual circulation during the post-*Freedman* era and evolving notions of privacy. This study thus adds to the historiography of mid-twentieth century obscenity law and sexual cultures, by showing how the liberalism of the late-1960s coexisted with renewed attempts to police the boundaries of the home and to control the dissemination of pornography. I follow Marc Stein's characterization of 1965–73 as a period governed by a doctrine of sexual rights that "affirmed the supremacy of adult, heterosexual, marital, monogamous, private, and procreative forms of sexual expression" (Stein 2010, 3). I extend Stein's work by showing how the avowal of the heterosexual nuclear family and sexual conservatism took hold not only in the Supreme Court but also within Congress, the Postal Service, and the homes of many Americans. The history of the Anti-Pandering statutes reveals how the notion of domestic privacy was deployed as a counterbalance to this period of flourishing pornography, setting the stage for the more conservative obscenity standards inaugurated by the *Miller* decision and the later rise of the Moral Majority.

In this article, I examine how the implementation of the Anti-Pandering statutes in 1967 and 1970 managed the blurry boundaries of obscenity by promoting the home as a private space of sexual morality and the individual as its necessary protector. Through an analysis of the cultural and legal history of Anti-Pandering legislation, including their ideological and applied effects, I argue that this policy approach combated pornography consumption by criminalizing advertising through appeals to heteronormative ideals of political subjectivity. Studying Congressional proceedings, government documents, and popular press coverage, I show how state officials and the public struggled to make sense of the limits of privacy in relation to free speech, fears about the nuclear family, and the growth of the erotic market.[4]

In the first part of the article, I explore the historical, judicial, and legislative context out of which the two Anti-Pandering statutes were created. In so doing, I show how policymakers empowered the mail recipient as adjudicator of obscenity and protector of the home. In the next section, I examine how the statutes implemented a system of privatized postal regulation, which I term *citizen-surveillance*. I argue that this effort to criminalize mail order advertising is part of a longer history of privatized surveillance in which the right to privacy is promoted as a moral and civic responsibility. To enact this strategy, the Anti-Pandering statutes created both new taxonomies for individuals to categorize "pandering" or "sexually oriented" materials and new methods of identification, reporting, and prohibition of said materials. I posit that the introduction of these new categories and systems of control armed citizens with legal tools to police and define the boundaries of obscenity through the criminalization of advertising.

The third section of the article applies this framework to explore how, although these policies were originally framed as safeguards of individual free-

doms, they were advertised and deployed to uphold the private sphere as a space of family values, moralism, and heteronormativity. I analyse how bureaucratic documents, prohibitory order forms, and popular news coverage narrated obscenity as a source of moral decay, constructing advertisements as an inherently obscene threat to domestic life. I argue that the popular promotion of the Anti-Pandering statutes gave way to the growing use of prohibitory orders to target gay and lesbian publications. At the same time, however, I reveal how gay and lesbian publications responded by publicly criticizing the discriminatory usage of prohibitory orders, undermining the logics of domestic heterosexual privacy. The history of Anti-Pandering legislation, and the attendant battles over the uses of prohibitory orders, thus show how advertising and distribution emerged as key pivot points between new ideas about the home as a space of private protection, the rising circulation of erotic media, and the growing visibility of sexual subcultures.

Regulating Obscenity at the Margins: Congress, the Courts, and Unsolicited Advertising

In 1967, the battle over obscenity was in crisis. Contradictions surrounding public life and sexuality were omnipresent: as the Courts and the Post Office continued to agonize over the limits of government intervention, the Federal Government embarked on an effort to bring renewed clarity to the "problem" of obscenity, all while new social movements and cultural norms expanded the possibilities for sexual self-expression. Amidst the shifting cultural landscape of the sexual revolution, in May of 1967, the Supreme Court issued a per curiam decision in *Redrup v. New York* which consisted of three cases involving the sale of materials deemed to be obscene. Reversing the previous convictions in all three cases, the Court ruled that the non-intrusive sale of obscene material to willing adults was protected under the rights of the First and Fourteenth Amendments. This decision dramatically reconfigured existing Supreme Court doctrine—guided by the 1957 majority opinions in the landmark *Roth v. United States* and *Alberts v. California* cases—that found obscenity to fall outside of all protections of free speech.[5] Instead, the Warren Court deemed that obscenity was permissible as long as it remained between consenting adults and did not impinge upon public life (Supreme Court 1966, 770-771). Along with several later cases, the *Redrup* decision "create(d) a legal safety zone for...willing adults," bringing on a slew of reversals that brought greater ambiguity to the legal terrain of obscenity regulation (Strub 2013, 207).[6]

While the courts continued to waffle over the boundaries of free speech and the consumption of erotic materials, the Executive Branch and Congress rallied around the creation of the President's Commission on Obscenity and Pornography in the fall of 1967. The Commission was established to investigate and yield legislative recommendations on legal "definitions of obscenity and pornography" as well as the scope of the pornography industry and its public effects (*Creating a Commission* 1967a, 254). After the publication of the Commission's final report in 1970, however, the findings were met with intense public scrutiny due to the

report's recommendation to repeal all obscenity laws related to private adult possession. The backlash to *The Final Report of the Commission on Obscenity and Pornography* was so severe that, within a month after its publication, the report was rejected by a landslide vote on the floor of the Senate and publicly condemned by President Richard Nixon (Nixon 1970; United States Senate 1970). Thus, although the Commission was intended to resolve the obscenity question, it ultimately created more controversy and confusion.

These federal and judicial efforts emerged against a backdrop of American culture that John D'Emilio and Estelle Freedman characterize as the peak of "sexual liberalism" (2012, 301–25). In this period, the growing visibility of urban sexual subcultures, the birth of radical movements for sexual liberation, and a booming pornography industry defied Cold War expectations about family life and sexual expression. The increasing availability of erotic media, in particular, brought sex into public and private worlds like never before (Young 2018).

Within this moment of anxiety about the status and circulation of obscenity, new forms of consumption, and changing domestic norms, mail order pornography came to optimize the government's failure to successfully control obscenity and the threat that it posed to the American home. As a result of postwar economic expansion, the advertising industry grew in large proportion, leading to a 1960s resurgence of direct-to-consumer advertising in the form of mail order marketing (Beard 2016, 215–18; Cohen 2003, 292–344; Pollay 1985, 28). Pornography producers and suppliers capitalized on the growing demand for erotic media and the popularity of mail order advertising by using the Postal Service to sell and distribute pornography. As this new traffic in pornography drew public attention, control of mail order advertising assumed a politically significant status as the symbolic bridge between the permissiveness of public life and the privacy of the heterosexual family.[7]

The passage of Public Law 90-206, the *Postal Revenue and Salary Act of 1967*, in mid-December attempted to bring at least some clarity to the boundaries of obscenity advertising and private consumption. In particular, the *Pandering Advertisements Statute* (*PAS*) passed as part of the *Act* directly intervened into the gap left open by the *Redrup* decision. In response to a drastic 400% increase in citizen complaints about the receipt of "lurid or sex oriented advertising," the House Subcommittee of Postal Operations commenced a series of Congressional and public hearings to consider the passage of several Bills designed to combat such unwanted mailings (Post Office and Civil Service 1967d, 1). The Congressmen, judges, psychiatrists, police officers, and activists that convened to discuss the proposed Bills needed a legislative solution that walked the fine line between obscenity regulation and existing protections of free speech. While the *Redrup* decision held that obscenity was protected as long as it remained between consenting adults in private, the same principle provided an opening to regulate *unwanted* materials received through the mail, and especially those sent to juveniles, as outside of First Amendment protections (Post Office and Civil Service 1967e, 52-53, 68). Thus, the legislative answer was found, in the words of Congressman Glenn Cunningham: "the old English common law principle that a man's home is his

castle, that I have a right to privacy in my home" (Post Office and Civil Service 1967d, 4).

The *PAS* empowers the individual postal patron as the sole arbiter of the sexual permissibility of all mail entering into the home by affirming the principle that the right to privacy guarantees absolute protection of one's home and family. The *PAS* does so by allowing any mail recipient to issue a prohibitory order against any sender of material believed to be of an unwanted "erotically arousing or sexually provocative" nature (*Postal Revenue* 1967b, 645). After receiving a prohibitory order, distributors are required to remove the complainants name from their mailing lists, ceasing all future distribution of mail order advertisements.

Legislators were able to successfully implement this policy by drawing on the definition of "pandering" from the 1966 Supreme Court decision in *Ginzburg v. United States*. According to *Ginzburg*, "pandering" is defined as "the purveying of publications openly advertised to appeal to the customers' erotic interest" but, significantly, such publications do *not* necessarily have to be "erotic" in and of themselves to be classified as "pandering" (Brennan 1965, 463). Using the newly created category of "pandering," the *PAS* made a critical differentiation between that which is "legally obscene" and material that is not inherently obscene but is still "clearly unwelcome in many homes" (USPOD 1968). Under this definition of "pandering," the individual interpretation of any mailing as erotic amounts to enough legal proof to prohibit the distribution of any further mailings to the addressee. The relatively malleable category of "pandering" thus created a perfectly legal avenue through which the *PAS* was able to bring the not-quite-obscene category of advertising under postal surveillance and suppression.

While the *PAS* was made in an attempt to secure the privacy of the home, many lawmakers saw the *PAS* as insufficient because it was only able to function as a reactionary measure directed against specific mailers. These concerns came to the fore in 1969, as President Richard Nixon began his public crusade against obscenity and pornography. In the first year of his term, the House Subcommittee on Postal Operations reconvened hearings to address, in the words of House Representative Thaddeus J. Dulski, the concern that the *PAS* "unfortunately…comes into force after the fact. That is it doesn't come into use until the first piece of smut mail is received by a householder" (Post Office and Civil Service 1969c, 4). These hearings were prompted by a 1969 Congressional address in which President Nixon responded to what he saw as the continued "invasion of privacy" facing many American homes by calling for a drastic expansion of the protections afforded under the *PAS* (Post Office and Civil Service 1969c, 129). By publicly voicing concerns about the power of the head of household and the invasive force of pornography distribution, policymakers and the Nixon Administration rendered the home as a private space in need of greater postal protections.

The Nixon administration was successful in passing legislation to address the limited scope of the *PAS* as part of the massive overhaul of the Post Office instituted by the *Postal Reorganization Act* of 1970. The *Postal Reorganization Act* established the U.S. Postal Service as a government-owned corporation in place of the U.S. Post Office Department and, significantly, added the *Sexually Oriented Advertise-*

ments Statute (*SOAS*) as a supplement to the existing *PAS*. The *SOAS* introduced two important new measures. First, the *SOAS* created definitional guidelines that require distributors to externally label all mailings that contain "sexually oriented" materials. Secondly, the *SOAS* enables mail recipients to preemptively prevent against the receipt of unwanted "sexually oriented" advertisements by registering for the Prohibitory Order List maintained by the Postal Service. This anticipatory form of prohibition is fulfilled by the *SOAS* mandate that the postal registry be used by local Post Offices and distributors, who are required to purchase the list, to stop all mailings labelled as "sexually oriented" from reaching any registrant (*Postal Reorganization* 1970, 749-750).

Together, the Anti-Pandering statutes created both reactive and proactive mechanisms for controlling pornography distribution. Through this policy approach, mail recipients are able to prohibit materials they consider "pandering" from continuing to their homes and to preemptively block against the receipt of "sexually oriented" materials before they enter the home. These policies also impacted the business side of pornography. While the economic and legal costs of the Anti-Pandering statutes are not fully accounted for, several pornography distributors and producers faced criminal trials for failure to comply with the requirements of the two statues.[8] The policies also created additional costs for companies who were required to remove names from their mailing lists and purchase the Postal Service's prohibitory order list at their own expense (U.S. Government 1971a, 160). By empowering citizens to censor their mail and penalizing distribution companies, this system effectively established a legal mechanism to surveil and criminalize mail order pornography advertising.

Created during a period of mounting erotic consumption and confusion about legal definitions of obscenity, the *PAS* and *SOAS* identified distribution as a necessary site of federal intervention and regulation. In so doing, the statues brought pornography advertising under the control of the Postal Service and the authority of the private household. As I explore in the next section, this legislation continues in the legacy of earlier twentieth century histories of privatized censorship by introducing an individualized system of postal regulation that I term *citizen-surveillance*. Through this new regulatory mechanism, the Anti-Pandering statutes affirmed the home as a space of private protection and encouraged mail recipients to define the blurry boundaries of obscenity by creating new terms to categorize and suppress pornography advertising.

Between Obscenity and Advertising: Citizen-Surveillance, the Right to Privacy, and Borderline Taxonomies

The Anti-Pandering statutes unite the Postal Service and everyday Americans (postal patrons) to create a broad apparatus of surveillance that actively polices the boundaries of obscenity. The introduction of the prohibitory order, as well as the ability to sign up for the Prohibitory Order List, restructured governing power such that the inspection and enforcement of obscenity shifted towards the individual. This created a method of privatized postal censorship, which I term *citizen-surveillance*, that promoted the mail recipient's participation in the sup-

pression of obscenity as an essential public and private moral responsibility. As a part of this system, the *Statutes* created the classifications of "pandering" and "sexually oriented" to allow individuals to account for and monitor advertising materials that cannot be definitively classified as obscene.

To implement and enforce these new categories of obscenity, the Anti-Pandering statutes relied on a model of heterosexual domestic privacy. The consolidation of the right to privacy as the right to defend one's home importantly defined the terms of state protection and free speech according to the norms of the nuclear family. This strategy advanced earlier twentieth century attempts to liberalize and expand obscenity censorship through individual participation, supporting the right to privacy as necessarily achieved through policing and censorship.

Prior to the 1960s, local and federal attempts to censor obscenity often relied on community and individual involvement. In the decades between the passage of the Comstock Act and World War II, social reformers struggled to define obscenity as new social norms changed existing justifications for censorship (Friedman 2000; Strub 2013, 27-48). As public opposition to the absolutism of the Comstock Act grew leading up to and after World War II, a new governing logic of obscenity regulation emerged. This political ideology, which historian Andrea Friedman terms "democratic moral authority," was based on democratized principles and processes (Friedman 2000). One of the foremost aspects of this modernized approach to obscenity was the creation of community standards and regulatory mechanisms based on the values of the "average person." Under this system, individual citizens played an active role in defining and repressing obscenity through participation on juries and censorship boards (Friedman 2000, 168-182). The advent of "democratic moral authority" set into motion an individualized approach to obscenity that promoted censorship as a citizen's democratic obligation.

Although the 1952 decision in the *Joseph Burstyn, Inc. v. Wilson* Supreme Court case weakened the legal authority of state and national censorship boards, citizen-based suppression continued throughout the late-1950s and early-1960s.[9] In 1959, under the leadership of Postmaster General Arthur Summerfield, the Post Office "declared war on the mailing of obscenity into American homes" by calling on citizens to report obscene mailings to their local postmasters (Summerfield 1959, 4). Angered by leniency of the *Roth* decision, Summerfield launched this citizen-based strategy by recruiting postal officials to give speeches across the country about the dangers of obscenity (Johnson 2019, 133-135). In an editorial column written in 1959, Summerfield described the spread of obscenity through the mail as a pervasive threat to the nation, urging all citizens to "join a new crusade against mailbox smut" (Summerfield 1959, 4).

Summerfield's anti-obscenity campaign quickly received substantial press coverage which supported the crusade as vital for protecting children from pornography.[10] While Summerfield's campaign to incite individuals to act as obscenity censors peaked public attention in 1959 and 1960, his tactics fell out of favour by the mid-1960s. Following John F. Kennedy's appointment of a new Postmaster General and revelations about the Post Office's deliberate intimidation of por-

nography customers and discriminatory targeting of gay physique magazines, Summerfield's anti-obscenity campaign faded out of the public eye (Johnson 2019, 149).

However, Summerfield's strategy helped link together the liberalized ethos of democratic moral authority with the idea that "the privacy of the mail is one of our basic American rights" (Summerfield 1959, 4). In so doing, Summerfield identified mail order pornography as a central site of intervention for maintaining both public morality and the right to privacy. The rise of democratic moral authority and Summerfield's anti-obscenity campaign thus laid the groundwork for the Anti-Pandering statutes to emerge as a new tool for censoring the mail.

The Anti-Pandering statutes take these earlier attempts to democratize and liberalize censorship one step further by formally endowing the individual citizen with the right to police and criminalize obscenity advertising. The *PAS* and *SOAS* create a system of citizen-surveillance by encouraging censorship as a matter of private responsibility. This extends the libertarian ethos of democratic moral authority and Summerfield's anti-obscenity campaign by shifting state surveillance further towards civic participation. Notably, the relatively liberal President's Commission on Obscenity and Pornography endorsed this strategy because it allowed for individual choice (U.S. Government 1969, 13-20; U.S. Government 1970, 60-62). While the Anti-Pandering statutes may appear to be liberalized forms of censorship, the longer history of citizen-based surveillance reveals that the statutes rely on notions private citizenship and self-regulation to justify new and expanding forms of suppression.

Citizen-surveillance promotes the liberal subject's obligation to defend the home as a private space by distributing the power of censorship amongst postal patrons. At first pass, the Anti-Pandering appear to be the mirror opposite of the shield of privacy afforded by *Redrup* case, which confirmed every adult's right to wilfully consume "obscene" materials in private. The *Statutes*, in fact, maintain the individual's total dominion over the domestic sphere by constructing the freedom of speech as the right to both private consumption and prohibition. *Rowan v. United States Post Office Department*, which established the constitutionality of the *PAS*, cemented this construction of privacy by asserting that "man's home is his castle" and that the freedom of speech includes "the right of every person 'to be let alone'" (Burger 1969, 736-737).[11] This protectionist notion of domestic privacy directly countered the growing public circulation of sexuality underway during the 1960s growth of commercial pornography. Responding to the mounting permissiveness of public life, Anti-Pandering legislation operationalized the notion of privacy to encourage the censorship of pornography as familial and social responsibility.

Through the construction of the private home as both liberal right and civic duty to defend, citizen-surveillance reifies Enlightenment ideals of political subjectivity. As a number of queer and ethnic studies scholars have argued, the exclusive formation of the liberal individual subject secures nationalistic ideals of bodily comportment, public belonging, and sexual citizenship by reinforcing a model of political subjectivity predicated on whiteness, manhood, and reason.[12]

The individualistic construction of privacy upheld by the Anti-Pandering statues maintains these limited boundaries of citizenship by binding the right to privacy to home ownership, morality, and heterosexual domesticity. This construction of privacy, as Nayan Shah points out, not only affirms the rights of the domestic nuclear family, but also renders nonnormative subjects as outside of the protections afforded by privacy (2005).[13] Anti-Pandering legislation therefore promotes the right to privacy as the liberal subject's responsibility to heteronormative ideals of public and family life, rendering the censorship of erotic media as a social good. And, as the next section reveals, these ideological investments are manifested through moralistic descriptions of the *Statutes* and the persecution of gay and lesbian publications. Thus, while appearing to equally extend powers of freedom and protection to all subjects, citizen-surveillance actually works to secure the norms and boundaries of citizenship through the notion of domestic privacy.

In order to criminalize advertising through a system of private suppression, the Anti-Pandering statues created new taxonomies, methods, and strategies for defining and prohibiting obscenity. The two *Statutes*, however, adopt different approaches for categorizing advertising as obscenity. The *PAS* creates a subjective system that places definitional and regulatory power entirely in the hands of individual citizens. Whereas, the *SOAS* proactively expands the powers of citizen-surveillance through an opt-in postal registry that relies on the more narrowly defined classification of "sexually oriented" to create generalized and seemingly objective means by which to increase existing modes of censorship. While differing in taxonomic approach, the creation of these new definitional tools provided citizens with the ability to both enforce the limits of the private household and to produce the very terms of permissibility by which erotic materials are regulated.[14]

The *PAS* created the category of "pandering advertisements" in order to mediate across the wide gulf between the obscene and the non-obscene. Beyond offering a route to sidestep concerns about First Amendment protections of non-obscene materials, the passage of the *PAS* emerged in response to a slew of legal, political, religious, and medical concerns about mail order advertisements. These materials posed a particular problem because they could not be conclusively defined as obscene or non-obscene. Chief Postal Inspector, Henry B. Montague, provocatively termed this "material in the grey or borderline category" (Education and Labor 1967c, 36). Which he goes on to describe as materials that "try to titillate the interests of those susceptible" "by keeping both their advertisements and their products hopefully within the legally safe, grey, borderline area of obscenity" (Education and Labor 1967c, 36). By broadly classifying "pandering advertisements" to capture a large swath of material that exists at this borderline—between the not-quite-obscene and the not-quite-decent—lawmakers successfully invented a malleable legal mechanism of censorship. The category of "pandering advertisements" was hence created as a legal remedy to deal with the regulation of the blurry boundaries of the obscene through citizen-surveillance.

The *SOAS* similarly tiptoes around legal definitions of obscenity and censorship concerns by creating new categories of regulation. The *SOAS* carefully classifies "sexually oriented advertisements" not as obscene per se, but as "any

advertisement that depicts, in actual or simulated form, or explicitly describes, in a predominantly sexual context, human genitalia, any act of natural or unnatural sexual intercourse, any act of sadism or masochism, or any other erotic subject directly related to the foregoing" (*Postal Reorganization* 1970, 750). This more narrowly defined category was developed to provide a means by which to generalize the prohibitory process inaugurated by the *PAS*. At the same time, however, this new category carefully maintains relatively loose definitional terms that capture an array of "sexually oriented" but not legally obscene advertisements. House Representative David N. Henderson explained this classificatory strategy, stating that the *SOAS* "goes a step beyond the present antipandering law, but…avoids the bramble thicket of what constitutes pornography and obscenity" (Post Office and Civil Service 1969d, 269).

Tactfully eschewing legal questions about social value, prurient interests, or community standards that guide judicial standards for classifying obscenity, the category of "sexually oriented" gives citizens a legitimate tool to privately censor advertisements. At the same time, the *SOAS* avoids the pitfalls of "the censorship problem" by creating the Prohibitory Order List as an opt-in system of surveillance (Post Office and Civil Service 1969c, 35). However, by insisting that distributors externally label postage as "sexually oriented," the *SOAS* expanded the reach of private postal regulation well beyond those who voluntarily elected into the postal registry. Through the categorization of "sexually oriented advertisements" as a blanket measure of anticipatory surveillance, the intermediary capacities of the category "pandering advertisements" were expanded under a broad, supposedly objective, standard of evaluation.

The Anti-Pandering statutes introduced taxonomies through which advertising materials that are perceived as sexually provocative but not legally classifiable as obscenity are subject to the powers of citizen-surveillance. And, more importantly, these categories render such materials as outside of the protections of free speech and the limits of acceptable sexual expression. While the categories of "pandering" and "sexually oriented" advertisements are superficially at odds with one another—with one defining unwanted mailings as up to subjective interpretation and the other as a matter of objective standard—the two are part of the same overall tactic to provide concrete means for private citizens to define and suppress advertisements at the boundaries of obscenity. The category of "pandering advertisements" was given meaning through individual prohibitory orders submitted to the Postal Service and provided the necessary tool for citizen-surveillance to functionally contain obscenity. Whereas, the definition of "sexually oriented advertisements" cast a wide regulatory net to fortify existing modes of surveillance. In both cases, "pandering" and "sexually oriented" were introduced as third terms to secure the boundaries of acceptable sexual discourse through the criminalization of pornography distribution and advertising.

Emerging out of a much longer history of privatized surveillance, the Anti-Pandering statutes introduced citizen-surveillance in response to growing fears about mail order advertising. To implement this system, the relatively mutable categories of "pandering" and "sexually oriented" were created in order to allow

citizens to censor their mail. While seeming to introduce a liberalized process of private protection, citizen-surveillance actively encourages the suppression of pornography advertisements. This system constructs the privacy of the home as achieved through the censorship erotic media, rendering the individual's participation in postal regulation as liberal right and democratic obligation. As the next section will further detail, government documents and popular news coverage promoted citizen-surveillance as a tool for defending and upholding the norms of the domestic household. In this context, the newly created taxonomies of "pandering" and "sexually oriented" were used to police gay and lesbian publications as threats to national morality. The introduction of these new taxonomies thus armed private citizens with the ability to not only suppress advertising, but to censor a variety of publications (obscene or otherwise) that fail to conform to heterosexual familial norms.

"Erotically Arousing or Sexually Provocative": The Prohibitory Order Form, Heteronormativity, and the Production of the Obscene

The *PAS* organized the terrain of obscenity and advertising through the granular and quotidian ways that prohibitory orders were implemented. While the creation of the law was indeed rooted in ideas about the dangers of the traffic in sexually suggestive materials, the implementation of the law effectuated a hierarchical system of value associated with morality and deviance through the routine process of issuing prohibitory orders.[15] Much of the history of legislative and regulatory attempts to suppress pornography is told from the perspective of federal and state measures, missing how government bureaucracy and everyday citizens make sense of, implement, and give meaning to the expression of the law.[16] Whitney Strub highlights this point in his analysis of the persecution of queer publications in Cold War Los Angeles by urging for scholarly attention to the "*deployment* of obscenity law" (Strub 2008). He insists that "regardless of the legal outcome," obscenity "charges served to both reinforce hegemonic perspectives and devastate queer community formations" (Strub 2008, 375). As such, it is not enough to solely trace the evolution of juridical approaches to obscenity in the mail, but one must also examine how changing mechanisms of censorship are depicted and utilized.

In the case of the *PAS*, the everyday postal customers that provided the ground-level means for the implementation of citizen-surveillance primarily interacted with this new mode of postal regulation through the prohibitory order form itself. The prohibitory order form, as interface between government bureaucracy and citizen, had widespread influence in the late-1960s as nearly half a million postal customers filled one out. In a little over the first two years after the passage of the *Pandering Advertisements Statute*, more than 460,000 prohibitory order requests were submitted to the Post Office, averaging over 13,000 complaints per month, and resulting in over 380,000 orders issued (U.S. Government 1970, 110).

The prohibitory order form, however, did not present the *PAS* as a neutral regulatory measure to protect one's rights to privacy and freedoms of speech. In-

stead, the prohibitory order form helped to shape and define normative sexual discourse by framing obscenity as a threat to family values and domestic piety. The narrativization of obscenity as source of moral corruption was increasingly established by the educational and application materials related to the *SOAS*. The popular press further sedimented this narrative by depicting prohibitory orders as a necessary measure for protecting the nuclear household. This popular promotion of the Anti-Pandering statutes gave way to the use of prohibitory orders to target gay and lesbian publications. Gay and lesbian publishers responded, however, by publicly challenging citizen-surveillance and the logics of domestic privacy.

While a large majority of prohibitory order requests were issued against a handful of distribution companies (U.S. Government 1970, 110), it is not insignificant that gay and lesbian publications were amongst the smaller businesses that faced legal prohibition.[17] The Anti-Pandering statutes were created at a time when gay and lesbian life gained increasing visibility through literature and media (D'Emilio 1998, 129-148; D'Emilio and Freedman 2012, 288-295; Johnson 2019). In response to the increased circulation of LGBT media during this period, gay and lesbian publications faced suppression at the hands of citizen-surveillance as particularly feared sources of sexual perversion. As part of a longer history of government persecution, the relatively flexible category of "pandering advertisements" was adapted to shore up the limits of private domesticity and the rights of citizenship by likening gay and lesbian print media to obscenity. The use of prohibitory orders to prosecute gay and lesbian publication must therefore be taken seriously as central to the construction of citizen-surveillance as a mechanism for defending the nuclear family.[18]

Shortly after the passage of the *PAS*, the Post Office Department began circulating prohibitory order request forms as part of a four-page pamphlet entitled "How You Can Curb Pandering Advertisements." Evidently intended to objectively explain the law and the seemingly neutral bureaucratic process of which it was a part, the pamphlet instead presented the suppression of pandering advertisements as wed to the protection of the domestic home space and the inherent immorality of obscenity. The opening lines of the pamphlet read, "a family receiving a pandering advertisement which it finds offensive has the authority under a new Federal Law to ask that its members receive no more mail of any kind from the sender" (USPOD 1968). In this initial framing of the prohibitory order, the informational pamphlet presents the *PAS* as primarily intended to shield the family. While lawmakers and government officials, like Post Office General Counsel Timothy May, argued for the necessity of this legislation as integral to "the fundamental responsibility, the duty, and the right of parents to provide for the moral training of their children" (*Creating a Commission* 1967a, 21), the law itself makes but only passing reference to the relationship between parents and their children. In describing the purpose of the *PAS* as explicitly intended to provide the family with a means to stop pandering advertisements from breaching the boundaries of the home, the Post Office's publication presents citizen-surveillance as a means to enforce normative family life and sexual piety.

Furthermore, the Post Office's guide to the *PAS* seamlessly collapses between the individual interpretation of advertising material as "erotically arousing or sexually provocative" and moral reprehensibility. The pamphlet principally defines the intention of the law as a tool to target advertisements that families "find offensive or believe to be morally harmful to their children" (USPOD 1968). Such ideology was rigorously enforced by statutory guidance provided by the General Counsel of the Post Office Department that typified pandering advertisements as "objectional," "offensive," and "harmful" (Nelson 1970). At direct odds with the legal presentation of the *PAS* as a medium for citizens to stop advertising materials according to one's own standards, the institutional framing of the legislation narrated prohibitory orders as part of the moral defense of the family. By easily conflating materials of an erotic or sexual nature and moral decrepitude, the Post Office presented a teleological account of the *PAS* as predetermined to uphold hegemonic standards of sexual discourse. This construction of the *PAS* offered both an easy justification for various crusades against obscenity and provided moral cover for the requirement that one be erotically aroused or sexually provoked in order for an advertisement to be subject to a prohibitory order. Notions of moral harm and familial protection repackaged the *PAS* to publicly present prohibitory orders as the justified persecution of erotic materials and the unwanted reactions that they elicit.

The 1970 passage of the *Postal Reorganization Act* came with renewed government efforts to publicize regulatory interventions available to mail recipients as part of a moral imperative to protect against pornography. In memorandums and informational releases sent from the Postal Service to members of Congress and the general public, the *PAS* and *SOAS* were described as "important weapon(s) in the Nixon Administration's battle against pornography" (USPOD 1970). Through public documents that promoted the *Statutes* as designed to combat "unsolicited pornographic advertising," the Postal Service effectively constructed "pandering" and "sexually oriented" ads as inherently obscene (Congressional Liaison USPS 1971). The narrative of the invasive force of pornography was reinforced by the Postal Service's application form for one to be registered with the Prohibitory Order List. The application form promoted the law as intended "to protect you and your family," rendering the self-regulatory act of listing one's self with the Post Office as a matter of preserving the heterosexual family (USPS 1970). By narrating postal regulation as matters of moral duty and family protection, the various forms and official communications related to the *Statutes* did more than simply providing a means of citizen-surveillance. Instead, the forms themselves defined the limits of free speech and sexual expression by promoting the privacy of the home as necessary protection against the threat of erotic media.

The popular press helped cement the narrative that citizen-surveillance served as a mechanism to defend the normative American family from the danger posed by obscenity. Articles in a variety of publications—from prominent newspapers like the *Washington Post* to popular magazines like *Good Housekeeping*—declared the transmission of obscenity and pornography through the mail as an existential threat facing America's children, wives, and families. And, cor-

respondingly, characterized postal regulation as necessary protection; as one headline of *The Hartford Courant* declares, "New Mail Law Shields Family" (*The Hartford Courant*, April 29, 1968, 6C). A 1968 article in *Ladies' Home Journal* entitled "Wake Up, America: A Plan to Keep Pornography Away from Children," for instance, outlines a variety of adverse effects that pornography might have on children from increased crime rates to traumatic influences on a child's psychological development. Significantly, the article highlights the need for increased postal restrictions on pornography as a means to preserve the sanctity of the home (Kuh 1968). Similarly, a 1971 article in *Better Homes and Gardens*, "Pornography: What Can We Do To Protect Our Kids?" praises the *PAS* and *SOAS* as means by which "concerned parents can take effective action" against "smutty mail" (Greer 1971). The promotion of citizen-surveillance was augmented by sensationalistic news coverage of obscenity in the mail, like one *Washington Post* article that described how "unsolicited, dirty mail" was being targeted at "bereaved and irate, widows" (Causey 1970). Articles like this depicted "unsolicited pornography" as more than an unwanted nuisance, but as a threat to the very tenets of heterosexuality and the social norms of marriage and family life.

Such journalistic coverage of postal legislation has striking resonance with the rhetoric of conservative anti-pornography organizations like the Citizens for Decent Literature. In the CDL's 1969 May-June newsletter, the proposed *Postal Reorganization Act* is celebrated as part of the Nixon administration's "strong stand for morality" ("It's Time for—Cautious Optimism," *The National Decency Reporter: Newsletter of Citizens for Decent Literature Inc.*, May-June, 1-2, 1). Later in the newsletter, the risk posed by "sex-oriented" material is represented by a cartoon that depicts the mail slot of "John Q. Public" as the "serpent's entrance" through which "pornography," "smut," "nudity," "filth," and "perversion" enter into the American home ("Serpent's Entrance," *The National Decency Reporter: Newsletter of Citizens for Decent Literature Inc.*, May-June 1969, 5). Media attention and activist efforts, like that of CDL, gained public support for the *SOAS* and significantly aided the Nixon administration's delegitimization of the liberal findings of the President's Commission on Obscenity and Pornography.

Similar to Postmaster Summerfield's anti-obscenity campaign from a decade prior, the effectiveness of the *PAS* relied on public will and active participation in postal regulation. The popular promotion of the Anti-Pandering statues played an integral role in encouraging citizens to file prohibitory orders, to sign up for the prohibitory order list, and to write to their local postmasters and political representatives about the receipt of unwanted mail order obscenity. Widespread media coverage of the Anti-Pandering statutes brought much needed public attention to this new form of postal censorship, leading to a record setting number of complaints in fiscal year 1969 (U.S. Government 1970, 110). Together, popular news coverage and activist organizations helped gain support for new forms of postal censorship, promoted the use of prohibitory orders, and reinforced the prohibition of unwanted obscene materials as essential to ensuring the preservation of heteronormative American morality.

The justification of postal regulation as a matter of familial protections and sexual piety gave way to the persecution of gay and lesbian publications through the use of prohibitory orders.[19] Gay and lesbian community periodicals from places like Chicago, Detroit, Durham, and Sonoma County faced postal censorship throughout the late-twentieth century as citizens took to prohibitory orders as a means of suppression. The *Sonoma County Gay & Lesbian Alliance News*, for example, dedicated an entire page of their July-August 1979 issue to reprint the prohibitory order that had been recently levied against them ("NEWS 'Panders' to its' Readers," *Sonoma County Lesbian and Gay Alliance News*, July-August, 12). The independently published *Gay Liberator* of Detroit covered a similar news story of a case in Florida that involved the issuance of a prohibitory order against a gay rights activist for mailing out "copies of *Gay Liberator*, *Southern Gay Liberator*, and clippings from *Advocate* and *LA Free Press!*" (*Gay Liberator,* 1972). The title of the article defiantly asks "Does Gay Liberation Turn You On?," poking fun at the fact that the complainant deemed such materials as "erotically arousing or sexually provocative" (*Gay Liberator*, 1972, 3). Likewise, an article from the March 1973 issue of *Lavender Woman*, a Chicago-based lesbian periodical, describes the paper's receipt of a prohibitory order by sarcastically writing "*Lavender Woman* is pornography? According to some residents of St. Louis, the answer is yes" (*Lavender Woman*, 1973, 14). As both the *Lavender Woman* and *Gay Liberator* are careful to point out, their receipt of prohibitory orders was not only a matter of citizen-surveillance and government censorship, but was a social and legal mechanism by which their publications were categorized as obscene. Through the individualized system of citizen-surveillance, prohibitory orders were thus mobilized to police the boundaries of normative sexual discourse by equating gay and lesbian print media with pornography.

Rooted in a longer history of suppression at the hands of the Post Office, the gay and lesbian organizations that received prohibitory orders feared the threat of further censorship. For the Mattachine Society, such anxieties came to the fore after receiving a prohibitory order in 1969. In the months leading up to the issuance of the order, the Mattachine Society's Book Service struggled to retain control over its mailing list after a pornography company began fraudulently selling materials under the name "Mattachine" (Great Western Services 1969). As a result, the Society received a prohibitory order from an unexpecting recipient, launching intense internal debates about longtime member Albert de Dion's culpability for "the improper handling of mailing lists" (Kotis 1969). Only mere years after the major federal case against the gay mail-order and information service, Directory Services Inc., the Mattachine Society's Secretary Michael Kotis worried that the prohibitory order had "endangered the Society and its members" (Johnson 2019, 193-220; Kotis 1969). While this particular case did not lead to further punitive action from the Post Office, the Mattachine Society's reaction illustrates the lingering power and threat of postal surveillance. Unlike prior state and federal censorship laws, the Anti-Pandering statutes had created a foolproof method for avoiding free speech protections, leaving gay and lesbian publications vulnerable to suppression.

While gay and lesbian publications faced serious concerns about censorship at the hands of the Anti-Pandering statutes, a number of publications nevertheless responded by publicly contesting citizen-surveillance and the notion of heterosexual domestic privacy. For example, the same 1973 issue of *Lavender Woman* included a comprehensive list of all locations where the publication could be purchased, imploring customers to continue buying and circulating their publication. By celebrating "bookstore distribution" as an alternative to mail-subscriptions, *Lavender Woman* not only openly defied the prohibitory order but circumvented the logics of private censorship (1973, 14). Other publications, like the women's music retail catalog *Ladyslipper*, used humour to ironically respond to and problematize the heteronormative functions of prohibitory orders. In the 1991 issue of *Ladyslipper*, the reader's comments section includes a quote from a USPS prohibitory order asserting that the publication constitutes "erotically arousing or sexually provocative" material alongside another quote from a disgruntled recipient deriding the publication as "you queers." Integrating these quotes amongst a number of others from elated consumers of "woman-identified music," the *Ladyslipper* catalog sarcastically dismisses such comments as inconsequential and undermines their validity ("Readers' Comments," 1991, 86). By publicly contesting and satirizing postal censorship, gay and lesbian publications highlighted how prohibitory orders were deployed to enforce the boundaries of nuclear household and, in so doing, challenged the moral justifications for citizen-surveillance.

The public messaging affixed to prohibitory orders constructed the problem of obscenity in opposition to the preservation of domestic heterosexuality, which resulted in the discriminatory targeting of gay and lesbian publications. The supposedly neutral and universal terms of free speech and privacy espoused by the *PAS* and *SOAS* were reconfigured to enforce heteronormativity such that the suppression of "pandering" and "sexually oriented" mailings was constructed as a moralistic endeavour to shield the American family from sexual depravity and perversion. The loosely defined and adaptable category of "pandering advertisements" allowed for these censorship efforts to expand well beyond materials that contained explicit displays of sex, allowing the system of citizen-surveillance to expansively police the limits of sexual expression. The prohibitory orders issued against gay and lesbian publishers are not an anomalous outcome of a system supposedly meant to target obscene advertising. Instead, they demonstrate how the promotion of citizen-surveillance relied on the idea that the home is a space of private protection in order to broadly suppress the distribution of pornography and queer publications during a moment of growing circulation, display, and consumption of erotic media.

Miller v. California and the Legacy of the Anti-Pandering Statutes

The post-1965 era of loosened obscenity restrictions came to an end with the 1973 *Miller v. California* Supreme Court Case. Marvin Miller, the appellant in *Miller v. California*, was brought to the Supreme Court on charges of illegally distributing unsolicited sexually explicit material through the mail after several unwilling re-

cipients reported him to the police. In a 5-4 decision, the Burger Court convicted Miller in an attempt to resolve existing confusion about obscenity regulation by upholding and strengthening the *Roth* decision that obscenity is not protected by the First Amendment. The *Miller* ruling rejected prior standards that protected materials with "redeeming social value," instead deciding that obscenity is determined by considering a work as a whole.

The revanchism of the *Miller* decision continued in the legacy of the Anti-Pandering statutes by rallying against the perceived threat of pornography distribution. The very premise of the case relied on legal concern about controlling the dissemination of obscenity and citizen involvement in surveilling the mail. The deliberations that eventually led to Miller's conviction took place as massive public debates about the circulation of pornography were sparked by the advent of the porno chic era and the widely popular release of the full-length hardcore film *Deep Throat* (Blumenthal 1973). The Court's conservative response, however, did little to ease conflicts between mounting public displays of sexuality and growing fears about the dissolution of the American family. Instead, the *Miller* ruling introduced tougher obscenity standards at the same time as more and more Americans began consuming erotic media, extending existing frictions between sexual circulation and the right to privacy.

The history of the Anti-Pandering statutes offers key insight into this transitional moment of obscenity law. Consolidating previous citizen-based censorship efforts, the Anti-Pandering statues promoted privatized censorship as the means to defend the home from new and proliferating forms of erotic media. This policy strategy identified distribution and advertising as the key conduit between the prurience of public life and the privacy of the heterosexual family. Under this view, the *Miller* decision and the subsequent rise of the Moral Majority are not aberrations within an otherwise liberal era of sexual expression, but emerge out of ongoing tensions between private consumption and public circulation.

In our current age where censorship is alive and well—in the form of postal regulation, corporate online content moderation, and government suppression of online sexual subcultures—this history calls on us to examine the continued reverberations of the Anti-Pandering statutes. The right to privacy was a relatively new legal concept in the late-1960s, and yet the idea of private citizenship was used to justify and encourage the surveillance and criminalization of various publications. The legal and cultural legacies of the Anti-Pandering statutes reveal how privacy is often wielded as a moralistic guise for censoring the public dissemination of materials that fall outside the norms of domestic sexual morality. As contemporary battles are waged over the federal regulation of online sex work and access to reproductive healthcare, we must critically interrogate how and to whom the right to privacy is afforded as part of its continued use as a powerful tool for policing public discourse and promoting the defense of the heterosexual nuclear family.

Notes

1. For more on the history of postal regulation and obscenity see Beisel 1997; Fuller 2003; Boyer 2002.
2. For more on 1970s erotic media and the rise of porno chic, see Bronstein and Strub 2016.
3. For example: Butler v. Michigan, 352 U.S. 380, 77 S. Ct. 524, 1 L. Ed. 2d 412 (Supreme Court of the United States 1957); Kingsley v. Brown, 354 U.S. 436, 77 S. Ct. 1325, 1 L. Ed. 2d 1469, (Supreme Court of the United States 1957); Smith v. Cal., 361 U.S. 147, 80 S. Ct. 215, 4 L. Ed. 2d 205, (Supreme Court of the United States 1959).
4. For more on the rise of the New Right and the emergence of political discourses about the home and family values, see Lassiter 2007 and Self 2012.
5. Prior to the *Redrup* decision, the *Roth* and *Alberts* cases guided jurisprudence in obscenity cases. The *Roth* and *Alberts* decisions collectively ruled that obscenity fell outside of all free speech protections, yielding federal and state obscenity laws as constitutional. Moreover, the rulings created strict standards for determining "obscenity." As an unintended outcome, however, the *Roth* decision's distinction between obscenity and sex ultimately allowed for a proliferation of sexual expression. For more on the history of the *Roth* decision, see Strub 2013.
6. The *Redrup* ruling notably led to a reversal in the 1967 *Potomac News Co. v. United States* case, allowing for the sale and importation of nude homosexual magazines. See Johnson 2019, 185–87.
7. For instance, "3 Religious Leaders Urge Ban on Smut Sent by Mail," *The Sun,* August 29, 1959, 7; "City Residents Asked to Help Stamp Out Mail Order Obscenity," *The Hartford Courant*, May 7, 1959, 8; "Mail Order Obscenity Draws Fire," *The Hartford Courant*, August 24, 1959, 29; "Mail-Order Filth," *The Christian Science Monitor*, June 1, 1959, 16; and "Rise in Mailed Obscenity Seen," *The Sun*, November 25, 1959, 7.
8. For example: United States v. Consolidated Productions, Inc., 326 F. Supp. 603 (U.S. Dist. 1971); United States v. Lange, 466 F.2d 1021 (U.S. App. 1972); United States v. Slepicoff, 524 F.2d 1244 (U.S. App. 1975); United States v. Pent-R-Books, Inc., 538 F.2d 519 (U.S. App. 1976); United States v. Treatman, 408 F. Supp. 944 (U.S. Dist. 1976).
9. The use of censorship boards was ultimately deemed unconstitutional in Freedman v. Maryland, 380 U.S. 51, 85 S. Ct. 734, 13 L. Ed. 2d 649 (Supreme Court of the United States 1965).
10. For instance: "Parents Key to Fight Against Obscene Mail," *Daily Defender*, October 27, 1959, 14; "Press Cited in War on Obscenity," *Daily Boston Globe*, September 1, 1959, 3; James MacNees, "Children Get Pornography by Mail, Summerfield Says," *The Sun*, May 13, 1959, 1; Tom Nelson, "Summerfield Hits 'Barons of Obscenity'," *The Washington Post and Times Herald*, April 24, 1959, 3; and Herbert B. Warburton, "You and the Law Vs. Smut," *New York Herald Tribune*, September 27, 1959, 15.
11. For further discussion of *Rowan*, the *PAS*, the First Amendment, and the right to privacy see, Edmondson 1970 and Lowman 1971.

12. See, for example, Berlant 1997; Duggan 2003; Eng 2010; Mehta 1999; Wynter 2003.
13. See also, Berlant and Warner 1998.
14. For more on the relationship between surveillance and the normalization of deviance see Beauchamp 2019; Brown 2015; Foucault 1995.
15. See, Rubin 1993, and Cossman 2003.
16. For instance, Ernst and Schwartz 1964 and de Grazia 1992.
17. The disparity between the number of prohibitory orders issues against large manufacturers and smaller advertisers of gay and lesbian material is due, in part, to the fact that distributors of queer content often limited their advertisements to a select mailing list of recurring buyers. Whereas, large manufacturers of heterosexual content often used general mailings to reach a wider audience (U.S. Government 1971a, 165–167). However, the third volume of the *Technical Report of the Commission on Obscenity and Pornography* simultaneously notes that homosexual magazines ranked as the fourth highest source of concern for local communities out of all types of erotic media (U.S. Government 1971a, 200).
18. For more on the history of obscenity law and the censorship of gay and lesbian publications, see Strub 2008; Strub 2010a; Johnson 2019; Meyer 2002; Eskridge 1999.
19. Significantly, Hallie Lieberman points out that sex toy manufacturers faced similar such charges (Lieberman 2017, 101–2).

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