

# Police creep, crawl, peep / arrest 15 men

GARDEN GROVE, Calif.—While this Orange County community's gay bars were under Summer siege by police and sheriff's deputies, 15 morals arrests were also being made in a local department store.

Peep-holes drilled through the ceiling of the men's restroom at the Cal Store, a membership discount house, enabled vice police and security personnel to watch the stalls and urinals during a month-long surveillance.

Perhaps as an added inducement, other holes of indeterminate manufacture also afforded a view of the adjacent women's restroom. The store's management assured the ADVOCATE that the police and security persons were asked "not to look through those."

The arrests, all in June, were brought to the attention of the ADVOCATE by Los Angeles attorney Tom Coleman, who is defending one of the men in Municipal Court in Westminster.

The surveillance required some agility. Access to the observation place was gained by crawling up through a hole in the ceiling of a janitor's closet, then out on a metal rafter to a point at which a wall divides the men's and women's restrooms.

## Signs Posted

While the holes were still there at last report, the police and store spokesmen say the observation has ended, at least temporarily. Since then, signs have been posted warning that the lavatory is "under police surveillance." No arrests are known to have occurred there in recent weeks.

Coleman's client was arrested June 12 and charged with indecent exposure and lewd conduct for allegedly sticking his penis through a "glory hole" in one of the toilet stall dividers. (The wall was recently repaired.)

According to the arrest report, the man in the other stall happened to be a vice cop. During a series of bizarre postponements of the trial, however, Coleman learned that he was actually a store security person who has since resigned and apparently left the state.

To date, no one has been able to determine if the arresting officer observed the alleged act from the ceiling, then came down to make the pinch, or by some means informed a second vice cop to go in and shackle the arrestee and take him to jail.

Legal complications, some of which were deliberate "roadblocks" planned by Coleman, have resulted in six court appearances since June.

Coleman and his client were due to appear again Dec. 3.

In the first appearance, June 28, Coleman filed a demurrer challenging the constitutionality of the state's lewd conduct statute, thus forcing the court into a required hearing on the motion the next day. It was overruled.

On Aug. 14, the client entered a not-guilty plea, and trial was scheduled for Oct. 22. Coleman prepared a defense based on alleged discriminatory law enforcement, entrapment, and "the fact that police officers and security personnel were accomplices in an illegal visual search."

However, the court on Oct. 22 found itself jammed with defendants from the gay bar roundup conducted during the Summer here, reported by the ADVOCATE in several recent issues, wherein at least 43 persons were arrested for alleged lewd conduct. Coleman and his client were not given a courtroom in time for a jury to be called.

Back they went two days later, and the same thing happened.

On Oct. 25, Coleman met in chambers with Judge Fenton Jones and Deputy Dist. Atty. Doug McFarland. Coleman asked that the judge give 37 lengthy instructions to the jury, most of them involving the controversial lewd conduct statute and various precedents relating to entrapment.

## Not-So-Helpful Judge

Back in the courtroom, Judge Fenton instructed the prospective jurors to disregard what he called "the fact" that Coleman's client is "a homosexual." Coleman objected that Fenton, in an effort to be helpful, had prejudiced the jury, and the apparently embarrassed judge then agreed to dismiss the entire 30-person panel.

Between then and the following Tuesday, Oct. 29, Coleman went to the Cal Store, found the peep-holes, and prepared various diagrams to present in court. This time, however, the arresting officer was in a hospital and couldn't testify, so the prosecution, over Coleman's objections, was granted a continuance.

"By now I was very angry," Coleman said, "so I went to the court clerk's office, grabbed a handful of subpoenas, and visited the store again." Coleman subpoenaed 10 employees, reportedly upsetting store manager Julius Hoffman, who said he couldn't operate the place with so many workers absent for a trial.

## Writs Challenged

On Nov. 5, the 10 employees came to court, and a spokesman for the group rose to contend that Coleman was guilty of "abuse of process."

Judge Fenton immediately called "an abuse of process hearing," and Coleman questioned each in turn.

None of them admitted having any knowledge of the surveillance or the peep-holes. Fenton then decided all of them could return to work but told five of the 10 to be "on call."

That day thus expended, there was discussion about still another trial date. Coleman requested Dec. 19, "when the store would be greatly inconvenienced because of the Christmas rush," he told the ADVOCATE. The judge, however decided on Dec. 5.

Coleman has subpoenaed five additional store employees since then, plus former employers of the missing security officer into whose stall the defendant allegedly shoved his penis.

All through the proceedings and delays, Coleman has been unable to persuade McFarland to offer a bargain plea. Coleman's client has lost his job because of six days spent in court.

Richard Belling, assistant manager of the Cal Store, said he didn't think his member-customers would object if they knew the police had watched them urinating and defecating from the ceiling of the men's room.

"Since we put up the signs announcing the surveillance," Belling said, "we haven't had so much as one objection."

As for the holes in the ceiling of the women's restroom, Belling said: "We have given the police and our security personnel specific instructions not to look through those."

THE ADVOCATE

December 18, 1974