

Sheriff, Police Chief Subpoenaed in Gay Case

By Roger M. Grace

Los Angeles attorney Thomas F. Coleman wants Police Chief Edward M. Davis and Sheriff Peter Pitchess to visit his office.

They don't want to come.

District Attorney Joseph Busch, Jr. has also been invited, but as of yet, he's conveyed neither an acceptance nor his regrets.

Superior Court Judge Robert Olson will decide tomorrow whether the three will have to show

up, or not. They've been subpoenaed for depositions next week.

Coleman wants to depose them in connection with a suit on behalf of the gay community to enjoin enforcement of 647(a) PC which bans "lewd and dissolute conduct." The plaintiff is attorney Albert L. Gordon, who is suing in his capacity as a resident and taxpayer of the city and county. He is represented by Coleman and himself.

Davis and Pitchess are named as defendants. The complaint alleges that they are enforcing the penal code section in question, are using tax funds to do so, and that they intend to continue enforcing the section.

These averments have been denied in separate answers by Davis and Pitchess. Davis also denied these allegations in a declaration under penalty of perjury in which he said he has no knowledge as to the matters contended other than the fact that he is, in fact, police chief of the City of Los Angeles.

Both have filed motions for protective orders to avoid being deposed. It is these motions which Judge Olson will rule on tomorrow.

Busch is not a defendant, but his deposition is being sought as a "witness" to the alleged discriminatory application of the law to homosexuals. He has filed no motions.

The complaint is phrased mainly in terms of legal conclusions, and neither Davis nor Pitchess could be expected to render relevant testimony as to these matters. However, one conclusion, which Coleman asserts raises an issue of fact, is the statement that the vagueness of the language of the statute "encourages discriminatory enforcement of the law in violation of the Fourteenth Amendment to the United States Constitution and Article I, Section 11 of the California Constitution."

He wants to question Davis and Pitchess concerning such alleged discriminatory enforcement.

Coleman says in a declaration under penalty of perjury that he and another researcher read through every LAPD arrest report

for the months of June through September of 1972 and found that 781 complaints were filed for violations of 647 (a) PC. He says that 663 of the complaints were reviewed, the others being unavailable.

Of the 663, he claims, there were 166 based on solicitations—six involving females, "prostitute types," and 160 against male homosexuals. Of the remaining 503, for "engaging" in "lewd and dissolute conduct," he maintains, only 17 involved heterosexuals.

Coleman argues that the LAPD has "virtually exempted" heterosexuals, while discriminatorily focusing on homosexual conduct. He complains that there have been arrests of men for kissing in public and for dancing together in gay bars.

Gordon and Coleman (each has a separate law practice) are associated in the defense of the streaker who recently dashed through the chambers of the City Council during a session at which Chief Davis was appearing as a witness. The matter under discussion was nude bathing at the beaches.

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Peace Officers Get Protective Order from Court

Superior Court Judge Robert Olson yesterday issued a protective order on behalf of Police Chief Edward M. Davis and Sheriff Peter Pitchess to shield them from subpoenas for depositions in a suit by the gay community.

He told the plaintiffs to try interrogatories—but if the answers were evasive or vague, he would reconsider whether to impose on the busy schedules of Davis and Pitchess for the purpose of depositions.

Their testimony is being sought on the question of whether Sec. 647 (a) PC is being discriminatorily enforced against homosexuals, as the plaintiff contends. The section bans "lewd and dissolute conduct."

The action was brought by attorney Albert Gordon, who is represented by himself and Thomas F. Coleman. They are seeking to enjoin enforcement of the section.