

FILTERED MORALITY:
THEATRICAL FILM SANITIZATION IN UTAH COUNTY, UTAH, 1960s-1980s

by
BRENT COWLEY

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Student: Brent Cowley

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This dissertation has been accepted and approved in partial fulfillment of the requirements for the Doctor of Philosophy in Communication and Media Studies degree in the School of Journalism and Communication by:

Peter Alilunas	Chairperson & Advisor
Seth Lewis	Core Member
Janet Wasko	Core Member
Jon Lewis	Core Member
Daniel Steinhart	Institutional Representative

and

Krista Chronister	Vice Provost for Graduate Studies
-------------------	-----------------------------------

Original approval signatures are on file with the University of Oregon Division of Graduate Studies.

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DISSERTATION ABSTRACT

Brent Cowley

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This dissertation examines a history of theatrical film sanitization in Utah County, Utah, primarily from the 1960s to the 1980s. Regional censorship boards throughout the Hollywood Production Code era labored to ensure that film content corresponded with the moral standards within a region. However, the rise of the MPAA rating system and U.S. Supreme Court obscenity rulings in the 1970s changed how society consumed films. These changes were problematic for citizens of Utah County, most of whom were members of The Church of Jesus Christ of Latter-Day Saints (Mormon/LDS), who are warned against viewing film content considered “obscene.”

In the 1960s, city-wide obscenity ordinances were passed to regulate the influx of films with objectionable content. Citizen groups and decency commissions were instrumental to this regulation as they pressured the enforcement of the ordinances. City attorneys required edits, banned films, and prosecuted those that violated the ordinances. Despite these efforts, many citizens attended films considered objectionable, especially when local media reported on “obscene” films. After several ordinances were tested in court and lost, a new battle was waged. The roles were reversed once citizens outside the majority sought autonomy to view edited versions of films without constraint. As a result of the culture’s deep interest in the arts and popular entertainment, there soon came a desire for many citizens to seek sanitized versions of

mainstream movies rather than prohibiting them. These efforts reestablished a self-imposed regional “Production Code,” allowing citizens the autonomy to view films adapted to their own standards. This intense interest eventually established Utah County as the unofficial headquarters of film sanitization companies worldwide.

This research expands upon the limited academic study of regional film regulatory organizations after the 1970s. It is argued that cultural policies influenced by BYU culture (extreme interest in arts, divinity, and community) resulted in continued regulation of Hollywood films long past the Hollywood Production Code era. It is argued that such cultural policies and media coverage often created more interest in the movie they were trying to ban. A historical exploration of the theatrical regulation of Utah County assists in arguing how BYU culture was instrumental in shaping the cultural policies that influenced not only theatrical film sanitization but, eventually, film filtering technologies standard today.

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Prologue:

MY FILTERING JOURNEY

This prologue offers insights into some events and circumstances that answer the question, “How does one become a Utah County film regulation scholar?” The topic was not something I had ever considered until my master's thesis chair, Harry Benshoff, suggested “researching what you know” when applying for Ph.D. programs. Being an active member of The Church of Jesus Christ of Latter-Day Saints (LDS) with a strong interest in the MPAA rating system, sanitized media, and industrial film alterations qualified me to research “what I know” through lived experiences. After being accepted into the Media Studies program at the University of Oregon's School of Journalism and Communication, several faculty members, including Peter Alilunas and Daniel Steinhart, were intrigued by my interest in researching Utah’s distinctive film sanitization practices. Utah's unique approach to media regulation, particularly in Utah County, was a topic that legal scholars have thoroughly explored, based on the county’s filtering industry, but rarely examined historically. My dissertation research draws on years of personal experiences growing up in a conservative family, state, and religion.

Growing up in the Salt Lake Valley as a member of the LDS church, with Mormon Pioneer ancestry on both sides of my family, it was impossible not to be influenced by the region’s distinct cultural idiosyncrasies that have resolutely influenced my research on film sanitization. This includes a strong interest in the arts, which for my family meant the movies, but like most Mormons, with a catch. I grew up mainly watching G and PG-rated family-oriented films, mostly Disney’s animated features, shorts, and live-action films. My paternal grandparents owned thousands of these relatively “safe” family movies on VHS. During my childhood, my family gathered practically every Sunday with my twenty-five or so cousins, and we were

excited to borrow a different movie each week. Being raised in a more religiously orthodox LDS household, my mother was strict about the movies my five siblings and I could choose. To her, the MPAA ratings were sacrosanct, and she used the classifications to restrict us from seeing PG-13 films such as *Forrest Gump* (1994), *Ghost* (1990), *Gorillas of the Mist* (1988), and *Quigley Down Under* (1990). Even when I was a teenager, she restricted particular PG-rated films based on the content, such as *Back to the Future Part II* (1989), *Bill and Ted's Bogus Journey* (1991), and *Indiana Jones and the Temple of Doom* (1984).¹ Despite these restrictions, movies were more than entertainment to me; they became a passion. Films, in many ways, were my window to the world – a world outside my life in Utah.

My grandparents had two movies in their collection, *Suspect* (1987) and *Witness* (1985), the only two films, among thousands, that carried an R-rating. Despite multiple attempts, my parents never allowed me to watch them, with my mother deeming them “wicked.” When asking my grandfather about these two R-rated films, he justified owning them by arguing that they only had “some language.” From an early age, this experience taught me that the rating system was subjective. My mother and grandfather made decisions and justifications concerning a film’s appropriateness based on the “objectionable” content within the film and not always just by the rating.

It is unmistakable where my mother’s attitudes toward film content stemmed. My maternal grandmother rarely watched movies and only owned LDS-themed animated VHS tapes. My grandmother had difficulty watching *Snow White and the Seven Dwarfs* (1937) as a child. At the

¹ In a recent conversation, my mother recalled her displeasure with the constant use of the word “butthead” in *Back to the Future Part II*. I recall her upset about Loraine McFly’s (Lea Thompson) breast enhancements in the film’s alternate 1985 future. The depictions of hell in the theatrical trailer of *Bill and Ted’s Bogus Journey* was upsetting to her. Considering *Temple of Doom* was originally given an R-rating, until it was appealed, was enough to add it to her list of banned films, despite never having seen it.

age of seven, while spending a weekend with my grandparents, I remember that the only show they allowed me to watch, other than the nightly news, was a National Geographic special on PBS. The program was quickly turned off early when native nudity appeared on the screen. Several years later, I experienced the picketing experience when I accompanied her and some other older women to protest an adult video shop in a neighboring community. Her church congregation was assigned certain blocks of time to picket the store (Ridder, 1994; In Shifts, 1995). After 2 ½ years of continual picketing, the store eventually closed in 1996, and no store has replaced it (Abbott, 2023). Later, when my older cousins were rumored to be watching R-rated movies like *Dracula* (1992), *The Last of the Mohicans* (1992), and *Tombstone* (1993), my grandmother and mother instilled in us the importance of “choosing the right” and making good choices with media that would prevent us from entering a road to perdition. My mother recently recollected that she wanted her boys to be “naive and wholesome.” The cultural stigma against film content and MPAA ratings was not exclusive to my family. Tim Burton’s *Batman* (1989) was the first PG-13 film I was allowed to view. I distinctly remember being rebuked by my teachers at church, who felt the content was too adult, and some of my friends were shocked or jealous that I had seen it because they were not allowed to.

My introduction to R-rated movies was very much by accident. While in middle school, my local library had become a resource for finding classic films beyond what my grandmother owned. One day I checked out and viewed the original *Psycho* (1960) on VHS; it was a film experience that was unlike anything I had ever encountered.² It scared me, it enthused me, and in some ways, it stimulated me. Most of all, it deepened my appreciation of the power of music and

² I later discovered that even the original *Psycho* was Rated R by the MPAA when the film was submitted for a rating for a 1985 VHS release from Universal Pictures.

editing. I wanted more! I wanted to recreate my *Psycho* experience again and again. A week later, I checked out *Psycho III* (1986) from the library, utterly oblivious to the film's rating. While watching the movie, I encountered extreme violence and language, unlike anything I had seen or heard. With trepidation, I ejected the VHS tape partway through the film and at once detected the dreaded "R" rating on the tape's label. I was rattled and contemplated immediately returning the tape, but the desire to finish the film and attempt to recreate my *Psycho* experience was too strong. Although *Psycho III* did not live up to that experience, the library became my source to watch acclaimed films I had been denied my whole life, including *Witness* and *Suspect*. Others like *The Godfather* (1972), *One Flew Over the Cuckoo's Nest* (1975), *Raging Bull* (1980), *The Silence of the Lambs* (1991), and *Schindler's List* (1993) fed my passion for film, despite the content.

The library had opened a world of films to me, but I also wanted to share that world with others. During a conversation with one of my church leaders, who was a BYU professor, I recommended he see *The Graduate* (1967), which had recently been selected as one of the American Film Institute's 100 Years 100 Movies. He expressed his concern about me watching an R-rated film and chided me for suggesting he view it. He explained his lifelong desire to view *The Graduate*, which came out while he was a student at BYU but decided to follow his church leader's counsel and not view it because of its "R-rating." Confused, I explained that the film was actually only rated PG. After proving the film's rating, he decided to view it after 30 years of resisting the urge to see it simply because of its rating, which was initially SMA (Suggested for Mature Audiences), not R. The PG rating labeled on the video was justification enough for him to finally view it, which I found interesting as the film content had not changed from his days in college, only the symbolic nature of the rating. My resource for accessing classic R-rated

films at the library soon ended when my mother found a copy of *A Few Good Men* (1992) at home. With me by her side, she asked the librarians to add a note to my account prohibiting me from checking out R-rated movies. Years later, she recalled her primary motivation in adding the note was that she heard a rumor among her friends that the library stocked films with “pornography.”

Around this time, I discovered the existence of Brigham Young University’s Varsity Theater while on a school trip to visit the Museum of Art. A large theatrical poster for *The Bodyguard* (1992) was prominently displayed in a lobby of BYU’s Wilkinson Center. An R-rated movie playing at a church school absolutely floored me! All I knew about the film was that my aunt had seen it, and my mother was not reluctant to express her dissatisfaction with this choice. When inquiring about the film’s exhibition with my LDS school teacher, she explained that there “was a class that edits the movies” before being shown.³ I knew edited versions of R-rated movies existed because history teachers often screened a sanitized “PG version” of *Glory* (1989) sponsored by Pepsi throughout middle school and high school. This professionally edited version was much preferred over makeshift alterations to films by teachers in classes I had witnessed, such as muting (a little too late) the F-bombs in *Beetlejuice* (1988). Even more common, my teachers covered the TV screen with a poster board (or stood in front of it) when nudity was present on the screen in *Romeo and Juliet* (1968), *Roots* (1977), and *Clash of the Titans* (1981). The idea of seeking professionally edited versions of films like *Glory* was exciting. I wanted to watch these movies free from guilt or limitations and wanted others in my family and faith to view them too.

³ Her statement about how films at the Varsity Theater were edited stuck with me for decades. It took years of research to discover it was actually student projectionists hired by the theater that edited the films (using review sheets) after a committee of faculty and student representatives determined what content violated the Honor Code.

In the mid-1990s, the only way to access edited versions of films was by recording them on television. To do this, I referenced local TV listings to find when edited “broadcast versions” aired, often in the middle of the night. I recall watching the television version of *A Nightmare on Elm Street 2: Freddy’s Revenge* (1985) and being stunned and confused about what exactly happened in “that” shower locker room scene. The editing left much of what was occurring to the imagination, which from my experience, was worse than the actual content. My catalog of sanitized films quickly grew, and I was thrilled to share them with others. Films like *One Flew Over the Cuckoo’s Nest*, *The Silence of the Lambs*, *Schindler’s List*, and *Saving Private Ryan* (1998) were popular among my friends and family. But as was typical for BYU’s Varsity Theater, many LDS church members did not accept edited versions of films by the principle of the original “R-rating.”

As a sophomore in high school, my bohemian English instructor Mr. Jackson allowed his students to think critically and propose projects to work on throughout the term. I convinced him to let us read an article about Scotsman William Wallace and then screen an edited version of *Braveheart* (1995), which I had recently recorded on television. He agreed as long as the district granted their permission. Leaders and media specialists from the Jordan School District agreed to my plan as long as I received signed permission from Paramount Pictures and had unanimously documented support from every other student’s parents. After much negotiation, an executive at Paramount faxed me permission to screen an edited version of *Braveheart* in my class. However, after achieving both of the district’s stipulations, they pulled the plug, explaining that they never imagined I could fulfill their conditions. Thus, after six weeks of challenging discussions, nothing came from it, but the experience emphasized how much fear existed in film ratings in Utah, even for educational purposes.

The VHS film sanitization craze in Utah County, with companies like CleanFlicks, occurred while I was serving a two-year LDS mission in Independence, Missouri. The closing of the Varsity Theater had created a demand for sanitized movies like never before. My interest was in filtering rather than fixed edited copies of films, where someone else decided what content was offensive. The introduction of ClearPlay in 2004 changed everything. I had convinced my parents to buy every sanitization device ever invented, such as the TV Guardian, which uses closed captioning to mute offensive language. No device had compared to ClearPlay's DVD player that allowed viewers to customize which content they wanted to eliminate using filtering technology. My entire extended family bought players, and I gave them R-rated movies from my film collection to finally watch filtered movies they had avoided seeing. The days of recording edited movies on television were over, but I still encountered significant opposition.

As a returned missionary, many LDS leaders and family members were concerned about my continued interest in movies that carried R-ratings (sanitized or not). Based on this and my past experiences with film content, I began researching the history of the MPAA rating system for an English project during my first semester of college. I also wrote a research paper on the cultural policies of school districts in Utah concerning R-rated movie screenings. Out of Utah's 24 school districts, only the Park City School District had made an exception for an R-rated movie, with San Juan School District being the only one to allow edited clips from R-rated films to be shown. My interviews with school principals, librarians, district media specialists, and the same leaders that pulled the plug on my *Braveheart* screening revealed the hypocrisy of their guidelines and protocols based more on cultural stigmas and fear than educational value.⁴

⁴ In High School, I watched the original *Psycho* in a Film Studies course. When I pointed out that the film carried an R-rating, each individual was unsure how to respond. Most justified the film screening because it was produced before the MPAA rating system. However, no one could be convinced that other films and clips should also be

In 2009, I became an adjunct instructor at Salt Lake Community College after completing my undergraduate degrees and a professional film internship with the Walt Disney Company, which had its own specific grooming and morality codes. Initially, the department encouraged me to choose films with different content and ratings, but they also asked that I provide alternative movies when requested by students. Until 2014, when the content exception policy was reversed, I had regular student requests for alternate films and assignments, with several appeals coming directly from students' parents!⁵ During my master's degree, I taught a film history course at the University of North Texas. Witnessing the stark difference in how students outside of Utah approached and reacted to film content in higher education was refreshing.

I initially planned to research modern filtering technologies in media and sanitization during my doctoral program. With no prior written histories dedicated to the beginnings of editing at BYU or events that led to filtering in Utah County, it became clear that the history needed to be traced from the start. As explored in the Methods section below, when I began my archival research in December 2018, access to most primary documents housed in BYU's L. Tom Perry Special Collections Library was denied due to a 50-year restriction on university documents. Bound volumes of BYU's *Daily Universe* became my primary resources that contained a history of theatrical film regulation that extended far beyond sanitization on the BYU campus and into Utah County's mainstream theaters and drive-ins.

judged by their content rather than an arbitrary rating. They were also entirely against sanitizing clips for copyright purposes.

⁵ Depending on the campus, films, and assignments with LGBT themes were especially contentious. Most parental requests for film alternatives or meetings were at SLCC's Jordan Campus (West Jordan and South Jordan), an ultra-conservative and family-centered region of the Salt Lake Valley, where I had lived from age five. One student's father, a religious leader, protested a Queer Theory analysis of *Bride of Frankenstein* (1935) and requested a meeting with the student and me to discuss the matter.

Using the *Daily Universe* and many other resources, it took 1,643 days for me to examine, piece together, and historicize over 60 years of Utah County’s film regulation history. My research comprised 35 full-day visits to six physical archives to accomplish this. During those visits, I took over 3,000 photographs of journalistic artifacts, court papers, and archival documents, with thousands more screenshots gathered from online collections. I chronologically sorted countless articles, photographs, newsletters, cartoons, memos, hand-written notes, advertisements, legal reports, and other documents using PowerPoint. In the end, I fashioned close to 500 slides and created my own visual diagrams to assist me in envisioning this intricate history. To supplement and solidify these primary documents, I also conducted over 50 interviews (see Appendix) through in-person, Zoom, phone, and e-mail discussions. After 260+ pages, 545 citations, one baby, and one pandemic later, I am elated to present “what I know” about Utah County’s seemingly lost history of film regulation.

This prologue presents insights into experiences that were the foundation for my interest in the cultural policies in Utah County that led to the filtering industry present today. Film content has never bothered or affected me like my mother or grandmother. But being a film enthusiast and academic, my greatest desire has always been to share movies with others, however the “bleep” they want. Although perhaps controversial in my culture, I have long felt that individuals should view a film in any form, sanitized or not, rather than avoid it entirely because of “some language,” as my grandpa had instilled in me. Airlines, television networks, educational institutions, and prisons are provided access to official studio versions of sanitized films. If consumers such as members of the LDS faith are not provided access to them, they will continue to seek edited versions from other sources, as I did, and as evidenced by Utah County’s filtering industry today.

Chapter 1

INTRODUCTION: **FILM REGULATION, CULTURAL POLICIES & BYU CULTURE**

In 2014, VidAngel began offering home viewers a way to stream Hollywood movies, modified to their artistic taste and moral standards. The Provo, Utah-based company provided customizable filters to eliminate sex, nudity, violence, language, and other content individuals considered objectionable. VidAngel's headquarters was far from a coincidence. Decades before the company allowed nationwide audiences to "Watch movies your way – however the BLEEP you want," decency commissions in Utah County, Utah, regulated films in the cities' theatrical venues years after regional censorship in the United States had ceased. This dissertation presents a pre-history of theatrical film regulation that led to filtering companies like VidAngel. The events and citizens chronicled in this dissertation are ones that most individuals, including county residents, have forgotten or prefer to keep buried. Most scholarly studies on regional censorship after the 1970s have also neglected this layered history. This dissertation rectifies this by analyzing the powerful cultural influence that significantly inspired film content sanitization in Utah County still around today.

Utah County is home to several highly conservative communities, including Provo (Brigham Young University) and Orem ("Family City, USA"). Over three-quarters of the county's residents are members of The Church of Jesus Christ of Latter-Day Saints (LDS/Mormon), a worldwide restorationist Christian denomination founded by Joseph Smith in 1830. Latter-day Saint doctrine teaches principles of male Priesthood authority, sacrifice, charity, and obedience, including heeding church leaders' warnings against viewing media content considered "obscene." As a result of this significant Latter-Day Saint population and influence,

the lines between morality from a religious and cultural perspective are frequently difficult to distinguish.

These lines are further complicated due to Brigham Young University's strict student honor code, including honesty, obedience, chastity, and grooming guidelines. The university code's rules and regulations, especially during the 1960s through the 1990s, often extended beyond what other LDS church members were asked to abide by, such as not growing a beard, and wearing modest clothing to classes, including not wearing jeans or shorts (Baylock, 1999). Caffeinated soft drinks were also not sold on campus, including at sporting events (Reed, 2017). Beginning in the early 1960s, as I explore in this dissertation, committees at BYU scrutinized and regulated films playing on campus to verify that they adhered to the honor code. By the end of the 1960s, rather than prohibiting movies because of specific content, projectionists began editing language, nudity, and other content considered objectionable before a film's exhibition on campus. Like BYU, theatrically distributed films, especially with content considered "obscene," were also heavily regulated by decency commissions and city attorneys within Utah County due to the region's strict religious, cultural, and institutional standards.

The paradox of what is considered obscene heavily depends on who defines its meaning, as legal, cultural, and religious standards are infrequently the same (Kappeler, 2013, p. 27; Kendrick, 1996, p. 33; Patterson & Price, 2012, p. 80). Latter-Day Saint leaders, for example, have deemed obscenity to be "immodest and not agreeable to the chastity of mind" or "offensiveness to modesty and chastity" (Shapiro, 1989, p. 29). The latter definition was also widely considered the legal denotation of obscenity before the 1957 United States Supreme Court ruling of *Roth v. United States* (*Roth v. U.S.*, 354 U.S. 476, 1957). Other legal interpretations of obscenity came in 1973 with the Supreme Court decision *Miller v. California*.

The *Miller* verdict seemingly offered each community more latitude in defining “obscenity” based on the morals and values within their specific region. Many Latter-Day Saints in Utah County used this new regulatory freedom to closely observe the Roth definition of obscenity.

Latter-day Saints believe that when a person views or participates in “obscene” materials, the “Spirit of the Lord” withdraws from them, as clarified in Isaiah 52:11 that “The Spirit of the Lord cannot dwell in unholy tabernacles” (Eyring, 2007, p. 58). With the breakdown of the Production Code throughout the 1960s, many in Utah County saw morals rapidly shifting from God’s “intended laws.” They demanded their communities abide by a “higher standard,” a unique view on morality than many other societies (Movie Censorship Topic of Orem Council Meet, 1965, p. 5; Why Destroy All the Good, 1966, p. 2). Living closer to a “higher law” was one of the guiding motivations behind organizations such Utah County Council for Better Movies and Literature (UCCBML) and Orem’s Commission on Public Decency (OCPD) that assisted city governments in regulating and enforcing film content theatrically beginning in the mid-1960s, as I explore in chapters two and three.

This dissertation historically records the events and motivations of the men, women, and organizations at the forefront of theatrical film regulation in Utah County, Utah, based on the region’s unique cultural policies. My research answers questions concerning how various cultural policies (societal, religious, political, and economic) played a role in the development of this film regulation from the 1960s through the turn of the century. By assembling archival evidence and conducting interviews with individuals who were a part of this history, my research reveals how regulation in the county encouraged more interest in films considered “obscene” by those within BYU culture (explored below) than before. This result raises the question of whether such regulation was futile or resulted in residents’ interest in eventually sanitizing

popular R-rated films in other venues (BYU's Varsity Theater) or filtering content from the comfort of their homes (CleanFlicks, ClearPlay, and VidAngel), as explored in my conclusion.

Analysis of media regulation and censorship requires critical evaluation of how and why particular religions, societies, and cultures consider certain types of film content “obscene” or immoral. This dissertation incorporates elements of Lene-Arnett Jensen’s *Cultural-Developmental Approach to Morality*, which incorporates three ethical standards: societal norms in the *Community*, devotion to *Divinity*, and notions of citizen *Autonomy*. I will analyze the history of Utah County’s theatrical regulation through what I contend as being the state of Utah’s three dominant cultures: *Utah culture*, including a strong interest in the arts and entertainment, especially within pop culture; *Mormon culture*, which involves devotion to parochial doctrinal principles taught by LDS church leaders and expected obedience; and *BYU culture* which is the often-extreme combination of Utah and Mormon cultures with even higher moral expectations from members based on cultural expectations. What I call BYU culture, often referred to simply as “Utah County” at times throughout this dissertation, is prevalent not just on the BYU campus but also throughout much of the region. Not only are many of the county’s residents a part of the faculty, administration, and staff at BYU, but many living in the area are also alums and were educated under the institution’s more restrictive honor code guidelines. Analysis of these cultures assists in more fully understanding both residents’ and governing bodies’ reactions to inappropriate materials due to the widespread religious and cultural influence the LDS church historically has had over “obscenity” within the region.

In this dissertation, I argue that Utah (*Community*) Mormon (*Divinity*) and BYU (*Community*, *Divinity*, and *Autonomy*) cultures are often counterproductive in their approaches to regulating “obscene” materials because the lines between those cultures are sometimes different

or not clearly defined. Differing goals between LDS church leaders, church members, decency organizations, and city officials add to the difficulty in regulating media based on cultural and religious customs. The lack of *Autonomy* for citizens often results in resistance from individuals not part of a community or dominant religion or those who disagree with the restrictions. The struggles by regulators to prohibit, censor, control, standardize, and conceal obscene materials frequently produce the opposite result, drawing more interest in “obscene” and “immoral” materials (especially those within the “community”) than without regulation (Jacobs, 1997, p. 20; Grieverson, 2004, p. 200). In Utah County, as I explore in this dissertation, the fight for autonomy became complicated when individuals who once fought for banning films eventually demanded their own moral and legal independence to continue to view movies in self-sanitized form, at specific theatrical venues (BYU’s Varsity Theater, SCERA Theater), and in their homes (CleanFlicks, ClearPlay, and VidAngel), due to the influence of BYU culture.

Lastly, historical research methods are used in this dissertation to examine how various cultural policies (societal, religious, political, and economic) contributed to the development of film regulation and sanitization in Utah County. Cultural policies are defined not only by how culture is regulated but also by how culture itself may be used to regulate its citizens (Kirkpatrick, 2018, p. 134). This historical analysis presents a pre-history of current film sanitization practices in Utah County (e.g., ClearPlay, and VidAngel) to contextualize the religious impact and cultural motivations behind the county's robust and long-lasting regional regulatory processes and influences. Critical discourse analysis of thousands of archival materials such as newspaper articles and editorials published in Provo’s *Daily Herald*, BYU’s *Daily Universe*, the *Orem-Geneva Times*, and many other regional newspapers demonstrates how BYU culture influenced film regulation of cinematic “obscenity” throughout the county.

The LDS Church and Film Regulation

Filmmakers in Hollywood have long battled censorship of their work, most notably due to regional and state censorship boards and the film industry's self-regulation policies that were implemented and enforced to prevent government interference. Moral censors, frequently due to religious convictions, were a driving force in censoring films outside of Hollywood (Walsh, 1996, p. 5-6). One significant influence in the enforcement of the Hollywood Production Code, for example, was a result of mounting pressure from the Catholic Legion of Decency in the early 1930s to exhibit more wholesome motion pictures (Lyden, 2003, p. 22). The introduction of the Motion Picture Association of America's (MPAA) rating classification system in 1968 provided filmmakers with more artistic freedom to create films with fewer content restrictions. Rating classifications affected not only the movies produced in Hollywood but also intensely expanded the types of content allowed on the screen. Where once most films produced in Hollywood were fashioned for general audiences (i.e., free from overtly offensive materials based on national standards), the content of new movies was no longer controlled or limited by strict regulation, to which many film patrons had become accustomed. Audiences now had the autonomy to view films in mainstream theaters with more adult themes and content such as graphic violence, sex, nudity, language, and drugs.

With these changes, many religious movie-going audiences were forced to decide whether to support this significant shift within the industry by attending potentially "immoral" films or abstain from viewing them altogether (Trotter, 1969, p. 264; Randall, 1971, p. 219; Sorensen, 1974, p. 185). Many citizens in the state of Utah were heavily affected by the MPAA's changes in movie content regulation, in part, because of the highly concentrated population of LDS church members warned to avoid "obscene" content often contained in R-rated films.

Like the Roman Catholic Church, leaders in the LDS church frequently warn of immorality's dangers within motion pictures and other popular media (Kimball, 1972, p. 7; Stapley, 1977, p. 18; Peterson, 1980, p. 39). Many within the LDS faith are unfaltering in their obedience to church leaders and adherence to scriptural guidelines. This includes the charge to avoid viewing immoral images, dwelling on sinful thoughts, or participating in iniquitous activities that may stem from these. Generally, “erotic” images, including nudity (both sexualized and non-sexualized), as well as sexual interactions (whether fornication or in monogamous marriages), are of the most concern (Bennion, 1967, p. 106; Alsop et al., 2021, p. 1580). Vulgar language, most especially words that society has deemed more offensive, and result in harsher MPAA ratings, are habitually avoided. The Old Testament commandment in Exodus 20:7 to “not take the name of the Lord their God in vain” is also of significant concern but overlooked by some if it is used in films with less harsh ratings (G, PG, and PG-13) (*The King James Version Bible*, p. 110). The title for the film, *Oh, God!* (1977), for example, could not be advertised or published in the *Daily Universe*, despite being PG (Green, 1977, p. 10; *Oh, God* advertisement, 1977, p. 8).⁶ Violence in movies, like much of the United States in comparison to much of Europe, is frequently ignored if not too gratuitous or serves the realism of a plot (Axelgard, 2022, p. 169; Mason, 2019, p. 7), such as *Schindler’s List* (1993), *Passion of the Christ* (2004), and *Saving Private Ryan* (1998).

Latter-Day Saints’ interest in various forms of entertainment differs from other regions or cultures due to the church leader’s suggestion that content be spiritually uplifting. Thus, interest will usually only be extended to diversions free from coarse language, oversexualized depictions,

⁶ The film was praised and vilified by students on *The Daily Universe*’s editorial page for its message, despite its “unjustified” and “blasphemous” use of the Lord’s name in its title.

or other inappropriate content within the religion and culture. Where certain forms of crude entertainment are easy to avoid within the culture, not viewing popular movies, despite objectionable content, often seems too difficult for some to resist completely.

Utah County Cultures

The state of Utah is notable for its unique cultural peculiarities (Francaviglia, 2018, p. 241). More than any other territory within the United States, it is the largest geographic region where most residents religiously or culturally identify as part of one particular community or sect (Jackson, 2023, p. 2). Salt Lake City is the headquarters of The Church of Jesus Christ of Latter-Day Saints (LDS/Mormon), with a statewide population of over 60% Mormon (Stephenson, 2018).⁷ Like Jewish faith members, even if an individual no longer participates in religious services, they frequently still identify as Mormon from a cultural perspective (Heilman, 2016; Millar, 2017, p. 160). This is especially true for LDS children whose moral development manifestly influences and fashions their later moral and ethical identity (Miller, 2015, p. 195; Hardy, Dollahite, and Baldwin, 2019, p. 4).

The cultural-developmental approach to morality suggests that the process of an individual's moral development cannot be accurately understood without examining both the "developmental life period of the individual" as well as "the cultural context in which morality is socialized" (Padilla-Walker and Nelson, 2015, p. 92). This approach was introduced by social psychologist Lene-Arnett Jensen, who argues that culture is "not synonymous with country or ethnicity but rather describes communities whose members share key beliefs and behaviors"

⁷ The population of LDS members in the State of Utah has changed significantly over time. According to the Association of Statisticians of American Religious Bodies, Utah was 72 percent LDS in 1990, and presumed to be higher in prior decades (Cannon, 2015).

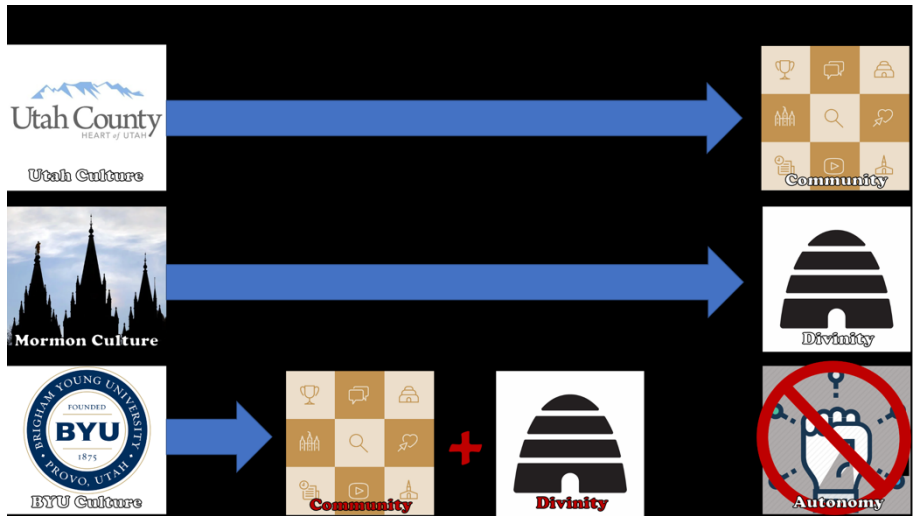


Figure 1 – Utah (community), Mormon (divinity), and BYU Culture (community, divinity, & autonomy) diagram.

(Jensen, 2011, p. 152).
 Jensen’s essay, “The Cultural Development of Three Fundamental Moral Ethics: *Autonomy*, *Community*, and *Divinity*,” analyzes three principles encompassing everyone’s moral and

cultural upbringing. In this dissertation, I extend Jensen’s reasoning about moral ethics into Utah County, which I argue can be divided into *Utah culture* (Community), *Mormon culture* (Divinity), and finally, *BYU culture* (Community, Divinity, and Autonomy). An analysis of these cultures and moral ethics assists in distinguishing the county’s “shared key beliefs and behaviors” and how this parochial society was instrumental in shaping the cultural policies that influenced theatrical film sanitization in Utah County.

The ethic of *Autonomy* focuses on people with needs, desires, and preferences and believes in being free to make choices with few limits. This ethic should be interested in equality and being mindful of the well-being and rights of other individuals by not encroaching on others’ privileges (DiBianca, 2018, p. 1657). The ethic of autonomy can be problematized, however, when individuals seeking their own form of autonomy infringe on others’ privileges in their quest for their own separate autonomy. In Utah County, autonomy (most often) denotes that citizens have the freedom and independence to exercise their First Amendment rights, including

viewing materials others may consider objectionable.⁸ The ethic of *Community* centers on members of a shared social group and how they occupy various roles and positions within these groups to create a protected yet positive, functioning community. This also addresses community-oriented virtues such as self-moderation and loyalty toward social groups and their members (Jensen & McKenzie, 2016, p. 448). The ethic of *Divinity* encompasses individuals conceptualized in spiritual or religious ways. They rely on divine lessons found in sacred texts and teachings from religious leaders but also strive to avoid spiritual degradation and come closer to moral purity (Jensen, 2011, p. 155). This ethical approach suggests that individuals' moral reasoning may be influenced or shaped by one, two, or each of the above three broad ethics indicative of one's moral worldview. Utah County's potent combination of all three moral ethics often limits the personal autonomy of businesses and other citizens, seen as contrary to the *Community* and *Divinity*, causing friction within the region. This dissertation analyzes that friction by examining specific historical details of film regulation by citizens, city officials, and decency organizations throughout Utah County.

When considering the regulation of obscenity within a geographic region, these moral ethics can assist in discerning the often-unarticulated disparities between the rights of individuals and the overshadowing goals of a dominant religion, institution, or community. Mormon culture (*Divinity*) has become such an overpowering moral ethic in Utah County that it is often difficult to separate the influence of that culture from the moral ethic of the community. *Divinity* and *Community* likewise have become an indelible part of the perspectives and behaviors of many

⁸ Chapter 4 complicates the concept of Autonomy, arguing that when individuals view their "autonomy" as more important than another person's, in the name of right versus wrong or equitable versus biased, issues (such as lawsuits) may arise. Strong cultural policies often make such inequality even more long-lasting and discriminatory.

Utah residents. These cultures often suppress the autonomy of an individual's right to make choices within constitutional limits. For example, Utah culture (Community) is highly interested in the arts, but usually only when deemed appropriate for all members of society. BYU culture (Community, Divinity, and Autonomy) similarly focuses on creating a community environment based on a shared (sometimes enforced) view of moral divinity. The forceful combination of two moral ethics frequently results in not allowing individuals outside of these ethical codes the freedom to make their own choices, such as restrictions on viewing R or X-rated films in theaters or on television.⁹ Such regulation limits the Autonomy of audiences interested in films available throughout the rest of the United States or even other cities and counties in Utah. This strong influence of Mormon, Utah, and BYU cultures in Utah County created an environment where regulation of much of the region's media serves most of the population but also suppresses the ethical Autonomy of those outside these cultures. Utah culture's interest in entertainment, and anxieties associated with missing out on a pop culture opportunity, often encouraged those in BYU culture to view films sanitized or prohibited by city regulators.

Utah County is a region that encompasses a potent combination of the Utah, Mormon, and BYU cultures. The County has one of the highest Latter-Day Saint populations in the world, which has fluctuated between 85% to 88% over the past decade (Arave, 2003; Canham, 2007). These percentages do not include the 35,000 BYU students living in Provo, 98.5% of whom are active members of the LDS faith (Schad, 2014). It becomes challenging, however, to find clear lines dividing Mormon culture and, in turn, its subsequent influence on Utah and BYU culture.

⁹ KSL, a Utah-based NBC-affiliated TV station owned by The Church of Jesus Christ of Latter-Day Saints, often chooses not to air certain movies and television shows, such as *Saturday Night Live*, because of objections to a program's "immoral" content.

Scholarship at Brigham Young University is widely recognized for its research on the prevalence (Carroll, Busby, & Willoughby, 2017, p. 146; Patterson & Price, 2012, p. 80; Gmeiner, Price, & Worley, 2015, p. 4) and effects (Brown, 2011, p. 7; Price, Patterson, Regnerus, & Walley, 2016, p. 12; Willoughby, Carroll, Nelson, & Padilla-Walker, 2014, p. 1052; Willoughby & Busby, 2016, p. 680) of obscenity/pornography, which LDS culture considers the same.¹⁰ Some of their studies have shown that acceptance rates of pornographic images are rising, especially among university students. Of 813 students, including individuals attending BYU, 87%=M and 31%=F surveyed they had admitted to viewing pornography in the last 12 months, while only 67% stated that pornography was “acceptable” (Carroll, Padilla-Walker, Nelson, Olson, & McNamara, 2008, p. 6).

In a similar study, conducted exclusively with BYU students, 100% reported that pornography was unacceptable, yet 35% said they viewed pornography within the last 12 months. Research has shown that BYU students “engage in [purer] behaviors that appear to differ from their emerging-adult peers in the United States” (Nelson, 2003, p. 33), but how much of this difference is the result of personal conviction versus a forced moral ethic of the university? A 1978 journal article entitled “The Fundamentalist Emphasis at Brigham Young University” emphasized The Church of Jesus Christ of Latter-Day Saints’ attempts to fortify its students against “worldly influences,” including pornographic content they consider obscene (Christensen & Cannon, 1978, p. 53). The mission outlined is still in effect today, with courses, activities, and environments designed to accentuate concepts of moral living.

¹⁰ Although the terms pornography and obscenity are often considered synonymous, especially in LDS culture, there is a distinct difference between them. Pornography refers to the explicit depictions of sexual organs or activity intended to stimulate erotic rather than artistic or emotional feelings. Despite being quite contested, obscenity refers to materials considered indecent (words, pictures, acts) yet are sometimes still protected by the First Amendment. In LDS culture, all pornography is considered obscene and is undoubtedly the impetus of much of the decency regulation in Utah County.

A review of the literature and historical considerations concerning Utah, Mormon, and BYU cultures delineate the lines between each culture and offer more precise definitions of what each culture represents to discover how each culture influences the other, especially concerning regulatory approaches to obscenity within Utah County.

Utah Culture – Community

Utah culture is the broadest and most foundational of the three cultures, encompassing the unique cultural characteristics present in Utah, most prominently in Utah County. Many of these more social traits can be argued as being a result of basic Christian ideology, but they are not necessarily the results of any particular religious doctrine. These distinctive cultural qualities in Utah culture include a strong interest in the arts and pop culture, a unique language (including substitutions for common curse words), foods (including restrictions on alcohol consumption), and a sizable LGBT population (Gustav-Wrathall & Donald, 2020, p. 222).

Like the popular music and dance variety program *Donny and Marie* (1976-1979) that was filmed at the Osmond studio in Orem, Utah, individuals within Utah culture commonly participate in similar artistic leisure activities like performing in plays, musicals, concerts, and dance performances (Hunter, 2013, p. 3; Nielsen & Burrige, 2015, p. 17). Utahns are more likely to attend and support artistic events and performances (i.e., movie attendance, plays, concerts, dances, and gallery exhibits) than any state nationwide (Means, 2016). According to the National Endowment for the Arts (NEA), 84.5% of Utah adults attend a visual or performing arts event or go to the movies, well above the national average of 66.2% (National Endowment of the Arts, 2016). Utah residents are also one of the most significant movie-going publics in the

country, with more movie theater seats per capita than many regions with theaters that are frequently ranked as the most attended (Curtis, 2015).

Past research has shown that Utah's interest in the arts goes back to the beginnings of the Mormon religion and culture (Lindsay, 2011, p. 3; Scott & Stout, 2013, p. 55; Jones, 2015, p. 79; Jones & Oppedisano, 2015, p. 1). Brigham Young, an early Mormon leader, and BYU's namesake, was known to be an avid dancer and was intensely interested in the arts (Turner, 2012, p. 320 & 327). A 2008 Newsweek article reported that "Mormons danced when they crossed the plains to Utah, and one of the first buildings they built was a dance hall" (Atkinson, 2008). Interest in dancing and theatrical entertainment continued after the Mormon pioneers settled in the Great Salt Lake Valley in 1847. In an 1865 *New York Times* article, Brigham Young shared his views on performed entertainment. He stated that performances "should be kept pure and completely free from everything that could defile it." Young continued, "No impropriety of language or gesture, nothing wicked, or that would be likely to lead to wickedness, should ever be permitted." Young argued that language such as "I swear," "By Heavens," or the "names of Deity" should be "carefully omitted in plays, and other words be substituted in their stead" (The Latter-Day Saints' Millennial Star, 1865). Language in Utah is most often considered more of a social or cultural taboo than a religious one, as there is no specific commandment against using particular "words" except for names of deities. Content in entertainment, especially within various forms of media, will become even more pronounced when considering Divinity.

Movies have always been a popular form of entertainment in the United States, but within Utah culture, it frequently turns from a pastime to more of an obsession. The fear of missing out is often too much for individuals within Utah culture, especially if it falls within pop

culture. Movies are often experienced as a family, requiring that films be appropriate, spanning a spectrum of ages from young to old. Instead of simply avoiding films that contain offensive materials, however, those influenced by Utah culture are much more likely to seek ways to view vulgar media where technology eliminates objectionable content (Cowley, 2018, p. 8).

Mormon Culture – Divinity

Mormon culture refers to the cultural effects of doctrinal teachings taught to members of The Church of Jesus Christ of Latter-Day Saints. These doctrines and principles are believed to be from God and imparted by prophets through scripture, conference addresses, or official church publications. Mormon culture is also shaped by continuing revelation conveyed by the patriarchal leadership of Apostles, whose current average age is eighty. Foundational leaders include Joseph Smith (1805-1844) and Brigham Young (1801-1877), and more contemporarily, Thomas S. Monson (1927-2018) and Russell M. Nelson (1924-present). As mentioned, these principles, especially in childhood, can have an indelible impression throughout an individual's life. Utah also purportedly has the highest church attendance in the country. Of the Utah residents surveyed, 51% reported attending church weekly, compared to only 24% of Washington & Oregon residents, for example, stated weekly church attendance (Connelly, 2015).

Mormon culture, like Utah culture, heavily emphasizes arts and entertainment. Interest in these forms of entertainment in Utah is different from other regions or cultures as there is a demand that the content be clean and spiritually uplifting. Thus, media consumption within Mormon culture often extends to diversions that inspire an individual to improve. In a New York Times article entitled “When Hollywood Wants Good, Clean Fun, It Goes to Mormon Country,”

Megan Lloyd, a BYU senior, stated, “I just saw ‘The Dark Knight.’ It was wonderful, but it was just so dark. I did not feel better about myself after I saw it. Instead, I felt like, I am a horrible human being — like all human beings are. Now contrast that with a film like *Wreck-It Ralph* that teaches you: Hey, you can be a better person. Here is how!” (Mooallem, 2013). Oversexualized depictions and content deemed inappropriate or obscene within the religion and culture are perhaps the most avoided content. However, if sex and nudity can easily be removed to create a self-classified “PG-13-type” film, many justify viewing such versions.

Where certain forms of explicit media, such as pornography, or social activities, such as drinking alcohol, are seemingly easier to avoid culturally, abstaining from viewing popular movies altogether is more challenging to resist. Perhaps because of an entrenched desire and interest in popular culture or simply a fear of missing out, an effect of Mormon culture is individuals seeking sanitized (edited) versions of movies where objectionable content has been removed. This demand has pressured theaters and institutions, especially in Utah County, to censor or ban “obscene” materials, a trend that will be historicized from its roots in the coming chapters.

It is also worth noting that although The Church of Jesus Christ of Latter-Day Saints is a worldwide church, Mormon culture, as has been analyzed, consists primarily of individuals who grew up in or currently live in the western region of the United States, generally Utah, Idaho and parts of Nevada, Colorado, and Arizona. Sometimes referred to as “Utah Mormons,” this denotes members of the LDS church who are often overtly devout to cultural norms and sometimes even judgmental of those who do not follow specific standards of modesty, language, church attendance, media consumption, and other customary behaviors. Stephanie Svanevik, a foreign BYU student unaccustomed to Utah Mormon culture, observed, for example, “People don’t

watch rated R movies here in Utah really, but in Norway, it's just normal," Svanevik said. "Even Mormons would see much more rated R movies" (Roberts, 2013).

Despite a solid cultural stigma against seeing R-rated movies, there is not a clear "commandment" against viewing them. Regularly attending R-rated movies, for example, will not prohibit a church member from receiving a "temple recommend" (ecclesiastical leader's permission) to enter an LDS temple. The cultural stigma against "R" and "X" rated movies is primarily the result of two public speeches by Presidents of the LDS church. The first was an address directly to BYU students in September 1980 by President Spencer W. Kimball. In "Acquiring Spiritual Literacy," Kimball stated, "I would warn you against the R and X-rated movies that unfortunately seem to be so prevalent these days...I can hardly imagine that any young man at BYU, or elsewhere in the Church, would ever think of taking his lovely date to such a movie" (Kimball, 1980). The second warning came in a bi-annual male Priesthood Session address in 1986, by then President Ezra Taft Benson. Young men (ages 12-17) were encouraged to not "see R-rated movies or vulgar videos or participate in any entertainment that is immoral, suggestive, or pornographic" (Benson, 1986, p. 45). Many individuals within Mormon culture frequently cite these two speeches when justifying which ratings and movies are suitable for all church members to view. In recent years, LDS church leaders have focused more on addressing movie content from a global perspective and avoiding any movie containing content that "offends the spirit" (Fuller & Widdison, 2018). However, this stigma against R-rated movies remains an indelible component of Mormon culture (Healey, 2015).

BYU Culture – Divinity, Community, and Autonomy

Finally, BYU culture describes a unique society of students, faculty, and administrators who study or work in an environment where divinity's influence is a guiding force within their shared community. BYU culture can be viewed as an extreme iteration of both Mormon and Utah cultures but one where students and university officials each voluntarily pledge to live and uphold the BYU Honor Code. The honor code consists of stringent and concentrated expectations for all students to abide by LDS-based values, whether they are baptized members of the faith or not. A pledged obligation of obedience is familiar to many members of the LDS faith. However, the pressure of conforming to or being accountable for their daily behavior, appearance, church attendance, and media consumption is not generally standard for church members outside of BYU or other church-operated universities.¹¹

Brigham Young University is frequently described as “The Lord’s University,” an ecclesiastical connection quite apparent upon examining the university’s Board of Trustees (Waterman & Kagel, 1998, p. 1). The board comprises LDS leaders, including the church’s male president, his two male counselors, seven other male General Authorities, and two women (About BYU, 2019). With such a strong religious connection, some have argued that the institution operates closer to a religious research organization than a university as it frequently requires faculty to submit research that upholds Christian, specifically Mormon, values (Waterman & Kagel, 1998, p. 14).

BYU’s Honor Code, although written in 1948, has been a part of the Academy since 1876. The original code prohibited obscenity, profanity, smoking, and alcohol, with a mandatory

¹¹ The Church of Jesus Christ of Latter-Day Saints also owns and operates BYU-Hawaii (Oahu), BYU-Idaho (Rexburg), and Ensign College (Salt Lake City), which have similar, often stricter, honor codes.

curfew of 8:30 pm (Nielsen, 2016). Much of the code’s content reflects the “13 Articles of Faith,” written by church founder Joseph Smith in 1842, and represents the basic foundational teachings of the church’s beliefs. The thirteenth article inspired the modern iteration of the code, as much of the phrasing is found within the code. The article states, “We believe in being honest, true, chaste, benevolent, virtuous, and in doing good to all men...If there is anything virtuous, lovely, or of good report or praiseworthy, we seek after these things” (Dollahite & Marks, 2006, p. 394).¹²

BYU culture, I argue, is a more fervent iteration of both Utah and Mormon cultures because many of the “thou shalt not” commands within BYU’s Honor Code and other policies are not always expected for church members outside of BYU. Members of the LDS faith, outside of BYU, are free to dress, style their hair, grow facial hair, stay out past midnight, and not attend church, for example, without facing discipline. BYU culture demands “higher laws” that are not necessarily doctrinal ones. In the mid-1950s, for example, BYU developed a policy banning caffeinated drinks from being sold on campus. They claimed the ban was due to a lack of interest in caffeinated beverages, but there had been a black market for caffeinated drinks on campus for years (Lekach, 2017). Perhaps due to BYU’s ban, there was a stigma against caffeinated drinks within Utah and Mormon cultures. In 2012, when renowned Mormon Mitt Romney was seen drinking Diet Coke during his Presidential run, the LDS church clarified that they do not prohibit

¹² Honor Code restrictions: (*author remarks italics*)

- Be honest (*Honest in all aspects of students and faculty’s lives, in academics, research, and “dealings with their fellowmen”*)
- Live a chaste and virtuous life (*pre-1957 classification of obscenity, primarily referring to modesty*)
- Obey the law and all campus policies (*including curfews, especially with members of the opposite sex in student housing*)
- Use clean language (*in all languages and within all media on campus and within student housing*)
- Respect others (*open homosexual behavior is not allowed while attending BYU, but celibate homosexuals are welcomed*)
- Abstain from alcoholic beverages, tobacco, tea, coffee, and substance abuse (*caffeinated soda was banned until 2017*)
- Participate regularly in church services (*congregational ecclesiastic leaders yearly approve student’s good standing*)
- Observe Dress and Grooming Standards (*depends on the campus, but all require “missionary” grooming standards*)
- Encourage others in their commitment to comply with the Code (*peer pressure is arguably the most effective method of compliance*)

caffeine use. Despite this clarification, BYU did not reverse its caffeine campus ban until September 2017.

Where Mormon culture avoids spiritual degradation, or at least the appearance of it, BYU culture's Honor Code demands a more substantial commitment that may cultivate a more rigid moral development that frequently continues long after students graduate. Like Utah culture, a student influenced by BYU culture too often has a genuine interest in popular culture and the arts. One direct result of the Honor Code is media limitations on or around campus, often encouraging peer pressure among students to seek, demand, and consume clean or sanitized versions of entertainment. Media with immoral themes, coarse language, blasphemy, and obscenity are forbidden from being exhibited on campus and usually forbidden from being broadcast within BYU student housing (Kunz, 1982; Shields, 1985). A student's moral upbringing often influences a desire for clean media. However, living in a sustained environment and community that demands such media consumption arguably also encourages a student's continued interest in consuming sanitized media, even after no longer being monitored or socially pressured as students. As a result of such conditioning, BYU culture frequently extends to alums and even some residents of Utah County, who choose to live under similar codes of conduct even though they are theoretically no longer or never were a physical part of the BYU community. The powerful combination of all three cultures eventually produced a community of residents, alums, and students who seek morality and demand it for themselves and sometimes others around them. This dissertation examines film regulation within the context of this third community and the cultural policies that resulted from this dominant influence.

Cultural Policies in Utah County

My approach in this dissertation incorporates several areas of focus. First, the history of film regulation and censorship in Utah County before and after the seminal U.S. Supreme Court obscenity rulings of the 1970s. Second, an analysis of the cultural policies that created, encouraged and impacted this regulation. Furthermore, third, an examination of theatrical film release case studies involving what has come to be known as the Streisand Effect.¹³ Utah County regulators' actions against films considered obscene often generated more interest in them, sometimes even from those within BYU culture, thus arguably offsetting the necessity of such regulation due to the cost and extensive labor associated with it. A review of the literature surrounding film regulation and cultural policies assists in developing my research questions and analyzing these three focus areas.

Written historical evidence of film regulation in Utah County or even the state, especially from the 1960s to the 1980s, is practically nonexistent outside contemporary newspaper articles published in the region. Previous academic books and articles published on film regulation have primarily focused on events in Salt Lake City and the Wasatch front. For example, Jeremy Geltzer's chapter on Utah in *Censorship in America: A State-by-State History* (2017) does not mention Utah County or many more recent examples of the state's lengthy battle against obscenity.¹⁴ The Utah chapter instead focuses on several examples of anti-Mormon films banned

¹³ The term "The Streisand Effect" is based on the attention singer and actress Barbra Streisand created when fighting publishers over aerial photographs of her outside her home. The legal challenges resulted in more attention to the pictures than had she ignored them (Jansen & Martin, 2015, p. 656). Film regulation and censorship throughout history often produced the same effect (Grieverson, 2004, p. 200).

¹⁴ The book briefly mentioned the controversy surrounding the exhibition of *Deadpool* at Brewvies (a theater/pub in downtown Salt Lake City). The theater was cited and prosecuted for exhibiting "obscenity" (the unicorn ejaculation during the end credits) at an establishment where alcohol is served. Ryan Reynolds paid the owner's legal fees in support of the theater's First Amendment rights, and the charges were eventually dropped.

in the state due to each film’s critical content and the rise of LDS cinema in 2000 (Geltzer, 2017, p. 180).

The only significant scholarly work focusing on Utah County is Jon Lewis’ “The Utah Version: Some Notes on the Relative Integrity of the Hollywood Product” (Lewis, 2003, p. 27-29). Lewis provides a snapshot of Utah’s censorship practices from 1997-2002, including theatrical censorship and home video.¹⁵ Lewis highlights a critical legal precedent, *Stanley vs. Georgia* (1969) that became foundational in the *Family Entertainment and Copyright Act 2005*. Justice Thurgood Marshall argued in 1969 that the state has “no business telling a man, sitting alone in his house, what books he may read or what films he may watch” [Stanley v. Georgia: 394 U.S. 557 (1969)]. Lewis questions the MPAA’s implications of preserving the “integrity of film” within an industry where “artistic” changes are made to films on a whim, usually in the pursuit of additional revenue (i.e., various cuts of films for different ancillary markets, various aspect ratios, etc.). Lewis’s article opens the opportunity to delve further into the pre-history of Utah County regulation. Exploring the history before *Titanic* (1997) was edited theatrically and on video, as evaluated by Lewis, and the region’s cultural policies, allows me to explore the cultural antecedents that led to such practices.¹⁶

A history dedicated exclusively to Utah County’s theatrical film regulation practices, rather than later media formats and editing technologies, assists in focusing on the specific cultural aspects used to restrict films to everyone in the community rather than in the home. Such efforts reflect the early regulatory practices in the U.S. film industry until U.S. Supreme Court

¹⁵ Theatrical censorship venues include Towne Cinema and home video Sunrise Family Video, CleanFlicks, and Movie Mask.

¹⁶ Scholarly articles were published concerning more recent filtering technologies like ClearPlay. The research mainly addressed legal issues with copyright that editing practices produce (Bethards, 2003; Cline, 2004; Farrell, 2003; Scahill, 2011; Williams, 2005).

rulings expanded the types of film content allowed in community theaters. Analysis of literature on *Censorship and Regulation* and *Cultural Policy Studies* provides an overview of the sources considered in this dissertation.

Censorship/Regulation

Censorship has many definitions and induces much academic debate. Censorship has been described as mandated by a powerful group or governmental organization (Wittern-Keller, 2008, p. 53) to which cities and institutions correspond. Similar to this definition, this dissertation defines censorship as an organization that alters an original film or media product for industrial, societal, governmental, political, or moral purposes. Like in Utah County, censorship extends beyond government as the MPAA is an organization funded and operated by the major Hollywood studios (Septimus, 1996, p. 69). The studios and filmmakers self-regulate their films through the MPAA because films often require specific ratings to be profitable. Thus, changes in content during production or edits after completion are common to receive particular ratings (Ellis & Conaway, 2015, p. 64). Despite the lack of government interference, these alterations suggested by the MPAA are argued to be another form of censorship. Historically, regional censors required additional cuts based on the local community's societal norms or expectations (Sacco, 2017, p. 15-20). Although Utah cities' governmental bodies often had to enforce regulation and censorship (usually by those in a position of power within the Community), the impetus for such censorship mainly originated from the citizens based on Divinity and cultural policies.

Although state and regional censorship boards ceased within the United States by the 1970s, theaters still sometimes refused to exhibit certain films based on the morals within an

area. The Megaplex Theatre chain found in Utah County, for example, periodically refused to exhibit certain films, most notably *Brokeback Mountain* (2006) and *Zack and Miri Makes a Porno* (2009) (Cooper & Pease, 2009, p. 134). As cuts were not required to the original film, this does not necessarily meet the definition of censorship described above. However, the restricted exhibition in the region has components of censorship in its regulation and restrictions. Third-party editors who edit objectionable content from movies for the benefit of a consumer's interest or the needs of an institution, such as BYU, also change a filmmaker's original films for their own moral or economic benefit and thus engage in the form of censorship.

Notions surrounding moral censorship date back to the beginning of films themselves. However, much historical academic analysis that concerns moral censorship focuses on the Roman Catholic Church's opposition to the rise in immoral content in Hollywood movies throughout the 1920s and 1930s (Black, 1994p. 2, 35 & 164; Lindvall, 2005, p. 15; Walsh, 1996, p. 52-56). Under the leadership of former Postmaster General William Hays, iniquitous film content was typical after the coming of sound (Londino, 2012, p. 25). The Legion of Decency, a lobbying group organized by members of the Catholic Church, encouraged faithful Catholics to boycott Hollywood films should the studios not enforce stricter standards of morality (Skinner, 1993, p. 1).

Several Utah County cities aimed to offer films suitable for a "family environment." This seems to correlate with "family-friendly" or non-offensive Hollywood films produced throughout the mid-to-late 1930s (Brown, 2015, p. 1). After the Production Code was more strictly enforced in 1934, Hollywood feature films were primarily categorized as "Family" films. *Boxoffice* magazine, in 1935, for example, considered about 80% of Hollywood's films within the "Family" category (Family Films Predominate First Nine Months, 1935, p. 8). By 1936,

Boxoffice labeled 90% of the films as “Family” (Family Films in Last 1936 Quarter Shatter Record, 1936, p. 8), and peaked at 96% by 1937 (Producers Keep “F” Films in Fore During 1937, 1938, p. 12), establishing Hollywood’s identity as a family institution by the end of the 1930s (Brown, 2015, p. 16).¹⁷ Regardless of the numbers, the Production Code attempted to fashion movies that the entire population or “family” could enjoy without offense. In theory, these types of films continued until the breakdown of the Production Code in the 1950s. I argue that the exhibition of “family” oriented movies was what many Utah County citizens and organizations attempted to replicate by banning and removing objectionable content from movies screened within their cities.

Cultural Policy Studies

One of the predominant approaches employed in this dissertation is Cultural Policy Studies (CPS), a subset of Media Industry Studies. Media policy scholar Bill Kirkpatrick defines Cultural Policy Studies as how culture is regulated and how culture itself may be used in regulating its citizens. In other words, it is not always the cultural products themselves that are regulated, but rather the attitudes and behaviors of the individuals who engage with these products. (Kirkpatrick, 2018, p. 134). Cultural policies in Utah County influenced the region’s regulatory practices and shaped citizens’ attitudes through social, spiritual, and educational pressures in the community.

Cultural Policy Studies were developed extensively in the 1990s and 2000s by scholars Stuart Cunningham and Tony Bennett. Cunningham’s research combined cultural studies and policy studies and attempts to “frame culture” through the lens of cultural activism

¹⁷ *The Christian Science Monitor*, a more conservative publication, estimated in 1936 that only 42% were categorized as “Family” films (Family Films Rise to 42 P.C. with Council’s Five-Year Aid, 1937, p. 15).

(Cunningham, 1991, p. 424; Cunningham, 1992a, p. 533; Cunningham, 1992b, p. 4). Such activism was pervasive through local decency groups, resident boycotts, and picketing endeavors. Bennett argued that although CPS is broadly defined, one of the most certain forms is “the application of cultural mapping techniques to a particular locality or region,” such as the unique cultural influences common in Utah County (Bennett, Tony, 1998, p. 271). Kirkpatrick argued that CPS continues to become “highly influential” in media policy scholarship and industrial studies. (Kirkpatrick, 2018, p. 134). Media policy scholars examine questions such as “What is the best policy for regional regulation?” or, from a historical perspective, “What could have been the best policy?” Despite some policy amendments, BYU culture’s influence is far-reaching as the region’s film sanitization industry now provides access to individuals and families nationwide.

Cultural Policy scholarship often demonstrates that societies or organizations with strong cultural convictions, power, and influence often control governmental, institutional, or industrial policies based on that area’s beliefs and behaviors (Miller, 2003a, p. 134). The film industry in the United States and globally correlate to CPS by how rating and classification systems have developed and, in many cases, alter film content’s governmental or self-regulatory practices (DiMaggio, 1983, p. 241; McGuigan, 2003, p. 23). Utah County is similar, considering that despite the defeat of anti-obscenity cases in the courts across the country, cities within the county possessed enough power and influence to continue enforcing their ordinances even without legal action.

Despite the MPAA being a “voluntary” system devised and funded by the major Hollywood studios, films are often shaped by the content allowed or inadmissible within a rating category aimed at a particular target demographic. A family film, for example, is restricted to

specific types of content if they are to receive a G or PG rating. A James Bond film is limited to a certain level of violence, gore, sex, and nudity if it is to receive a PG-13 rating. These policies are, in part, defined by Cultural Policy as the culture or society that defines what is considered “moral” and “immoral.”¹⁸ Such instances influence the governmental or industrial policies themselves. Pierre Bourdieu astutely assessed that “laws create the social world, but it is the world which first creates the law,” a prescient insight into the moral regulation of the movies and the cultural policies that enable such regulation (Bourdieu, 1984, p. 21).

Analysis of Utah County’s historical development of unique cultural and regulatory policies and censorship technologies offers insights into how citizens, communities, and organizations shaped these media policies, partly due to *cultural policies* (McGuigan, 1996, p. 185; Miller, 2003b, p. 319).

Methods

This research employs “historical theory,” as multiple past events and their connections are considered (White, 1984, p. 9). Preconceived impressions of phenomena can be regarded as “theory” or a type of “hypothesis” constructed based on these possible connections (Rusen, 2017, p. 86). Some scholars argue that theory does not always appear to perform a significant role in historical academic approaches. G.G. Iggers contends, for example, that theory sometimes plays a limited role in the works of historians, who choose to dispense with it, but “they always operate with theoretical assumptions that they generally do not state explicitly” (Iggers, Georg G,

¹⁸ The British Board of Film Classification (formerly Censors), like the MPAA, is not funded or operated by the government. Based on the country’s culture, legislative policies or Acts such as the *Cinematograph Films (Animals) Act 1937*, *Protection of Children Act 1978*, and the *Video Recordings Act 1984* require certain film content restrictions. The BBFC is also much harsher on film violence than on language, sex, and nudity compared to the U.S.

2005, p. 474). Analysis of *Cultural Policies* is the primary theoretical approach used in this dissertation, building upon data, trends, and observations within past literature and historical research.

One of the principal methods used in this project is *trace historiography*. Scholar Peter Alilunas argues that trace historiography “seeks to locate historical evidence where it seems no longer exists. By searching for traces, often peripheral and, on first examination, unrelated, the echoes and footprints of the past can reveal what might have once been there but has been lost. In other words, the trace historiographer must often examine the smoke rather than the fire to determine how it started, what was burning, and why” (Alilunas, 2016, p. 30). Trace historiography can also be viewed through the metaphor of a puzzle, as individual puzzle pieces do not appear to offer a clear picture or many answers. However, when assembled, they form a meaningful image (narrative) that otherwise might not be perceived (comprehended) (Alilunas, 2016, p. 30).

Traces of Utah County’s history and regulation procedures were scoured to piece together a lost history of their sanitization practices through mainly primary document research and qualitative interviews. Archival work was predominantly conducted at the L. Tom Perry Special

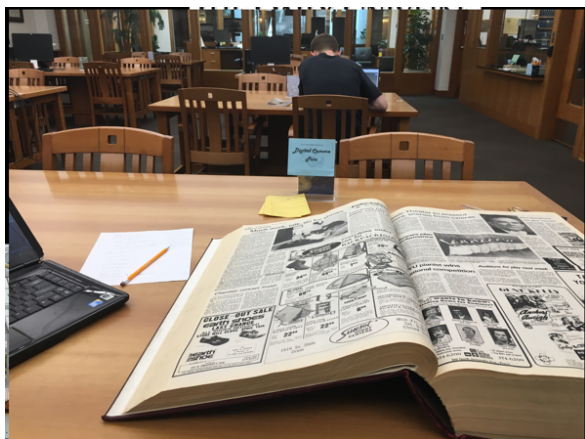


Figure 2 – *Daily Universe* archival volumes – L. Tom Perry Special Collections Library.

Collections Library (LTP SCL) at Brigham Young University’s Harold B. Lee Library. My initial goal was to review documents concerning editing practices at BYU, including when sanitization started, who edited the films, and the administrator’s cultural, religious, and economic aims in exhibiting edited films. Upon my first

visit, I discovered that accessing university documents that might answer my research questions was impossible due to a 50-year restriction on all BYU-specific archival materials (see limitations below). However, I began piecing answers to these questions by accessing archival copies of *The Daily Universe (TDU)*, BYU's campus newspaper.¹⁹ The newspapers were available in dozens of six-to-eight-inch-thick bound volumes.

Initially, I planned only to use *TDU* to chart the films screened weekly at BYU's Varsity Theater, to find patterns in films shown, and discover when edited R-rated movies began being exhibited on campus. After scanning every page for the first few volumes and gleaning every headline, I expanded my research objectives to search for articles surrounding Utah, Mormon, and BYU cultures. Themes such as Utah County cities' obscenity regulation, legal controversies, institutional censorship, and histories of local theaters began to take shape. I also noted images such as advertisements, political cartoons, and other theatrical ads and listings. Throughout thirty-plus visits to the LTP SCL over several years, I eventually combed each volume of *TDU* page by page from 1964 to 2002, photographing thousands of articles, images, advertisements, posters, political cartoons, and other materials that assisted in piecing this history together. Through these comprehensive archival examinations, I discovered that theatrical film editing in Utah County extended far beyond BYU.

The most crucial pieces of history were discovered in *TDU's* wealth of articles covering the county's battles against obscenity. The revelations accentuated in the articles, opinion pieces, and images made clear that theatrical sanitization was far from just a BYU phenomenon. The

¹⁹ Since 2017, parts of *The Daily Universe* have sporadically been digitized and uploaded to Archive.org. Keyword searches online later provided additional missed information. The digitized versions did not index images, cartoons, and other materials of interest, so moving page by page and keyword searches together presented a thorough survey of the archival documents.

regulation was enacted countywide in the cities' theaters by residents and regulatory organizations laboring to keep "obscene" films from playing at the venues. BYU's Family History Center, housed in the Harold B. Lee Library, provided critical online archival newspaper access through Utah Digital Newspapers and newspapers.com subscriptions. Using keywords based on the materials first found in *TDU* assisted in locating additional resources in Provo's *The Daily Herald*, the *Orem-Geneva Times*, and other Utah-based periodicals.

Finding and referencing hundreds of articles in various newspaper publications over five decades presented a chronological outline of the historical events but also aided in identifying the key players in Utah County's regulatory practices. Conducting in-depth qualitative interviews with dozens of individuals was the next methodological step in filling in some historical gaps. While many individuals involved in the history had passed away, many were still alive, including former mayors, OPDC members, BYU faculty and staff, and former students. After years of failed attempts to secure interviews, the floodgates opened in the summer of 2021 when numerous individuals began sharing their recollections. Primary records are scarce, sometimes nonexistent, so discussions were meaningful in reinforcing, expanding, and validating this history.²⁰

Perhaps the most rewarding interview subject was Stephen West. After years of emails and phone message attempts, an impulsive stop at West's home address led not only to an interview but also being given a thick folder of primary documents from his time as chairman of the Orem Commission on Public Decency. Documents such as meeting agendas, minutes, handwritten notes, official correspondence, newspaper clippings, photographs, newsletters,

²⁰ Although this dissertation does not include details from every interview, each conversation informed my understanding of the history and motivations of individuals who often fought for or against Utah County's theatrical film regulation and cultural policies.

banned book lists, and movie review forms provided access to documents no archive has been able to match. West's collection of archival materials offered insights that, in many cases, previously could only be speculated about based on the journalistic artifacts referenced.

Textual analysis is also employed at times, mostly in analyzing poster advertisements. However, as this dissertation explores the regulatory practices surrounding media, discourse analysis of the primary documents is utilized throughout rather than analyzing film texts. Methods within Cultural Policy Studies significantly align with approaches of historiography. Kirkpatrick stated that "analyzing contemporary policy documents, interviewing representatives from local film commissions, mining archives for memos between government and industry" are most often used within CPS (Kirkpatrick, 2018, p. 140). This historical dissertation employs these elements to analyze a forgotten history of film regulation in Utah County.

Limitations to Methods

Challenges in my methodological approaches were finding primary resources (outside of archival newspaper articles), as there are few accessible or still in existence. On my first visit to LTP SCL in December 2018, I learned that as of 2017, all BYU-specific files within the archive are restricted for 50 years (up from 25 years before 2017), except with an appeal.²¹ This change resulted from MormonLeaks, a whistleblowing organization that used BYU and LDS church archives to expose unfavorable information about the LDS church and its practices, especially procedures at BYU. This restriction is especially unfortunate and frustrating as the constraint is the entire scope of my project, which primarily covers 1968-2000. After some new controversies

²¹ Despite several appeals to access restricted documents, I was only approved to receive access once to BYU Film Society's archival documents. These did not contain information on any sanitization as all films shown were produced during Hollywood's Production Code era.

at BYU in the Spring of 2019, the appeal process for requesting documents in less than 50 years ended indefinitely.²² Such restrictive policies validate the necessity of historical projects, such as this, that analyze histories that some individuals and organizations may desire to remain archived.

Much of my research came through newspaper articles and interviews with individuals who participated or were present during these events. Finding written histories, journal entries, primary documents, or reports available was complex, but some were acquired by personally contacting individuals who were a part of this history, such as Stephen West and Paul Richards. A former BYU public relations executive, I approached Richards about accessing some of his *Looking for Mr. Goodbar* (1977) PR files in 2019. He eventually agreed to donate all of his files to the University of Utah's special collections archive rather than BYU's LTP SCL, so I would not be denied access to the documents under BYU's restrictive new policies.

Another limitation was finding and convincing individuals to discuss a topic many consider a controversial part of Utah County's history. Most individuals approached did not respond to interview requests, and anxieties during COVID-19 made securing interviews difficult. Beginning in the summer of 2021, once fears over COVID-19 subsided, several key players within Utah County's history agreed to be interviewed. Unfortunately, most BYU faculty and administrators have ignored requests through email, letters, and campus visits for years. Despite these limitations, multiple participants on both sides of the battle over obscenity eventually offered their memories concerning this project's overlooked historical events.

²² BYU has always had a private police force. As a result of a lawsuit against BYU's police for passing personal information along to the BYU honor code office, the state decided to decertify its police force. This resulted in their records becoming state property and thus available to the public. The matter is still under appeal, and until this is resolved, all records less than 50 years old are not accessible to the public, including academics.

Overview of Chapters

This dissertation is organized into four principal chapters that chronologically analyze the history and cultural motivations behind Utah County's theatrical regulation of obscene content from the 1960s until the mid-1980s. Each chapter presents a pre-history of Utah County's sanitization filtering industry, such as VidAngel and ClearPlay. Each chapter expands upon Lene-Arnett Jensen's three moral ethics, including *Community* (Chapter 2) – the beginning of theatrical film regulation in Utah County and changes made to obscenity ordinances following U.S. Supreme Court rulings; *Divinity* (Chapter 3) – The LDS church and members roles in continuing to battle obscenity including politically; and *BYU Culture & Autonomy* (Chapter 4) – an in-depth exploration of the release of *Looking for Mr. Goodbar* and its ensuing trial that demonstrated that regulation often creates more interest in films, especially among those in the community, like BYU students, that were supposedly trying to fight it. The final chapter (Chapter 5) analyzes how Utah County residents were educated about avoiding “obscene” content as ambitions in Orem City turned from regulation to education. The creation of the Media Review Commission, which reviewed films for content rather than censored them, gave citizens opportunities to customize their film attendance based on the content in them rather than the rating. Each chapter contains one to two in-depth case studies of theatrical films regulated in Provo and Orem to demonstrate Utah County's cultural policies and ensure the specific details of these events are no longer individual pieces of a puzzle but assembled piece (detail) by piece (detail) to reveal a clear image of this long-forgotten history of Utah County's battle over obscenity.

Chapter 2

THE BATTLE OVER OBSCENITY IN UTAH COUNTY

(1964-1976)

In 1964, U.S. Supreme Court Justice Potter Stewart, when deciding whether Louis Malle's *The Lovers* (1958) was obscene, upheld that although he could not describe his threshold test for what is considered obscene, he reasoned, "I know it when I see it" (*Jacobellis v. State of Ohio*, 1964). As with Stewart, the enigma of knowing and determining what is considered "obscene" has bemused judges (Hixon, 1996, p.7; Mayer, 1973, p. 124), juries (Williams, 2015, p. 21), politicians (Wheeler, 2004, p. 185; Marken, 2006, p. 896), religious leaders (Henkin, 1963, p. 392; Reville, 1990, p. 42), communities (Boyce, 2008, p. 299), and private citizens (Scott, 1991, p. 30) for centuries. Beginning in the early 1960s, as Justice Stewart and others were grappling with the definitions of obscenity throughout the United States, citizens in Utah County, Utah, attempted to be the judge and jury when determining obscenity and what films they and others in their community should and could view.

Utah County is not unique in these early battles against obscenity, considering many regions of the United States also ardently fought explicit content within their communities (Robbins, 1973, p. 475; Wallace, 1973, p. 53; MacDougall, 1984, p.79). What sets Utah County apart is the widespread cultural fortitude expressed in the moral convictions and the longevity of Utah County residents and city officials' efforts. Many regions of the U.S. quickly relented to more adult content in films after encountering legal entanglements following seminal Supreme Court rulings on obscenity, such as *Miller v. California* (1973) and *Georgia v. Jenkins* (1974) in the early 1970s (Howard, 1975, p. 285; Schwed, 1975, p. 349; Reisman, 1983, p. 55). Where

other areas began to tolerate films with obscene content, citizens and city officials in Utah County were not deterred in their efforts (Richard, 1974, p. 45; Laursen, 2009). For decades, they fought theatrical film content, which they considered obscene, becoming one of the last regional regulatory film review boards in the United States. Although the Media Review Commission, the county's last official regulatory organization, ceased operations in 2002, the influence of this regulation has continued to impact film content sanitization of Hollywood films even today.

The region known as Utah County is the ancestral home of the Ute Indians, who resided along the eastern shore of what is now referred to as Utah Lake (Murphy, 1988: 28). Although visited by various trappers and mountain men, Provo, the first significant settlement in the county, was not established until 1849, two years after the Mormon pioneers arrived in the Salt Lake Valley in July 1847. Many more communities within the county, such as Alpine, American Fork, Lehi, Payson, Pleasant Grove, and Springville, were founded the following year, in 1850. Two years before his death, regional governor and LDS church leader Brigham Young issued a deed of trust to establish the Brigham Young Academy in 1875. The Academy evolved into what is known as Brigham Young University at the dawn of the 20th Century. The LDS-operated university contributed to Utah County's status as one of the most conservative and community-oriented societies in Utah and the United States (Canham, 2005).²³ Colloquially

²³ Brigham Young University is intrinsically entwined with many historical events analyzed in this research. Not only are many of the county's residents, faculty, administrators, staff, and alums a part of the conservative LDS church-owned institution, but students were also a significant part of the area's movie-going population and often attributed as the core group patronizing the "obscene" films at the theaters (*DU*, 1973; *DU*, January 23, 1976; *DU*, February 21, 1977; *DU*, March 19, 1981). Therefore, it is impossible to separate the efforts of fighting obscenity in the county from the support extended by the Brigham Young University community and, in some cases, the LDS church. As such, this history will feature some of the broader efforts at BYU in supporting and implementing plans to regulate media sold or exhibited within the region.

known as the Utah Valley, the county (which includes Provo's sister city, Orem) extends roughly 50 miles between the Traverse Mountains (that separate Utah Valley from the Salt Lake Valley) down to Santaquin.²⁴ Most of the county's communities are nestled tightly between Utah Lake and the Wasatch Mountain range with Lone Peak, Mount Nebo, and the Timpanogos Mountains. The mountain range creates a Utah Valley Bubble, a landscape that appears both ensnaring and, to some, unwelcoming to outsiders.

Like many areas of the United States, citizens within Utah Valley became accustomed to viewing Hollywood movies with relatively few concerns for a film's content. Beginning in June 1934, the Production Code offered certain safeguards against "objectionable" media by restricting content such as coarse language, violence, drug use, innuendo, nudity, sex, and other sexual perversions within mainstream movies (Vaughn, 1990, p. 39). The Production Code Administration (PCA), funded by the major Hollywood studios, regulated these films throughout a film's script, production, and exhibition phases to placate regional censors nationwide (Black, 1991, p. 95). Moving into the 1960s, not only did the national culture change within the U.S. but also Hollywood entertainment (Bernstein, 2000, p. 9). As a result of Supreme Court rulings, such as *Joseph Burstyn, Inc. v. Wilson* (1952), that provided films with First Amendment protections, filmmakers such as Otto Preminger and Mike Nichols pushed the boundaries of these newfound rights. In line with other areas of the United States, movies such as *The Man with the Golden Arm* (1965) and *Who's Afraid of Virginia Woolf?* (1966) caused a stir during their theatrical runs in Utah Valley (Leff, 1980, p. 41; Simmons, 2005, p. 39; Lavery et al., 2013, p. 188). These

²⁴ Provo's sister city, Orem, was not incorporated until 1919 and was named after Walter Orem, the railroad owner between Salt Lake City and Provo. Having few natural water resources, residents attempted to curry the favor of Walter Orem to invest in the infrastructure that the area desperately needed. Before its incorporation, Orem was known as the "Provo bench" and, much like today was simply seen as an extension of Provo in geography and its citizens' moral aptitude (Cannon, 1987, p. 24).

changes in artistic autonomy resulted in residents more cautiously selecting films to view theatrically. Citizens and city governments, especially in Provo and Orem, strategize ways to combat media considered objectionable within their communities. This rising trend in new types of content instigated the creation of several watchdog organizations, many affiliated with or supported by BYU, in the region. Each fought to correct locally what was considered a breakdown in morality within various forms of media.

In this dissertation chapter, I argue that the stimulus behind Utah County's regulatory operations and the endurance against a barrage of legal challenges, when compared to other conservative areas of the United States, comes down to the uniqueness of its community. Long-time Provo City Attorney Glen Ellis claimed, "If a community is united, it can do more through community involvement than through the legal system." The potency of Utah County's "Community" is demonstrated by chronicling historically, the region's decades-long societal and legal conflicts against theatrical films they considered "obscene" (Reese, 1984, p. 4). I argue that Utah County residents' resolve to regulate theatrical films was, in part, instigated by Bill Kirkpatrick's concepts on cultural policies in Utah County, which encouraged not only content sanitization but also resulted in the regulation of citizen attitudes concerning the necessity of such regulation practices in the community (Kirkpatrick, 2013, p. 625).

As described in my introduction, consideration of Lene-Arnett Jenson's concepts on moral ethics in Community and Autonomy are used to analyze the historical events surrounding Utah County regulators and residents that fought against "obscenity." I contend that citizens labored to rid theatrical film "obscenity" based on BYU culture (as defined in my introduction), which I argue to be an impassioned combination of Utah and Mormon cultures. The concept of "agency" in Mormon culture maintains that all of God's children have the free will to choose for

themselves “right” from “wrong” (Owen, 1984, p. 6; Neilson et al., 2016, p. 103). BYU culture complicates this notion as Provo and Orem’s ordinances rejected not only spiritual agency but also rights protected by the First Amendment. Despite the fervent support of film regulation and sanitization by the majority of citizens, this history is also complicated as others, even within the Community, continually opposed the regulatory overreach and fought for the autonomy of consenting adults’ right to view movies, regardless of the content or rating. Although such opposition may be common in film regulation history within the United States, Utah County’s cultural policies were so entrenched, and BYU culture’s influence so strong that the region’s regulatory overreach influences the area’s filtering industry even today.

In this chapter, I thoroughly chronicle this history and analyze the development of Provo and Orem’s ordinances, regulation commissions, Supreme Court obscenity rulings, and case studies of film releases such as *Candy* (1968) and *Beyond the Valley of the Dolls* (1970). I demonstrate that, despite a vocal majority of citizens fighting content considered obscene, Utah culture’s interest in entertainment and the arts frequently enticed residents (including BYU students) to patronize, and thus support, films containing “obscenity” that others were aggressively opposing.

Regulatory Origins: Utah County Council for Better Movies and Literature

Throughout the late 1950s and early 1960s, Utah County theaters experienced a steady rise in Hollywood films with content many residents considered objectionable. The effects of these changes in the types of film content permitted on movie screens in the county were on full display the week of Halloween 1965, which showcased such films as *Psycho* (1960), *Blood and Black Lace* (1964), *A Rage to Live* (1965), *House of the Damned* (1963), *The Sandpiper* (1965),

and *Bunny Lake is Missing* (1965) (*The Daily Herald* movie ads, 1965, p. 6). It was that fall that Orem citizens finally felt compelled to act against what they saw as an onslaught of obscene film content. The inciting incident occurred on Wednesday, November 3, 1965, with the scheduled screening of Gianni Proia's *ECCO* (aka *Il Mondo Di Notte Numero 3*) at Orem's Geneva Drive-In.²⁵ Mayor G. Milton Jameson reported he had "never [had] so many calls on a single subject" since becoming mayor in 1962 (Movie Censorship Topic of Orem Council Meet, 1965, p. 5). The film's promotional artwork, published in the *Daily Herald*, announced the film as being "An Incredible Orgy of Sights and Sounds" (ECCO advertisement, 1965b, p. 14). Although advertised as an exotic "documentary" containing "real" Mondo footage, much of the film was staged vignettes (Kilgore, 1988). In typical exploitation fashion (Schaefer, 1999, p. 105), another promotion published in *The Daily Herald* declared,

*"If this film frightens you, it's because the world is frightening!
 If you find it horrifying, it's because the world is filled with horrors!
 If it shocks you, it's because we are a shocking race!
 If you find it filled with beauty and hope, you have understood it!
 We dare you to see...ECCO"* (ECCO advertisement, 1965a, p. 6).

Many Utah County's citizens were indeed frightened, horrified, and shocked by the film's content, despite most never having viewed the movie. Less than a week after *ECCO*'s first screening, the film was discussed at a heated Orem City Council meeting. Mayor Jameson

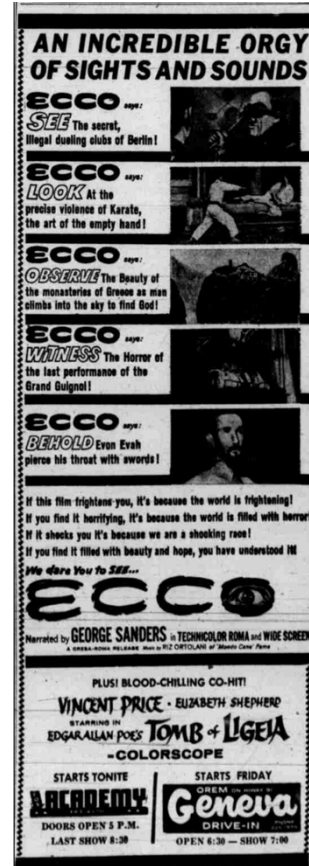


Figure 3 – *ECCO* (1963) *Daily Herald* advertisement (Geneva Drive-in).

²⁵ The Geneva Drive-in was located at 1360 State Street in Orem, with a capacity of 625 cars from 1948 to 1974 (Cinema Treasures).

looked beyond *ECCO*, floating the possibility of “film censorship and the banning of obscene movies” within city limits (Movie Censorship Topic of Orem Council Meet, 1965, p. 5). City Attorney Hugh Vern Wentz advised the mayor not to be too hasty in requiring censorship as the only legal course of action was to implement a criminal complaint on a pornography charge, which historically had been an almost impossible case to win in other regions of the country. As explained in my introduction, such actions limit citizen autonomy, including First Amendment protections.

As part of his determination to remove obscene films within Orem, Mayor Jameson contacted Robert Healey, the manager of the Geneva Drive-In, to seek his “cooperation in taking the film off the screen” (Movie Censorship Topic of Orem Council Meet, 1965, p. 5). After initially refusing to do so, Mr. Healey explained to the council that he “has no course but to show the films sent to him.” Warren Bunting, who was the independent owner and operator of the Timpanogos Drive-In (the Timp), ardently informed the council that he already “censors his own movies,” emphasizing that by doing so, The Timp loses money on “good movies while others make money on obscene films” (Movie Censorship Topic of Orem Council Meet, 1965, p. 5). Bunting warned against such cultural policies as they “might result in the type of complete control they have in Russia” and other state-run countries (Movie Censorship Topic of Orem Council Meet, 1965, p. 5).²⁶

Councilman James Paramore scolded both theater operators based on the cultural policies saying it is “not responsible citizenship to show objectionable films in their drive-ins” and that young people should be prevented from attending them. While Healey declared he was

²⁶ John Krier, the representative of the Mountain States Theater Owner Association, also argued at the meeting that “people in his organization were voluntarily censoring films,” and many potential films he has screened are never even exhibited in the valley due to regulation concerns (Cornell, 1965, p. 1).

“powerless” to prevent young people from seeing films, Bunting said he regularly turns away young people, especially after Orem’s curfew hour. He speculated that current ordinances such as this might assist in at least restricting youth from attending any future obscene films. While the council meeting led to more discord than concurrence on any potential course of action, the council all agreed that support from the community was necessary on any film regulation proposals that have a goal of protecting the “young people” from the “baser things of life” (Movie Censorship Topic of Orem Council Meet, 1965, p. 5). As argued by Walter Kendrick, anxieties over protecting youth and women have long been used by religious groups and city regulators to justify censorship of materials deemed “obscene” and result in limits in autonomy for adults (Kendrick, 1996, p. 284).

Orem City administrator’s call for action against obscene films quickly expanded some citizens’ hope for a much more ambitious county-wide ordinance. With the support of the Utah County Mayor’s Council, a rough draft of an ordinance was announced a week after Orem’s city council meeting on November 17. The regulation proposed to ban ticket sales to juveniles with movies containing “objectionable” or “obscene” scenes. Debates surrounding what should be considered “obscene” and who should determine it stalled their plans. After legal counsel, it was decided that each city in the county needed to pass and regulate its anti-obscenity bills based on the state’s established anti-pornography laws. Provo was the first to create an ordinance for their specific community to protect the youth.

Provo’s Youth Pornography Protection Law

After this influx of what were considered objectionable movies, books, magazines, and other forms of media within the region, multiple concerned community watch groups, including

the Utah County Committee on Children and Youth and several local branches of the Parent Teachers Association, began separately rallying county residents to support banning materials considered obscene within the region (Age Limit Vital in Youth Bill, 1963, p. 8).²⁷ Although these groups were also present at the county-wide meeting held in November, it was not until a public Provo City Commission hearing on December 20, 1965, that the groups' combined influence on anti-obscenity initiatives became clear. At the hearing, five different petitions from five other anti-obscenity groups, totaling 220 names, were presented supporting a citywide ordinance. The groups rallied an overflow crowd of more than two hundred locals that overflowed into the halls. Through the three-hour hearing, robust applause accompanied any objection to the "unusual amount of had or low-class movies" playing in theaters. (Movies May Be Banned, 1966, p. 3).

Despite the crowd's enthusiasm, Utah's Attorney General Phil Hansen dampened hopes for a strict anti-obscenity ordinance when expressing his legal opinion that Utah's current law contained potential constitutional problems labeling anything obscene outside of hard-core pornography. Hansen also stated that "under no instance is any county or district attorney to initiate any action under the state law contrary to his opinion" (Cornell, 1965, p. 1). Mayor Dixon called Attorney General Hansen's positions strictly his view and stated that he was not "too impressed with his opinion" (Cornell, 1965, p. 1). Glen James Ellis, appointed Provo's assistant city attorney in January 1965, did not care for Hansen's opinion but understood that

²⁷ Decency organizations in both Provo and Orem regulated not only film content but also other forms of media. The members of the Orem Commission on Public Decency (discussed later in this chapter), for example, divided the city into geographic regions, and each checked the grocery stores, gas stations for "dirty" magazines, books stores, and libraries for "obscene" books, etc. Art galleries, billboards, and eventually video stores were also checked for materials against Orem's obscenity ordinances. Despite a barrage of other forms of "obscenity" regulation in the region, this dissertation only concentrates on theatrical film content.

under the proposed law, a judge and jury were the only ones to determine what was obscene based on Provo's community standards.

Mr. Ellis expressed his concerns about the strict standards imposed by Utah's dominant culture and religion. He believed Utah is significantly more prone to parochialism than any other state when the LDS Church's policies deeply influence those community standards. Parochialism can lead to a narrow-minded approach to rules and procedures within a particular region, often ignoring the impact of cultural policies on others. It is essential to consider the adverse effects of strict guidelines on individuals outside the community. Mr. Ellis suggested that the more stringent an ordinance is drafted, the faster it might be thrown out, but ensuring that it is fair to all individuals affected by it is crucial.

As the meeting closed, with no action taken by the city council, Mayor Dixon announced that the discussion of obscene movies would continue at the next council meeting on January 17, 1966. The meeting inspired attendee Dr. Eldin Ricks, a prominent citizen of Orem and professor of religion at BYU, to create a more centralized anti-obscenity group by combining multiple citizen groups' efforts.

An oversaturation of organizations without a governing leader demonstrated that the city's anti-obscenity objectives needed unification. Thus, shortly after the December 20, 1965, meeting, Ricks and other leaders of various organizations and councils met to discuss creating what would become one of the most influential and longest-lasting regional film regulation groups in the latter part of the 20th century.

On the morning of January 3, 1966, Ricks formally announced the name of the newly created Utah County Council for Better Movies and Literature (UCCBML) (City Delays

‘Obscenity’ Hearing, 1966, p. 2).^{28 29} The objectives of the group, as listed in its constitution, were “to promote such community practices and laws – and public sentiment in support thereof – as will discourage the distribution, sale, or display of morally objectionable photographs, motion pictures, or printed matter” (‘Better Movies and Literature’ Unit Named, 1966, p. 2). Ricks later recalled what “spurred” him into action was the attitude of Geneva Drive-In’s theater manager Robert Healey, that claimed he was powerless to remove *ECCO* and that “nobody could get the show out of town short of a court order” (Woller, 1977, p. 1). Ricks and the UCCBML believed inaction by city administrators represented a threat to eliminating obscenity in the region and assisted cities throughout the Valley in monitoring films and reporting findings to city attorneys in the hopes of compelling them to hold theater operators responsible.

The group also began pressuring theater managers to remove or edit films by picketing and boycotting outside their establishments. The UCCBML now had combined forces of the Utah County Committee on Children and Youth and several P.T.A. councils, as well as dozens of recruitments since December’s meeting. The group’s first order of business was to gather signatures from residents to petition Provo City Commissioners to pass legislation to discourage literature or the exhibition of movies considered obscene. To do this, Ricks asked the Provo City Commission to postpone their next council meeting from January 17th to the 31st to “prepare more information for a presentation at the hearing” (City Delays ‘Obscenity’ Hearing, 1966, p. 2). They also asked for the meeting to be moved to a larger venue to ensure that all concerned citizens could attend without issue.

²⁸ The organization’s name changed periodically and was sometimes referred to as the Utah County Citizens for Decent Literature and Better Movies and the Utah Valley Council for Better Movies and Literature. Still, these were all the same group.

²⁹ Eldin Ricks was named the first chairman of the UCCBML on January 7, 1966.

Eldin Ricks, a professor of religion at BYU for over 36 years, was quite influential both at BYU and in the surrounding communities. To gain the support of BYU faculty and student members, Ricks enlisted fellow council member Norm Nielsen to coordinate the petition efforts on campus to encourage support. As assistant director of the Program Bureau (the precursor to the BYU Young Ambassadors), Norm Nielsen enlisted popular members of the Program Bureau to rally interest in the petition as Ricks and others knew the impact of BYU culture on the film policies throughout Utah County. Bureau members Arlen Housekeeper, Taylor MacDonald, and Carolyn Beesly were photographed for publicity on January 10th, 1966, as the first BYU students to sign the petition and volunteered at tables near the Varsity Theater in the Wilkinson Center.

The petition read, “We, the undersigned – having resided in Utah County for ninety days or more and being concerned with the moral well-being of the youth of our communities – hereby request the Provo City Commission and Utah County Commission to enact such legislation as will discourage the displaying, selling, or distributing of obscene or indecent photographs, motion pictures, or literature” (Student Burns Discount Card to Protest Obscenity Petition, 1966, p. 1).

Not all students supported BYU’s encouragement of the petition and sponsorship for such an ordinance. Like many other universities during the 1960s, demonstrations against a cause often accompany such events. Arlen Housekeeper recalled that about sixty people gathered around his table to debate the pros and cons of the petition. As the debate heated, Don Costello, a 19-year-old archaeology major from North Hollywood, California, dressed in a suit and sunglasses, burned his BYU “movie discount card” to protest the anti-obscenity petition (Student Burns Discount Card, 1966, p. 1).³⁰ Card burning was common in college campuses in the 1960s,

³⁰ Movie discount cards were needed to attend certain screenings at BYU theaters and discounts at other local theaters.

often associated with draft burners. Although Costello later reported that the card burning was satirical, this display represented the silent minority of citizens who desired more autonomy in viewing adult media content in the county.³¹ Despite the disagreements, the petition gathered 1,254 signatures before noon, with plans to gather signatures for another week (Student Burns Discount Card, 1966, p. 1).

Following the debates and controversies on campus concerning the petition, Ricks argued that although the short-term objective is to gather public support for an ordinance, their long-range goal is to “promote appreciation for the best in motion pictures and reading matter” (Chairman of Obscenity Petition States Aims After Controversy, 1966, p. 1). Ricks said the council did not expect the law to keep all obscenity out of the community, but there was no allowance for hardcore pornography. Their two main intentions were that first obscene literature be kept behind the counter and sold only to adults over 19. Second, movies shown in theaters should be labeled based on appropriateness, and if deemed an adult film, only restrict anyone under the age of 19. The ability to enforce these provisions was questioned by the Provo police department, who did not feel they had the authority to confiscate materials seen as “lewd or filthy.” This feeling of authoritative overreach on citizen autonomy was just the beginning of these worries.

As part of his statement, Ricks maintained that “Every sober-minded citizen and public official knows that every society has to protect itself – particularly its young people – from purveyors of narcotics and perversion just as it must protect itself from crimes of violence”

³¹ Costello was already notorious for his amusement in attending student debates, such as those against the Vietnam War on campus (Summers, 1966, p. 3)

(Chairman of Obscenity Petition States Aims After Controversy, 1966, p. 1). Rick's statement exemplifies the cultural policies already established in the community but asks for all citizens to reexamine "perversity" strictly by the area's unique standards. It is difficult for judges to decide what is considered "obscene," let alone councils in a community, without jeopardizing an individual's autonomy. A letter to the editor in *The Daily Universe* derided such petitions calling for "obscenity clean-up" of movies as a form of censorship and only for those who cannot determine "good and bad entertainment" for themselves (Pulsipher, 1966, p. 2). An editorial on the same page contended that "consideration should be given to the principles that each citizen has the right to choose his own level of existence, whether high or low," but yet commended the action of the councils and those that signed the petition for attempting to determine what is right and working to accomplish it (Pulsipher, 1966, p. 2). Later in retort to the editorial's argument, a student argued that the Supreme Court had already ruled on obscenity cases in several communities and held that it was unconstitutional to ban films (Mohlman, 1966, p. 8). This notion of "community standards" and cultural policies will later be the impetus against obscenity after *Miller vs. California* 1973 in the coming decade.

Surprising to many, there was no opposition to the proposed obscenity law when the long-planned public hearing was finally held on January 31, 1966, presided again by Provo Mayor Verl G. Dixon. The only opposition on record to the ordinance came from students at BYU, such as Don Costello, and several other students who wrote critical letters to *The Daily Universe* editor in the weeks following the signature campaigns. One BYU student criticized the regulation of obscenity as an attempt to control small businesses, thus limiting the free market of goods. Like many others, Kaesche suggested that it is the consumers that need to regulate their own "power-lust" and not limit the autonomy of adults or "gentiles" in the area (Kaesche, 1966,

p. 11).³² However, these were a dissenting few, as 1,328 of the names on the petition were signed by BYU students out of 13,000 signatures (Obscenity Law Opposition Silent, 1966, p. 1; Woller, 1977, p. 1).³³ According to Ricks, the community's support had significantly increased from their initial 200 residents on December 20, 1965, to over 1,200 citizens filling the Provo Tabernacle, an LDS church-owned edifice used for religious and civic gatherings.³⁴

At the meeting, Ricks presented a series of slides depicting various obscene materials exhibited or sold within Provo City and included "various forms of sexual perversion such as wife-swapping and masochism" (Obscenity Law Opposition Silent, 1966, p. 1). The new regulation proposed at the hearing suggested that movies and literature be broadly classified into two categories – "Those suitable for youth under the age of 19 and those unsuitable for such youth" (City Obscenity Regulation Proposal Discussed at Packed Public Meeting, 1966, p. 1). Films and literature whose dominant themes tended to "incite shameful or morbid interest in nudity or sex and is without redeeming social importance" was deemed "unsuitable" (Obscenity Law Opposition Silent, 1966, p. 1). Establishments that violated the law constituted a misdemeanor, punishable with a fine of up to \$299 or 6 months in county jail. Support for the proposed ordinance was so robust that it was suggested that similar ordinances be adopted in Utah County and other communities, such as Salt Lake City, the state's capital. (Obscenity Law Opposition Silent, 1966, p. 1).³⁵ The ordinance could compel theater managers to enforce age

³² William C. Kaesche was also a well-known editor of *The Y Vector*, a campus engineering publication.

³³ *The Daily Universe*, on February 2, 1966, claimed 11,000 signatures and 12,000 in an article on February 9, 1966.

³⁴ Other publications reported the numbers in attendance to be closer to 700.

³⁵ The silent opposition would not last long, however, when a magazine distributor based out of Salt Lake City would file a temporary restraining order against the ordinance in March 1966.

restrictions if passed, encouraging managers to select cleaner theatrical film choices to avoid potential issues.

Less than a week after Rick's petition to the council, on February 7, 1966, Provo passed their "Obscenity Bill" with unanimous approval from Mayor Dixon and other commissioners. In support of the law, Mayor Dixon said, "A child might want to walk through a fire," but he will stop any child from doing so, "thus restricting their freedoms for their safety" (City Obscenity Regulation Proposal Discussed at Packed Public Meeting, 1966, p. 1). Dixon said he would do this "until a child could adequately understand the situation" for themselves (City Obscenity Regulation Proposal Discussed, 1966, p. 1). Also known as the "Youth Pornography Protection Law," the bill amended Provo's existing 1964 ordinance on obscenity restrictions to limit viewing movies deemed obscene by the city (Powell, 1966, p. 1). However, no commission or review panel was created to view and classify what was obscene and what was not. It was decided that a police officer would review the materials and make suggestions to the city attorney if something violated the obscenity law.³⁶ Ricks championed the ordinance's passing, stating that its enforcement "will serve to strengthen and reinforce the home" (Powell, 1966, p. 1). He agreed with J. Edgar Hoover's sentiment that if communities all over America do not act to reverse the trend in obscenity, then movies and literature will "create criminals faster than we can build jails to house them" (Powell, 1966, p. 1).

Shortly after the bill's passage, the First Presidency of the LDS Church too conveyed support by announcing that they urge "legislators and civil authorities in every state and community to do all in their power to curb [the] pernicious evil" of pornography, mainly found

³⁶ Despite criticism from some BYU students, only 7.3% of students at BYU would even be affected because most students are over 18 years of age.

“on the screen” (Church Opposed to Obscenity, 1966, p. 1). Ricks declared that “The next step is for every other community in Utah County to adopt similar legislation,” and with the church’s endorsement, this type of oversight became possible (City Fathers Adopt Anti-Obsecenity Law, 1966, p. 1). Within days of the LDS Church’s announcement, citizens from other Utah County communities, including Lehi and Springville, announced plans to pass similar anti-obscenity laws (Anti-Obsecenity Law Sought by Lehi PTA, 1966, p. 14; Anti-Obsecenity Move Launched in Springville, 1966, p. 3). The UCCBML attended council meetings to assist these communities and distributed copies of Provo’s ordinance to local civic, church, and business leaders. Many, however, were awaiting Orem’s next move before taking action. As Provo’s sister city and the community that first encountered the controversy of *ECCO*, it was only a matter of time before either Orem acted or another dispute arose.

With the passing of Provo’s anti-obscenity bill and others closely following, the battle for protecting the “innocence of the youth” within the county had begun. As film regulation in Hollywood continued to change, the obscenity laws, primarily aimed at the youth, soon affected the Autonomy of citizens of all ages within the county.

Good Grief, It’s Candy!

By the late 1960s, there had been several small-scale controversies in Utah County, mostly surrounding the release of seminal films that had notoriously been divisive in many other areas of the United States. Studio releases such as *Who’s Afraid of Virginia Woolf?* (1966), *Bonnie and Clyde* (1967), and *The Graduate* (1967) stirred debate in the Utah County community, especially among BYU students. An editorial in *The Daily Universe* stated, for example, “[*Bonnie and Clyde*] leaves me with a nauseous feeling, a bad taste in my mouth that I want to spit out but really can’t. There were no signs out front of the theater saying...FOR

ADULTS ONLY. There should have been one reading...FOR NO ONE ONLY. (Delia, 1967, p. 4). Such sentiments reflect the burgeoning cultural policies that became even more pronounced in the 1970s. The content in these films, technically released during the Production Code era, was nominal compared to films like *Candy* (1968) and *Beyond the Valley of the Dolls* (1970), released in the county after implementing the MPAA rating system. An assessment of the industrial and municipal changes to approaches to film regulation, leading to the release of *Candy* and other divisive films in Utah County, offers insights into the regulatory mechanisms and processes in the region. I will argue that cultural policies within BYU culture restrict the Autonomy of citizens by censoring films considered "obscene." Additionally, such censorship often generates more interest in the films they are trying to prohibit.³⁷

After releasing films like *The Graduate*, the Utah County Council for Better Movies and Literature joined forces with their Salt Lake County counterpart to pressure state legislators to strengthen the state's existing laws and enforce the current decency laws. In April 1967, Governor Calvin Rampton, known for his interest in the arts and clean entertainment, signed HB 214 and SB 231, a bill introduced after 30,000 signatures were gathered within Utah and Salt Lake counties (Rolly, 2007; Utah State Capital, 2022). Provo City attorney Glen Ellis, Salt Lake City prosecutor Don Bybee, and James Clancy, one of the nation's foremost lawyers on obscenity control, drafted the state's bill.³⁸ The bill tightened decency restrictions and notably

³⁷ As analyzed in my introduction, Autonomy refers to Lene-Arnett Jensen's three moral ethics (Community, Divinity, and Autonomy). For the purposes of my research, I argue Autonomy to be elements of unconstitutional censorship, including individual First Amendment rights to speech, which includes viewing the materials some might consider "obscene."

³⁸ James J. Clancy abandoned plans for a career in tax law in 1962 to fight pornography became both a passion and a profession. He argued cases for cities trying to shut down theaters exhibiting X-rated movies.

enacted penalties for individuals who knowingly disseminated obscene materials (State Group Forms to Battle Obscenity, 1967, p. 5).

These intensified laws encouraged Utah County theaters to shun exploitation and sexploitation films (Gorfinkel, 2017, p. 27) that citizens had quickly mobilized to ban in the Valley because most contained graphic nudity and vulgarities that violated the cities' obscenity laws. The prohibition of these more obscure niche films soon changed with the imminent dissolution of the Production Code. In November 1968, the Motion Picture Association of America's president Jack Valenti announced a rating and classification system. Where Hollywood's Production Code Administration meticulously scrutinized most screenplays and completed films made in the U.S. Film Industry from the 1930s through the 1960s, the MPAA no longer overtly supervised or regulated film content. This new system allowed filmmakers and studios to create and release mainstream films containing content many citizens might view as obscene (Nalkur, 2010, p. 445).

During the Production Code era, regulating film content within Utah County was much more accessible. With the release of *Who's Afraid of Virginia Woolf?* and Jack Valenti's short-lived use of the SMA rating (Suggested for Mature Audiences), dozens of greenlit productions disregarded the "do nots" common during the Production Code. Films such as Brian De Palma's *Greetings* (1968), *Coogan's Bluff* (1968), *The Split* (1968), *The Thomas Crown Affair* (1968), *Rosemary's Baby* (1968), and *Candy* (1968) each featured content that was previously restricted and impeded the film from receiving a Production Code seal of approval. The movies contained content such as language, sex, nudity, and violence that many residents of Utah County never imagined projected on their movie screens.

The film *Candy* (1968) was rushed into production in December 1967, seemingly to push the boundaries of film content that had been encountered on mainstream theater screens up until this point. Based on the controversial novel of the same name by Terry Southern, the film version was written by Buck Henry, fresh off the notorious success of *The Graduate* (1967).³⁹

The film *Candy* opened at the Academy Theatre, on University Avenue in downtown Provo, on February 5, 1969, with little fanfare. After playing two full weeks at the Academy, word of mouth spread throughout the county and steadily increased *Candy*'s box office attendance. The film's theatrical marketing campaign, published in Provo's *The Daily Herald*,



Figure 4 – *Candy* (1969) *Daily Herald* advertisement (Academy)

also potentially added to its success. One advertisement, for example, focused on the film's many notable cast members, including Marlon Brando, Richard Burton, Walter Matthau, Ringo Starr, James Coburn, and John Huston. Each male star surrounds the film's titular sexpot, Candy, a seductive blonde teenager (played by

Ewa Aulin) who wantonly sucks her pointer finger while staring directly into the camera (Good Grief it's Candy! Ad, 1969, p. 2).

Another ad also emphasized the film's R-rating by boldly displaying the MPAA's copyrighted "Admittance Restricted to Persons 18 Years of Age or Over" label in-between the tagline "is candy faithful? ...only to the book" (Is Candy Faithful? ad, 1969, p. 3). Another newspaper advertisement published on Thursday, February 20th, proudly announced that due to the film's overwhelming attendance, it was being "held over" for another week. It also notably

³⁹ One scholar argued that *Candy* was "unanimously condemned by critics as vulgar pseudo pornography." Co-star Marlon Brando also later condemned the film, and many agreed that the film only received funding due to his involvement (Robert Dassenowsky-Harris, 1992).

stressed the phrase “This Film For Adults Only” above the tagline “Good grief, it’s candy!” This is an important distinction considering that since the passing of Provo’s *Youth Pornography Protection* laws in February 1966, theater managers were required to emphasize in their advertisements that individuals under 18 would not be admitted if the films were determined to contain “adult” content (Good Grief it’s Candy! Ad, 1969, p. 2). The Provo bill was often applied to restrict or remove films under the guise of protecting the children and youth of the area, thus limiting citizen autonomy.

After playing for two weeks, numerous complaints concerning *Candy*’s coarse depictions of teenage sex stirred many Utah County residents. On February 20, 1969, a complaint was filed against the Academy, and Judge Knudsen issued a search warrant for the film to be seized for the willful exhibition of an “obscene” film (Provo City Claims Movie Obscene; Shuts it Down, 1969, p. 2). A Provo City police detective fulfilled the judge’s orders, and the film print was confiscated and held for review. Initially, it was unclear who had filed the legal complaint resulting in the film’s confiscation.

Perhaps not coincidentally, the same day *Candy* was seized from the Academy, a “Focal Point” op-ed condemning the film was published in the *Orem-Geneva-Times*. Focal Point editor and BYU employee Hal Williams criticized the film, contending that it is “not only pornographic but also un-American and anti-Christian” (Williams, 1969, p. 6). Williams lamented that very little could be done in the county “unless good citizens become interested enough to demand that laws be made and that the courts uphold the laws.” He suggested that if citizens did not patronize obscene films, then maybe the “perverts in Hollywood will wake up to what the standards are that the American public wants” (Williams, 1969, p. 6). Such over-generalizations were common among Utah County citizens attempting to limit obscene content for everyone in their

community through cultural policies. However, William's assertion that "the American public" all have the same standards and "want" the same types of movies stretches far beyond community standards. In another generalized statement, Williams affirmed that "It is our children that these movies are made for," which seemingly appeals to universal viewership standards more common during the Production Code, limiting the autonomy of other audiences interested in more adult themes. Parochial statements such as these call for the standards of millions of others throughout the country to be adapted to their own "standards."

After the dust settled, it was revealed on February 23rd that Provo officials did not shut down *Candy* based on complaints from the UCCBML or other citizens or groups but by Utah County attorney M. Dayle Jeffs acting as an officer of the state. Jeffs used section 76-39-5, a state statute on lewdness, to move against National General Corporation, the parent company of the Academy Theater (Provo 'Youth Protection' Law Valid and In Force, 1969, p. 2). Provo City's laws were not strict enough, at the time, to warrant removing a film from a theater based strictly on obscenity alone, as the laws did not currently restrict adults, only youth viewers. The theater must violate one of the youth protection ordinances by either not advertising the film as adult-only or allowing youth under eighteen to patronize the movie, even if accompanied by an adult. The Academy Theater was shut down for over a week, with a sign on the box office stating, "Temporarily Closed" (Provo 'Youth Protection' Law Valid and In Force, 1969, p. 2).

While the Academy Theater waited for their scheduled hearing on February 28, 1969, numerous editorials were published in Provo's *The Daily Herald* concerning *Candy*.⁴⁰ Each conveyed their disappointment that it took so long to remove the film, especially considering

⁴⁰ Written under *The Daily Herald*'s a tagline reads "Dedicated to the Progress and growth of Central Utah." The ambiguity of the term "progress" might make one wonder whether progress/progressive is what the region desires.

how other cities had recently banned it. Vera M. Harding of Lindon expressed her displeasure that the film was not “closed immediately” like it was in Mississippi and was hopeful that it was not too late before “everyone had seen the film” (Harding, 1969, p. 2).⁴¹ Harding sarcastically pondered if this is what it is meant by “locking the barn after the horse is gone?” Provo’s Karen Boulter lamented that “a film like *Candy* was permitted to run 15 days before action was taken, considering that “the film had already been labeled obscene elsewhere including Boston that closed the film on opening night.” Mrs. Boulter also disconcertingly stated that “If our adults want to waste their money filling their minds with filth, it is their choice to make,” but continued that they should “not be guilty of throwing moral degradation at our young people’s heads.” In other words, some consider not allowing adults the option to make their own “choice” to view a film, for the greater good of protecting the youth.

When the hearing was held on February 28, 1969, county attorney M. Dayle Jeffs agreed to withdraw the complaint against National General Corporation after agreeing “to pull the film out of the county and not show it again.” As part of the settlement, Jeffs later reported that NGC decided to “pull out other films of this nature that had been scheduled to run in the county” (Candy Suit Dismissed on Pact to Pull Film, 1969, p. 4). Putting his cards on the table, Jeffs also revealed that this was the “thrust of the suit in the first place” and that the county accomplished its aim. It was clarified that not all “dirty films” carrying an R-rating would be eliminated in the future, but that this pact with the Academy should eliminate any “far-out ones” (Candy Suit Dismissed, 1969, p. 4).

Despite the vocal majority that had previously spoken against *Candy* before and after the trial, several Utah County citizens, including three BYU students (Steven Western, Richard

⁴¹ No information on the film ever being banned in Mississippi was located.

Byars, and Paul Lamb) disapproved of the banning of the film, citing that doing so was a “disregard for freedom” (Western, 1969, p. 9). They cited that *Candy* was only one of four films playing in Provo and that the age restriction was strictly enforced. They asked, “What harm was this show to the fair citizens of Provo,” especially considering the majority of those speaking against the film “did not see it themselves” (Western, 1969, p. 9). Andy Ludlow of Spanish Fork, countering Ms. Boulter’s and Harding’s earlier letters concerning the film being banned in Mississippi and Boston, argued that *Candy* had been accepted in many other parts of the nation, so “there is no reason it should be taken off the screen in Provo.” (Ludlow, 1969, p. 5). Ludlow stated, “Though I haven’t seen the movie and might be shocked if I did, I don’t believe it’s right to stop people who want to see it from seeing it.” In a call for autonomy, he stated, “I hope the people of Utah County will see the fallacy of this act and let what’s on the screen stay on the screen” (Ludlow, 1969, p. 5).

Candy was a controversial early example of a film pulled in Utah County and an important test of the regulatory powers of organizations within it. The MPAA’s rating system was about three months old at the time, yet *Candy* created a determination in citizens of Utah County to fight against films containing “adult” content. *Candy* merely carried an R-rating, though the next major test was Utah County’s first (and ultimately only) X-Rated film exhibited in county theaters.

Utah Valley is not so Happy with *Beyond the Valley of the Dolls*

After the release of *Candy*, the rise of “smut” films in Utah Valley continued to be of great concern to many citizens throughout the county. After being asked to review an R-rated film for the first time, popular *Daily Universe* editor Susan Tanner relabeled the MPAA’s R-rating as “rotten” rather than “restricted.” She argued that it seems like the industry feels as if they need “to throw a little bit of everything [in their films]” and that audiences “are becoming accustomed to permitting some form of pornography to enter our minds in the guise of an “adult film” (Tanner, 1969, p. 7). Tanner’s thoughts aligned greatly with most BYU students and county residents. Guest editor and BYU graduate student James M. Rawson bemoaned that the movie industry exploits and “prostitutes the basic freedoms offered when living in the United States” (Rawson, 1970, p. 2). Rawson believed that the country was formed under “inspired men,” It is a disgrace when individuals and studios take advantage of the autonomy granted those freedoms when going against God’s teachings. Rawson proposed that the “corruptness and satanic threat represented by all “R” and “X” rated movies” should be taught in every home and from the pulpit (Rawson, 1970, p. 2). Rawson called for a boycott of films with R and X ratings and many “M” (GP or PG). There were also signed petitions demanding that higher quality films from Hollywood be produced and that only family-oriented theaters, such as the SCERA, be patronized.⁴² In some ways, Tanner and Rawson’s fears were prescient, considering that in the summer of 1970, Utah County



Figure 5 – SCERA marquee and theater

⁴² The Sharon Community Education Recreational Association (SCERA).

witnessed the release of a film that Hal Williams argued as “many times worse than the movie *Candy*” (Williams, 1970, p. 2).

Despite the National General Corporation’s pact with Provo City, following the release of *Candy* to eliminate “dirty films” from their theater’s schedules, the X-Rated *Beyond the Valley of the Dolls* (1970) was booked to play at the Academy Theatre beginning on July 22, 1970. A sequel to 20th Century Fox’s hit *Valley of the Dolls* (1967), the film was already notorious around the country for pushing the boundaries of sex satire in American film. *Beyond the Valley of the Dolls*’ production was reported in BYU’s *Daily Universe* in September 1969, before principal photography began. The report emphasized that with director Russ Meyer’s reputation of being “the King of the Nudies,” the film was bound to be more than a “teenage soap opera” (Meyer Hired to Direct ‘Dolls’ Sequel, 1969, p. 2). Unlike the release of *Candy*, decency groups were already on alert and battle-charged should the film be released within the county.⁴³ Before the release date, Provo City officials, decency groups, and private citizens warned the Academy’s manager Nolan Hartley not to exhibit the film. Despite these often-public warnings, the film was released on schedule to predictably massive crowds. As was later discovered, those in attendance over the first weekend included many Provo City officials and the county’s inquisitive decency organization leaders.

One patron in attendance was Hal Williams, the “Focal Point” opinion writer for the *Orem-Geneva Times*, and current chairman of the Utah County Council for Better Movies and Literature. Williams emphatically declared that the group would “lend support to any action” made against the film and labor to gather other support (Smith & Lewis, 1970, p. 1).⁴⁴ On July

⁴³ *Beyond the Valley of the Dolls* had also just played in Salt Lake City and was also hit with an obscenity lawsuit.

⁴⁴ *The Daily Universe* writer Crismon Lewis is the father of Dr. Seth Lewis, a member of my dissertation committee.

25th, on what was described as a “quiet Saturday evening in downtown Provo” dozens of citizens and members of the UCCBML from Provo, Orem, and Springville picketed the X-Rated film outside of the Academy Theatre (Williams, 1970, p. 2). Of the dozens of placards carried by the picketers, some read: “It’s not worth the loss of your dignity;” “Save Your Money and Your Mind;” “This type of film hurts us all;” Warning to decent people: Do Not Attend!;” “Take her to one you’ll be proud of;” “Hollywood: Keep your garbage in your own backyard;” “This kind of pollution does not keep our Valley Happy;” This Movie is sick, Sick, SICK;” “This movie is Not Acceptable for Any Age;” and “You can help by not attending” (County Group Pickets Theater, 1970, p. 4; Williams, 1970, p. 2; Smith & Lewis, 1970, p. 1).

Such messages certainly reflect what Hal Williams referred to, in one of his opinion columns, as the “silent majority.” Still, they are more reflective of the cultural policy than one that reflects a more autonomous wider society of having the choice to view a film. Williams reported that as cars drove by the theater, “many applauded the action,” with most individuals being supportive. He accused a group of “young hippie-types” of making snide remarks and harassing the protesters but opined that “‘The silent majority’ held their own – mostly by being silent” (Williams, 1970, p. 2). Williams also expressed his disgust for the movie industry’s rating system, which he argued has “plagued” America with “filthy trash” ever since being introduced (Williams, 1970, p. 2). Utah Attorney General Vernon B. Romney, who had been watching such protests against obscene movies in the state, called the group’s strategies a “good” course of action (County Group Pickets Theater, 1970, p. 4).

County officials filed the initial obscenity complaint with *Candy* after fifteen days, which many criticized for taking too long. After just nine days, a temporary injunction was served more quickly for *Beyond the Valley of the Dolls*, coming in on July 31, 1970. Provo City Attorney

General Glen Ellis had attended *Dolls*' opening night and personally believed the film "appeal[ed] to the prurient interest" but waited to act until after receiving complaints from the Provo Police Department, members of the UCCBML, and multiple other private citizens (Smith & Lewis, 1970, p. 1).⁴⁵

Judge Joseph E. Nelson of the Fourth District Court approved the subpoena that temporarily restrained the Academy from further film screenings under section 76-39-10 of Utah's state obscenity law. A hearing date was set a few days later for the judge to view and decide whether the film was obscene. It was reported that if *Beyond the Valley of the Dolls* was considered obscene, the film could be seized and destroyed (Smith & Lewis, 1970, p. 1). Ellis also filed a preliminary injunction against the Academy, through NGC and theater's manager Nolan Harley, for continuing to show the film despite being warned to stop the film's exhibition in the days leading up to the injunction.

Later motions to lift the temporary restraining order and the preliminary injunction were denied by Judge Nelson, despite defense attorney Stewart Hanson's argument that the film had been pulled with no intention to return it.⁴⁶ Hanson also maintained that the city used prior restraint, meaning the town illegally prevented a film from being exhibited before being judged by a justice or jury to determine whether *Dolls* was obscene. Confused by this claim, Ellis contended that temporary restraining orders are provisional

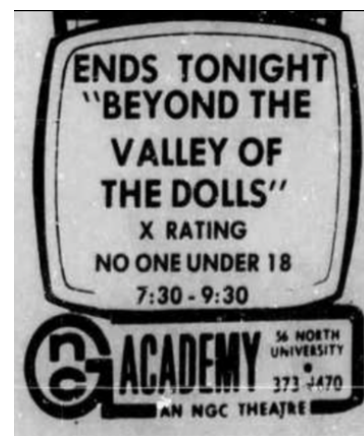


Figure 6 – *Beyond the Valley of the Dolls* (1970) *Daily Herald* advertisement (Academy)

⁴⁵ A similar summons was also served to National General Company on Thursday, July 30, 1970, for screening *Beyond the Valley of the Dolls* at the Uptown Theater in Salt Lake City. Yet another injunction was served in Ogden three days later.

⁴⁶ This is the same argument that NGC used and had succeeded with during *Candy*'s hearing, but their promise of avoiding film's featuring obscenity was clearly not genuine.

until a judge decides if they should be permanent; thus, the proper protocols were followed. Lastly, Hansen debated that Ellis had improperly applied the state's statute on obscenity as the law only refers to the "sale and distribution" of obscene articles and not the exhibition of them (Protests 'Dolls Action,' 1970, p. 30). Both Ellis and Judge Nelson felt that the law should not be read literally as the exhibition of materials "sells and distributes ideas" and thus is implied in the statute (Smith, 1970, p. 1). An apparent cultural policy that was reflective of the community values and not necessarily national standards. Such legal objections were common as communities, and the courts battled over citizen autonomy.

After being served his second temporary injunction within fourteen months on July 31, Nolan Hartley filed his own suit that same day, but this time in federal court. The lawsuit against Judge Nelson, Ellis, and Provo City requested that Utah's laws against film obscenity be reassessed and declared unconstitutional. A second suit filed in federal court by NGC and Nolan alleged that the *Dolls* "does not go beyond contemporary community standards" and asked that the charges against them be dropped. To complicate matters further, National General Corporation exhibited *Beyond the Valley of the Dolls* in Utah's other two major cities, Salt Lake City and Ogden. Both cities filed temporary injunctions against the film (Payne, 1970, p. 14). As a result, Provo, Salt Lake City, and Ogden filed countersuits in the U.S. District Court to test the constitutionality of Utah's laws on obscenity. As a countermove, the three theaters and NGC filed suits against the three cities "claiming an unlawful abridgment of the First Amendment" (Payne, 1970, p. 14). U.S. District Judge Willis W. Ritter granted a motion that consolidated the three complaints into one legal package. By doing this, Ritter also restrained the ability of Provo to prosecute NGC and Nolan separately for exhibiting the film, even after several warnings. Provo City Attorney Glen Ellis and Utah County Attorney M. Dayle Jeffs were not pleased by

this action and volunteered to defend the cities in the combined federal suit (Dolls Leaves Provo but Law Faces Trail, 1970, p. 1).

Speaking on the case, Jeffs reported the significant implications of the suit, arguing that the case could decide “whether a federal court has jurisdiction to enjoin State Court proceedings before the State Court had completed hearings on the matter and made a decision.” He continued that “this will bring to a head whether the citizens of Utah County are to be permitted to control the dissemination of indecent materials” (Constitutionality Questioned – Film Firm Seeks to Test Utah’s Obscenity Law in Three Cities, 1970, p. 27). The county’s cultural policies seemed resilient but limited agency, viewers’ autonomy, and free business.

Glen Ellis soon made a formal request to Utah Attorney General Vernon B. Romney, who, after much debate, agreed to enter the fight on August 14, 1970. Romney provided state aid and intervened because of the vast repercussions the suit had on states’ rights concerning obscenity (State Seeks Role in Obscenity Case, 1970, p. 1). About this move, Romney said, “I feel the federal government, including the Supreme Court, is taking altogether too much authority away from the states and local communities...I feel that everything possible to be done should be done to reverse this trend” (Sharp, 1970, p. 10). The Supreme Court and other federal institutions made similar significant changes in the intervening years.

After months of debate, Judge Ritter dismissed each of the suits and countersuits made by the cities of Provo, Salt Lake City, and Ogden, as well as NGC and the theaters within those cities. It was ultimately determined that Utah’s state statute 76-39-10, limiting the right to sell obscene materials, also implies their “distribution.” After the decision was appealed by the Academy Theatre, including to have a permanent injunction lifted, Judge Ritter dismissed the

cases “with prejudice” on both sides, which ruled out the possibility of any further appeals on the matter (Appeal by Provo Theater Dropped in Federal Court, 1971, p. 4).⁴⁷

Beyond the Valley of the Dolls was the first and last X-Rated and NC-17-rated film to ever be exhibited within Utah County. However, the legal battles over “obscenity” and viewer autonomy in Utah County were just beginning. The legal outcomes of *Candy* and *Beyond the Valley of the Dolls* satisfied the UCCBML and other concerned citizens. It bolstered the region's cultural policies and encouraged theater chains to be more cautious when scheduling obscene films to avoid legal repercussions. Although Utah County regulators were happy with Judge Ritter’s decision, it was clear that statewide efforts to ban obscenity and local ordinances and standards would not hold up in court. It was evident that citizen groups alone do not wield the power to make lasting changes in restricting obscene films from theaters within the county; the cities do. This compelled both Orem and Provo to strengthen their efforts in defining obscenity and establishing legal guidelines that allow them to act more quickly and better restrict obscene films when exhibited.

The Beginnings of the Orem Commission on Public Decency

After Provo City’s highly publicized legal conflicts with the Academy Theatre over *Candy* and *Beyond the Valley of the Dolls*, it was only a matter of time before the city of Orem had its legal confrontations involving film obscenity. The release of *ECCO* at Orem’s Geneva Drive-In had initially galvanized Utah County citizens to create the UCCBML and soon enacted obscenity ordinances limiting minors from seeing films. Unlike Provo City, Orem’s City

⁴⁷ During the federal trial Judge Ritter agreed to allow a permanent injunction of *Beyond the Valley of the Dolls*, banning the film from being exhibited in the city. By dismissing the case “with prejudice,” the ban permanently remains on the film.

Council, which had been regulating the film content within the city, had managed to remain controversy-free. Just because there were no publicized disputes with Orem theaters did not imply that the city had taken a laissez-faire attitude towards obscenity after *ECCO*. Months after Provo passed their *Youth Protection* bill in early 1966, the UCCBML commended the Orem Council for “leading the way in making a breakthrough in controlling the problem of objectionable movies” despite never passing a law (Orem Council Praised For Stand on Movies, 1966, p. 5). Even without a strict ordinance on the books, the council had been able to make tacit agreements with theater managers to voluntarily not schedule films containing content considered obscene. With the creation of the MPAA rating system and changing trends in the types of films young adults attended at drive-in theaters, Orem’s unspoken arrangements soon met their own challenges.

After the release of *ECCO* in 1965, many drive-in theater managers in Orem scheduled family-oriented films to avoid stirring controversy. Russell Heaton, the manager of the Timpanogos Drive-In, said, for example, said that he always made “a special effort to schedule two family films,” but such bookings consistently lose money each time.⁴⁸ Despite Heaton’s contradictory claim about “scheduling” particular films, he also maintained that he has no control over what is exhibited, explaining that “The drive-in is owned by a chain of theaters with home offices in Los Angeles” (Nelson, 1972, p. 2). He continued that they insist on scheduling movies based on ticket sales, and interest in the area has increasingly turned more adult. Thus, a double bill of two R-rated films, including *The Runaway* (1972) and Ingmar Bergman’s *The Touch* (1971), was scheduled and exhibited at the Timp Drive-in on November 1, 1973. Although the

⁴⁸ *Scrooge* (1971) and *A Boy Named Charlie Brown* (1969), as well as a Walt Disney double bill, were the only bookings that had lost money for the Timp throughout 1972 (Nelson, 1972b, p. 2).

films were not the first R-rated films shown at the drive-in, they were the first to contain a “significant amount” of sex and nudity on a screen located “On State Street *in the Heart of Orem,*” according to the film’s advertisements (Runaway ad, 1972a, p. 9). *The Runaway* was also Utah County’s first sexploitation film, with descriptive advertisements emphasizing the film’s past notoriety.

A large ad published in *The Daily Herald* on November 1st contained three rather exploitive warnings, taglines, and announcements. The warning stated, “Please Note: if you are shocked or embarrassed by total nudity and sexual activity, you are urged NOT to attend.”

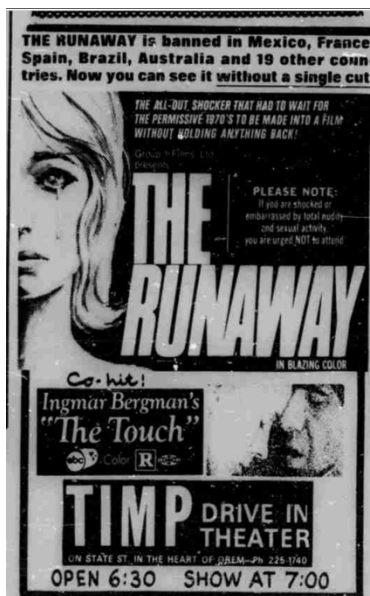


Figure 7 – *The Runaway* (1972) *Daily Herald* advertisement (The Timp)

Where the tagline said, “The all-out shocker that had to wait for the permissive 1970s to be made into a film without holding anything back!” Lastly, an announcement at the top of the ad proudly publicized in bolded letters: “*The Runaway* is banned in Mexico, France, Spain, Brazil, Australia, and 19 other countries. Now see it without a single cut” (Runaway ad, 1972b, p. 32).

Ironically, the *Herald*’s ad was surrounded by advertisements for countless family films such as Walt Disney’s *Run, Cougar, Run!* (1972) and *The Biscuit Eater* (1972), and MGM’s *Tom Thumb* (1958) and *Fiddler on the Roof* (1971), so the film was bound to

generate an uproar amongst Orem residents.

After only one evening of screenings, about thirty Orem residents, primarily women, congregated at Orem City Center to protest the movies playing at The Timp. Ned Briner, the assistant city manager, met with the citizens to discuss their concerns. One resident argued that Orem’s children “were exposed to enough filth already without having to look out their backyard

window and see it projected on a giant screen” (Nelson, 1972a, p. 2). According to Mr. Briner, city officials were aware of the situation. City Attorney Frank Butterfield had already decided that obtaining an injunction or restraining order to stop the film's exhibition was impossible due to the city's current obscenity laws. The city's only option was to prohibit minors under eighteen from attending. To ensure this, Briner explained, Orem City Police patrolled The Timp on Wednesday and Thursday evenings to check IDs and patrol the streets near the theater to prevent people from watching the movie outside. No violations were found on either evening. In compliance with the city's concerns, drive-in manager Russell Heaton hired off-duty Orem police officers to monitor admissions. Despite turning away several carloads of people, attendance for the movies was better than usual for this time of year, demonstrating definite interest from residents for more adult films.

Ned Briner also advised the crowd of residents that if enough citizens signed a petition opposing the movie, the theater might end the run early. He continued that if that did not work, “if enough people showed their concern to the city council, they might move to consider another obscenity ordinance.” The citizens, displeased with the results, left city hall vowing to attend the next city council meeting scheduled two weeks later on November 14th. The crowd was passionately insistent on establishing an ordinance to rid their city of obscenity at the expense of the autonomy of other residents interested in films with adult themes.

Despite the robust citizen opposition to R-rated screenings, the Timp Drive-In not only did not end the film's run early but instead extended its run twice. The films were originally only booked through the first weekend, but a steady rise in attendance encouraged the management to hold the movie over. A variety of large poster ads for *The Runaway* and *The Touch* published in *The Daily Herald* throughout the film's two-week run paralleled the sequence of events of the

film's exhibition. After dozens of citizen complaints to *The Daily Herald*, including Eldin Ricks, for agreeing to publish the ads for the R-rated movies, the newspaper urged the theater to remove the more controversial portions of the ad campaign (Young, 1972, p. 1).⁴⁹ On November 7th, the ad declared that the film was "Held Over Thru Thur." but removed two of the exploitation axioms, including the nudity warning, and was now notably missing the announcement that the film could be seen "without a single cut" (Runaway ad, 1972b, p. 32). Their compliance with changing the ad came on the same day Ned Briner announced that Russ Heaton had cut "the objectionable scenes in the film" (Nelson, 1972b, p. 4). Due to these editing changes, *The Timp* was more than content to remove the announcement because, like the 24 other countries, *The Runaway* could no longer be seen "without a single cut" in Utah County (Runaway ad, 1972c, p. 12). Mr. Heaton also agreed to allow city officials to view the cut version to ensure it conformed "to community ideals" and said if it did not "pass the test," he could have a new film within two days (Nelson, 1972b, p. 4).

Even after cutting the film, by November 10th, the ad revealed that due to popular demand, the film was being "Held Over Thru Tues." Still, this time lost all provocative statements, such as the film being made "without holding anything back!" (Runaway ad, 1972d, p. 10). Orem City police had also still been commissioned to patrol the drive-in during the weekend evenings. Although there were no significant issues with minors attending the film, one police officer hired to patrol the theater argued that he "personally felt there were still obscene parts of the movie left in the film" (Nelson, 1972b, p. 4).

⁴⁹ Ricks argued that the publisher "is aiding and abetting the circulation of the material" and asked the council to "go on record opposing the action of the publisher of the Herald" (Young, 1972, p. 1).

On the evening of the last showing of *The Runaways* on November 14, a large crowd of 275 citizens jammed inside and outside the Orem City Council Chambers. Despite a full agenda initially, the meeting was dedicated to discussing the “R-rated movie issue.”⁵⁰ At the beginning of the meeting, Mayor Winston M. Crawford reported to the crowd that “an action group” was formed to combat “obscene materials” in the city specifically. Gary James Joslin, an attorney specializing in pornography regulation, was introduced to the crowd and reviewed seven points to help Orem “prevent purveyors of pornography” in their community. Joslin’s first point was the need for the city to define obscenity. Without clear, detailed, and graphic descriptions defining what is considered “obscene” in the city, it is impossible to restrict theaters from exhibiting “obscene” content. Joslin’s seventh point was the need to establish a permanent “administrative review board” to assist in reviewing and making recommendations to city officials when they encounter content considered “obscene.”⁵¹

Concerning these points, Joslin argued that Utah County cities’ critical loophole is not to employ a “national standard” when defining obscenity but instead base it on regional standards (i.e., cultural policies). He also intensely disagreed with those who thought “obscenity has no impact on society.” Joslin pointed out that in Orange County (where he lived while receiving his law degree), “one out of every ten youths under the age of 18 had contracted some form of

⁵⁰ Although not quite as impressive as the 1,200 residents who attended the Provo Tabernacle for the January 1966 discussion on obscenity, this meeting was strictly for Orem City residents, where the Utah County Council for Better Movies and Literature included residents from all of Utah County.

⁵¹ His seven points included: 1. **Define obscenity** – clear, detailed, and graphic descriptions defining obscenity. 2. **A focus on minors** – specifically on the youth - can limit others. Especially using outdoor theaters to regulate other theaters. 3. **Public nuisance rather than criminal offense**– then juries do not need to be unanimous. 4. **Impose hefty cumulative fines** – for everyone sold a ticket. 5. **Revocation of business licenses** – to encourage cooperation from theaters. 6. **Rigid zoning ordinances** –force less reputable businesses to the outskirts of town. 7. **Setting up an administrative review board** – considered legal if consistent and stays in continual operation.

venereal disease, and that rate was increasing” in just a year following liberalizing of obscenity restrictions in Southern California. Joslin’s anecdotes shocked and galvanized the crowd with his stories concerning how pornography “plays an important part in the titillation of sexual perversion” and the need to do something about it (Young, 1972, p. 1). One week after the city council meeting, it was announced that Gary James Joslin was to be paid \$600 to assist Orem’s legal staff draft an ordinance to restrict obscenity on Orem movie screens (Hire Attorney, 1972, p. 2). Over the next two months, the Orem Commission on Public Decency began to take shape.

On January 18-19, 1972, *Miller v. California* (1973) was argued to the U.S. Supreme Court. The case concerned whether the mass distribution of advertisements for “adult” materials through the mail was protected speech under the First Amendment. The case was reargued on November 7, 1972, but not decided until June 21, 1973. The decision held that the First Amendment does not protect “obscene” materials, but can be determined when considering the following guidelines:

- (a) Whether '**the average person, applying contemporary community standards**' would find that the work, taken as a whole, appeals to the prurient interest. . .
- (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and
- (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value."

While the decision seemingly provided more power to city governments to define their own “community standards,” it also complicated the tests or prongs in determining what can be considered obscene. As part of these rulings, Utah County cities aggressively enacted some ordinances to regulate indecency within its communities. Even before *Miller v. California* was

officially decided, Orem City began defining “obscenity,” centered on their own unique, rigorous community standards, based on Supreme Court rulings in *Roth v. United States* (1957) and *Memoirs v. Massachusetts* (1966). Orem’s City Council considered the region’s cultural policies to assist in determining their regulatory procedures and what forms of “obscenity” to eliminate from their movie screens.

On January 30, 1973, almost 5-five months before the official U.S. Supreme Court ruling on *Miller v. California*, Orem City passed its long-expected ordinance against obscenity within city limits. Ordinance author Gary James Joslin stated before the ordinance was passed that he believed “the law will stand successfully against the avenues of appeal, which thus far have been successful in the courts” (Croft, 1973, p. 5). Joslin felt that other cities could not ban X and R-rated films because their ordinances did not correctly define obscenity and expressly affirm what was illegal. Joslin contended that “Anybody who says you cannot define obscenity is not reasonable,” explaining that it needs to be “defined in graphic detail” (Croft, 1973, p. 5). The ordinance expressly called for establishing an Orem “Commission on Public Decency” charged with being the moral guardians in regulating movies and literature within the community. The local media widely reported on the obscenity ordinance. A full-page “legal notice” of the ordinance’s guidelines was published in the *Orem-Geneva Times*, a free community paper, on February 8, 1973 (Legal Notice, 1973, p. 12).⁵²

Known as Ordinance No. 210, the guidelines amended previous regulations in Orem concerning public decency, lewdness, and obscenity by establishing a structure of legal action, fines, and other penalties imposed on anyone violating the guidelines. The ordinance asserted that a “significant amount” of obscenity was strictly prohibited and required to be removed from

⁵² The “Legal Notice” was so long it spilled onto a second page despite using a 5–6-point font.

X and R-rated movies before being exhibited to adults, let alone minors. Minors were outlined as those under age twenty-one for males and under eighteen for females. Obscenity was defined (including its synonyms) to be content that is “lewd,” “lascivious,” “salacious,” “libidinous,” “lecherous,” “lustful,” “filthy,” “vulgar,” “unchaste,” “gross sensuality,” and “tending to stir,” establishing classifications of obscenity more carnal in nature, rather than violent. The definition of “*significant amount*” was clarified to be “one or more scenes in a motion picture (because motion pictures have a great deal more capacity for shocking impact than other forms of the non-live exhibition)” to ensure that there was no misunderstanding that *any* instance of obscenity was a “significant amount” (Legal Notice, 1973, p. 12).

Each of the seven key points addressed by Joslin at the November 1972 city council meeting ultimately was included in Ordinance No. 210. True to his word, Joslin also “defined in graphic detail” examples of the types of content forbidden to be exhibited in city limits. Motion picture content described as illegal to be screened included depictions of genitalia, excretion, orgasm, ejaculation, defecation, and urination. Depictions of deviant forms of sexuality, such as homosexuality, transvestism, orgies, wife swapping, prostitution, fornication, adultery, incest, bestiality, sodomy - oral or anal, and masturbation were also described in detail. Several paragraphs comprehensively illustrated forms of “nudity,” including topless females, bottomless, or totally nude persons, which too were restricted except for “the decent display of a mother breast-feeding an infant” (Legal Notice, 1973, p. 12). When further delineating the ordinance’s use of the term “manipulation,” it was described as sexual activity that includes touching, squeezing, caressing, stroking, rubbing, patting, embracing, kissing, licking, and striking intentionally in a sexual manner.

When describing the importance of such an ordinance, it was argued that the lack of public morals could “injure the people and help the wrongdoer” (Legal Notice, 1973, p. 12). It continued that the “constitutions of the United States and the governing state of Utah were not intended by their framers, and should not be applied, to protect in any way public indecency to other public wrongs” (Legal Notice, 1973, p. 12). Although such rhetoric grants rights to many Utah County residents, it fails to offer protected personal freedoms for those outside the majority.

Ordinance No. 210 also clearly outlined the makeup and duties of those on the Commission on Public Decency. The commission consisted of “nine members – appointed based on high moral character for a yearly (renewable) term of one year.”⁵³ The commission’s primary duties were to review films and other materials that might contain “obscene” content, but their duties were extensive and rather sweeping, especially in their authority in writing “censure” and “commendation” letters. Although it was consistently argued that the commission was not granted censorship powers, many of their roles allowed them to act as a censorship board. Time would tell just how much strength the Commission on Public Decency had. With the city attorney and a city councilman on the commission, they also had the legal and political powers needed to perhaps make lasting changes in the types of content afforded on the theater screens of Orem.

⁵³ Some of the duties of commission members outlined in the ordinance include: 1. Conducting investigations and invite witnesses to ascertain conspicuous obscenity problems. 2. Compiling and maintaining accurate legal briefs of all relevant judicial actions concerning indecency and getting to the City Attorney. 3. To issue letters of commendation or censure, but in no way to imply any authority on its part to restrain or cause the restraining of actions thus censured, and in no case to threaten or imply prosecution. 4. To review, or cause to be reviewed, films containing a scene or scenes of explicit sexual conduct. 5. Make recommendations for morals. 6. Get support from the public. 7. Assist local merchants, publishers, and theater owners in correctly and conscientiously applying the laws against public decency. 8. Write a yearly report on public indecency

By the end of February 1973, Mayor Winston M. Crawford and the Orem council had appointed all nine Commission of Public Decency members.⁵⁴ Yet; their first official meeting was not held until June 13, 1973, which according to the agenda, was only to discuss the city's "movie situation" (Public Hearing Tuesday, 1973, p. 1; Croft, 1973, p. 2). The commission meetings were held monthly in the city council chambers and were always open to the public, including theater owners and operators. Despite the "open" meetings, the meetings were meant to strategize ways of cultivating and maintaining cultural policies that regulate film content and the attitudes and actions of the city's residents.

The Supreme Court's decision on *Miller vs. California*, first argued in January 1972, was finally decided just over one week after the commission's official meeting. The court decision officially established that "obscenity" should be determined using state or local values rather than nationwide standards. In the decision Chief Justice Warren E. Burger wrote: "It is neither realistic nor constitutionally sound to read the First Amendment as requiring that the people of Maine or Mississippi accept the public depiction of conduct found tolerable in Las Vegas or New York" (Kommers, 2009, p. 474). The decision reinforced Orem's Ordinance No. 210. It provided the communities of Utah County the rights they had long sought to self-regulate obscenity based on the desires and cultural policies of the conservative majority. Despite this reinforcement, by the end of 1973, several councilmen were frustrated with the progress of enforcing the guidelines asserting that "the ordinance was not functioning as well as they had hoped" (Pornography Troubles Aired by Orem Council, 1973, p. 10). The commission's apparent lack of "powers of censorship or control" was cited as the most challenging because Frank Butterfield had to

⁵⁴ Appointees were: J.N. Washburn, Dr. Thomas Croft, Burton Kelly, Doyle Buckwalter, Verdun A. Watts, J.R. Jenkins, Frank Butterfield, and Roy Walker.

enforce their findings, which he was extremely cautious about pursuing. Despite these frustrations, it was widely purported that Orem's obscenity ordinance was "among the most complete in the nation" (Croft, 1973; Pornography Troubles, 1973, p. 10).

Within a month of the ruling on *Miller vs. California*, officials and residents in Provo also sought to strengthen their city ordinances on obscenity to match their strict community standards concerning pornography. Provo had been the pioneer in the county and even the country in legally ensuring that theatrical films match its community standards. Yet, its ordinances were significantly weaker than Orem's newly passed guidelines. Still, both Commissioner Ray Murdock and Glen Ellis were adamant that the need for a "censorship committee" was no longer necessary as citizens and police officers could report all suspected infractions directly to Ellis as the city attorney, stating that "members of the community should exercise their right and work together to keep the pornography out of the city" (Bailey, 1973, p. 1). Despite some significant debates over the success of these protocols, cooperation between the theater owners and operators, as well as the city and citizens, would be the regulatory practice over the next decade.⁵⁵ Provo's procedures of a discretionary review of film content did at least result in more autonomy compared to Orem's Commission on Public Decency. Those who attend adult films do so willingly and are not likely to report on the content they might object to. Orem's review board evaluates all films deemed potentially objectionable.

The national debate over what was considered obscene and how communities view those lines differently was emphasized in how neighboring Utah County cities Orem and Provo regulated obscenity. Despite being "sister cities," having very similar demographics and morals,

⁵⁵ Utah State legislators supported Utah County's fight by passing a new criminal code on July 19, 1973, that imposed stricter penalties on those distributing obscene films in the state.

they had differing interpretations of what was considered obscene. As Utah County moved closer into the hippie-influenced 1970s, these differences in approach became even more pronounced.

These differences were accentuated by Supreme Court Justice Douglas when stating, “What shocks me may be sustenance for my neighbor. What causes one person to boil up in rage over one pamphlet or movie may reflect only his neurosis, not shared by others” (Paris, 1974, p. 1). While many areas of the United States, for example, were primarily concerned about “hardcore” pornography, Utah County cities defined obscenity as nudity and vulgarity. M. Dallas Burnett, a professor of communication law at BYU, argued that Utah Valley does not have what would be considered a “serious obscenity problem” in comparison to much of the country, believing that “what is legally defined as ‘hard core’ pornography just isn’t circulated widely here through normal commercial channels” (Paris, 1974, p. 1).

Orem’s obscenity legislation passed in January 1973 before the *Miller vs. California* ruling, for example, was much more rigid than Provo’s laws drafted in July 1973 based on the precedents set by *Miller*. Their respective city attorneys drafted each city’s ordinance, and both Glen Ellis and Frank Butterfield argued that, despite the city’s proximity, each ordinance was only adequate to handle the needs of their city. Glen Ellis, Provo’s City Attorney, stated, “I think the need for the ordinance is warranted and will adequately handle the needs of our community” (Paris, 1974, p. 1). Similarly, Orem’s City Attorney, Frank Butterfield, stated that Orem’s ordinance has been “very effective during this time and will continue to be so in the future” (Paris, 1974, p. 1). Despite Butterfield’s confidence and enthusiasm, Burnett argued that Orem’s Ordinance No. 210 “is overdrawn and is too stringent for the problems that exist in this area.” At the same time, Provo’s ordinance “is more reasonable and is written on the basis of the more recent Miller case” (Bailey, 1974, p. 1).

Many in Provo, however, including city commissioner Wayne Hillier felt that even more restrictions were needed. Hillier believed that the ordinance was too short, being only “about a page and a half long,” and because of that, it “has a lot of loopholes” (Neilson, 1974a, p. 3). He continued, “We have an agreement with the movie people that if they show a movie that is offensive to us, we can ask them to remove it,” emphasizing that “freedom of expression should be controlled when it interferes with the lives of others” (Neilson, 1974a, p. 3). At the next commission meeting, Hillier addressed his earlier controversial statements by clarifying that although the city could not control the obscenity people had in their own homes, it is within their rights if someone “begins [s] to display the material to others” (Neilson, 1974b, p. 1). Hillier’s position was that anything that would not be allowed in the lobby of a movie theater should also not be allowed on the screen, emphasizing that “There will be no nudity in films shown in Provo” (Neilson, 1974b, p. 1). Hillier later went on record to expand materials in a lobby and “on the streets of the city” (Harrington, 1974, p. 5). Newly elected Provo Mayor Russell D. Grange agreed with adopting more strict obscenity measures but asked for textual changes to the proposed law, including loosening restrictions on historical societies, museums, libraries, or materials obtained for educational purposes. Grange stated, “What a man does in his own home probably should not be controlled as stringently as what can be purchased or viewed openly in the city” (City views obscenity ordinances, 1974, p. 1).

Where Orem had a citizen committee to monitor and make suggestions directly to the city attorney, Provo would rely on the police department to make those determinations, sometimes based on citizen tips. Still, most often, obscenity was regulated when police officers would attend each R-rated movie to look for obscenity. Based on Provo’s ordinance, any decision to determine if something was obscene had to satisfy three specific individuals or offices. First, the

Chief of Police must enforce it; second, the City Attorney must defend it in court; and lastly, the City Commission, who are ultimately responsible for the restrictions within the ordinance.

In his exit report upon leaving office at the end of 1973, Orem Mayor Winston Crawford stated, “One of the most meaningful achievements of our City is the amending of our ordinance and enacting other sections dealing with public indecency, lewdness, and obscenity. Although it may be difficult to administer and requires an active committee to dig out, get evidence and make convictions, the law is sound and complete. This will continue to be one of our greatest challenges” (Orem City Meeting Minutes, 1973, p. 2). Incoming Mayor James Mangum inherited these challenges and was thrust into a battle he was, in many ways, unprepared to face.

One of the more significant challenges Utah County film regulators faced in the early 1970s was adapting their ordinances and strategies based on federal obscenity challenges and the ever-changing regulation landscape presented by new Supreme Court rulings, perhaps most drastically with the release of *Carnal Knowledge* (1971) and *Jenkins vs. Georgia*.

Testing the Limits: *Carnal Knowledge*, Drive-ins, and Overhauling Ordinances

In the early 1970s, Utah County was not the only region concerned with the rise of objectionable film content typical after the decline of the Production Code. Shifting views on obscenity throughout the United States and the perplexity of the obscenity test established in *Miller vs. California* made it difficult for courts to determine what was considered “patently offensive” or “appealed to prurient interests” (Margolis, 2013). Like Provo and Orem, many other conservative cities persistently fought the influx of content considered obscene within mainstream films. In Albany, Georgia, for example, as many as forty-three films were

scrutinized for possible obscenity in July and August 1971 by the Dougherty County Sheriff's Office (Bezanson, 1998). Less than six months later, on January 13, 1972, an investigator for the Sheriff obtained a search warrant to seize the film *Carnal Knowledge* (1971) playing at Billy Jenkin's Broad Avenue Cinema in downtown Albany.⁵⁶ The film's seizure led to the Supreme Court ruling *Jenkins vs. Georgia* on June 24, 1974, a decision that directly impacted Provo and Orem's anti-obscenity procedures and potentially advanced rights for viewer autonomy.

In *Jenkins*, Judge Rehnquist ruled that "nudity alone is not enough to make material legally obscene under the Miller standards" (*Jenkins v. Georgia* 418 U.S. 153).⁵⁷ As *Carnal Knowledge* did not contain content considered "hardcore" pornography, actual or simulated, the film was not considered obscene. This ruling was in direct conflict with the regulation practices in Utah County that often considered "significant amounts" of nudity (i.e., one or more instances) to be obscene; thus, required the film to be edited or the film removed from city theaters. *Jenkins v. Georgia* decided that local community standards may govern obscenity but that "local juries do not have absolute discretion to prohibit movies and other material they consider objectionable," which eventually became problematic in future obscenity film cases for Provo City regulators (*Jenkins v. Georgia* 418 U.S. 153).

⁵⁶ Sometimes referred to as Broad Street Cinema, charges were filed against Billy Jenkins, the co-owner and manager of the theater, for violating Albany's newly minted obscenity law. Although *Carnal Knowledge* was controversial at the time for its frank depictions and talked about sex, the film was also widely lauded for its artistic achievements (Schaefer, 2014, p. 24). The film was nominated for an Oscar and considered one of the best films of the year by *Variety*, *Chicago Today*, *New York Times*, and *Saturday Review*. (Friedman, 2017, p. 93)⁵⁶ Jenkins lost his initial trial held in March 1972, was fined \$750, and sentenced to 12-month probation. On appeal, the Georgia Supreme Court upheld the lower court's conviction in July 1973, ruling that the film was not in accordance with Albany's community standards, as was ruled in *Miller* the month prior (Reisman, 1983, p. 54).

⁵⁷ Marketing taglines for the film following the ruling declared "The United States Supreme Court Has Ruled That "Carnal Knowledge" Is Not Obscene. See It Now!"

Following the *Jenkins v. Georgia* ruling, three-hundred and eleven obscenity film cases were heard in courts in the United States between June 1974 and 1982, a high number of which occurred in Utah (National Obscenity Law Center, 1983). By October of 1974, the Supreme Court had refused to interfere with the convictions of nine separate cases involving violations of obscenity laws in New York, Virginia, California, and Florida (National Obscenity Law Center, 1983). This again left local communities with the regulatory power to interpret and rule on obscenity within their region. Despite the complicated 4-pronged test determined in *Miller* and the limitations to local community standards established in *Jenkins*, Utah County continued to test the limits of their regulatory powers. So too, however, would the theater managers, owners, and citizens who fought for the autonomy to view films without regulatory oversight. The rulings did not impede citizens and regulators in Utah County; in fact, it emboldened them to endure future battles against obscenity, with their first order of business being the county's drive-ins.

Content considered obscene was of significant concern throughout the county, but the area that often resulted in the most discussion and received the most concern from citizens was drive-in theaters. Like most areas of the United States, drive-ins quickly began appearing in Utah County shortly after WWII. When Provo's Pioneer Motor vu Drive-in opened in 1947, it became the first outdoor theater to be built in the county and the entire state of Utah. The county eventually became home to five drive-ins, including the Timpanogos (Timp) (1950-1981), the Pioneer (1947-2001), Art City (1950-2000), Geneva (1948-1972), and the Starlight (1950-1975) which represented over 10% of the state's drive-in theaters.

After Orem's citizen watchdog organization, the Commission on Public Decency was established following the passing of city ordinance No. 210 in 1973; it did not take long before a legal challenge tested the city's overhauled ordinances. One new guideline required every theater

in Orem proper to submit all X and R-rated films to the commission at city hall at least 6 hours before its first public theatrical screening. Theaters began carefully abiding by this stipulation, and if their movies were determined to contain instances of obscenity, theater managers could either remove the offending sequences or cancel the film's exhibition. The protocols established in the ordinance seemed to work smoothly, and there were no apparent issues until Wednesday, October 23, 1974.

Russell Heaton, the manager of the Timp, failed to submit the R-rated film *Big Bad Mama* (1974) to Orem's "Citizens for Public Decency Commission" in enough time before its first showing.⁵⁸ Despite not being reviewed and because no restraining order was issued, *Big Bad Mama* was exhibited Wednesday evening as scheduled and received multiple citizen complaints. After a reassessment, *Big Bad Mama* was found to contain eleven segments in violation of the city's ordinances. (Hearing Date Scheduled for Drive-in Operators, 1974, p. 2). Orem's City Attorney Frank Butterfield, a Commission on Public Decency member, immediately issued a restraining order. The film was pulled after the one screening, restricting the autonomy of other adults desiring to view it. A hearing date for manager Russell Heaton was scheduled on November 6, yet another restraining order was served against him and the Timp even before the hearing occurred.

Less than a week after Timp's alleged violations with *Big Bad Mama*, Butterfield issued a second restraining order to stop the scheduled screening of Woody Allen's *Everything You Always Wanted to Know About Sex – But Were Afraid to Ask* (1974). Heaton complied, despite wryly observing to reporters that there was "no nudity in the movie," directly connecting to

⁵⁸ Heaton claimed that the film "wasn't in the city" until 4½ hours before the first showing, but the film was still sent to city hall for review (Drive-In Manager Says Film Arrived Too Late, 1974, p. 4).

Rehnquist's *Jenkins* ruling (Smith, 1975, p. 14).⁵⁹ Upon receiving its second restraint order within a week, the owners of the Timp filed an injunction against the city. After the scheduled hearing before Judge Bullock in the 4th District Court, it was determined that the injunction was too vaguely written. Legal technicalities frequently prohibited theaters from fighting their cases in conservative areas. After the owners made no attempts to amend their injunction, the matter was dropped, and the R-rated Woody Allen film was not rescheduled to be shown in the city.

Steven L. Grow, attorney for Heaton, also tried to quash the complaint against his client because the indictment was explicitly against the “owners” of the Timp, and Heaton was only the manager. The motion was denied after the wording was amended to read “Russell Heaton, manager, Timp Drive-In Theater,” rather than the owner. This frustrated Heaton considering he had previously “asked his boss to edit the film so that it would comply with Orem’s ordinance,” but his boss had decided against it (Smith, 1975, p. 14). The case was eventually dropped with the understanding that no other R-rated films would be exhibited before being reviewed. Still, the issues surrounding litigation against theater managers versus theater owners will continue to be challenging.

Almost a year after Timp’s initial incident, Russell Heaton reflected on the violation and clarified that he had always done his best to cooperate with the commission. According to Heaton, selections often come down to economics, as R-rated films generally gross \$2,000-



Figure 8 - The Timp Drive-in marquee

⁵⁹ A year later, Russell Heaton went on record to state that despite *Everything You Wanted to Know About Sex* not containing nudity or sex, some of the film’s subject matter may have violated the city’s ordinance (Smith, 1975, p. 14)

\$2,500 more than a PG or G-rated film. Concerning the Commission on Public Decency, he stated, “Basically, I think they are trying to do a good thing and are right and justified in their actions, but once in a while, they go a little bit too far. At what point should their power end?” (Smith, 1975, p. 14). A sentiment felt by many citizens as well.

Concerning this “power,” Richard Drake, the former chairman of Orem’s Commission on Public Decency, argued that the commission “has no actual power” and thus is in “no way a censoring body” (Smith, 1975, p. 14). Drake explained that commission members could only indicate to a theater manager or business owner that some of their material violates the ordinance. If the theater does not edit the film or cancel its exhibition, it can turn the information over to the city attorney, who takes the matter before the city judge. If the judge finds the material in violation, they can issue a restraining order on the violators. The commission’s techniques were frequently criticized for violating theaters and citizens’ First Amendment rights established in *Miller and Jenkins* (Drive-In Asks for Restraint in Orem Pornography Case, 1974, p. 7). Despite these criticisms, the Commission encouraged the UCCBML and other decency organizations to assist them in urging Orem’s surrounding communities to create their decency commissions and pass similar strict obscenity ordinances. Richard Drake complained, “What good does it do to have a stringent ordinance in Orem when people can travel five miles and see the filth we prohibit?” (Smith, 1975, p. 14). This encouragement of enforcing obscenity county-wide rather than strictly city-wide demonstrates the role “community,” and cultural policies can have in limiting the autonomy of other areas.

Due to this pressure from the Utah County Council for Better Movies and Literature and Orem, Provo City started discussing changes to their obscenity ordinances almost immediately after updating them in response to *Miller* in the early summer of 1974. Provo City Attorney Glen

Ellis had always taken a strong stance against obscenity. However, his more recent actions and statements were now showing signs of diminished confidence. When addressing Provo's current obscenity procedures, he declared that they are "not nearly as slick as the Gestapo techniques" used by Orem but reasoned that "we have no license for witch-hunting" (O'Dell & Watts, 1975, p. 1). Ellis, Mayor Grange, and other city commissioners were beginning to understand the new realities of upholding Provo's obscenity ordinances in court.

Provo's updated procedures were proposed at a March 4, 1975 public hearing. City officials ruled against creating a "watchdog" group like Orem's Commission on Public Decency that no longer provided any legal rights or regulatory powers following federal rulings. Ellis instead outlined procedures requiring the "police department to investigate complaints from the public, except those which are anonymous" (O'Dell & Watts, 1975, p. 1). If the police verify that a violation has been committed, the violator will be notified. Like Orem's guidelines, the violator has three courses of action they can take.

1. Cut (censor) the offending sections of the material,
2. Do away with the offensive material completely,
3. Continue to exhibit the material.

In the last case, the city court must then determine if there is a violation of the city's ordinances (O'Dell & Watts, 1975, p. 1). However, the suggested changes received mixed reactions, with the majority arguing that the ordinances were far too weak compared to Orem's strict regulation. Those in opposition mainly were theater managers, such as the Pioneer's Marvin Cox, who questioned the need for the ordinances, arguing that "he hates turning down a film just to see it play in another theater in the city" (O'Dell & Watts, 1975, p. 1).

After considering revised ordinances for over a year, the mayor and commissioners passed the pornography ordinances on March 18, 1975. The two significant ordinances passed

included revoking a business license for any establishment exhibiting obscenity and prosecution guidelines for anyone who advertises or panders obscene material (McBride, 1975, p. 1). Jeanne Edmondson commended the changes in *The Daily Universe*, stating, “Both state and city officials are wise to outline clearly what is considered pornographic to prevent loopholes in the law. Both measures still allow for artistic expression but prevent from public display material with the prurient appeal” (Pornography Fought Locally, 1975, p. 12). When proposing the ordinances; Glen Ellis made clear the city’s intention was “not to try to punish people for speaking or saying what they want” or even expressing themselves. The city’s goal is “to go after the pandering of pornography” (Pornography Fought Locally, 1975, p. 12). It was argued that freedom of expression is not an absolute right. Like the freedoms of press, speech, and action, freedom of expression must be limited somewhat to avoid injury to other individuals (Pornography Fought Locally, 1975, p. 12). Based on cultural policies, such restrictions shaped revisions to the city’s ordinances and citizens’ attitudes, like Edmonson, in justifying such limitations on the rights of artistic expression.

One thing that was clear concerning both Orem and Provo’s obscenity regulation, their ordinances, for the most part, were working, especially compared to other regions of the nation. State censors throughout the United States began ceasing their operations in the mid-1950s, with all but Maryland ending their operations before forming the MPAA rating system.⁶⁰ The much smaller regional censorship committees, like Orem and Provo, continued exercising their rights to set and control community standards. Other conservative areas often used Utah County to

⁶⁰ State censorship boards, including: Ohio Board of Censors (1914-1955), Pennsylvania State Board of Censors (1914-1961), New York State Censorship Board (1921-1965), Kansas State Board of Review (1915-1966), Virginia State Board of Censors (1922-1968), Maryland State Board of Censors (1916-1981), the last state board to be abolished)

illustrate the legal and cooperative strategies possible with theater managers to vet, censor, or remove objectionable films.⁶¹

In response to some of the difficulties faced with the release of *Big Bad Mama* and *Everything You Wanted to Know About Sex*, revisions were made to Ordinance No. 210 to eliminate some of the loopholes discovered by Butterfield. For Orem, a new ordinance known as Ordinance No. 298, the modifications were signed by Mayor James. E. Mangum and published as a “legal notice” in the *Orem-Geneva Times* on April 15, 1976. Amendments to ordinances were necessary if communities desired to continue to regulate content considered obscene. Such revisions demonstrate how cultural policies innately adapt to remain relevant as societal changes. Based on updates to court obscenity decisions and loopholes in local ordinances, states and communities that did not adapt will not survive.

Most of the changes in Ordinance No. 298 were based on Orem’s film regulation experiences and other obscenity lawsuits occurring throughout the United States. Orem’s previous ordinance guidelines were established five months before the Supreme Court decided *Miller vs. California* in 1973, making it crucial to adjust the ordinance. The legal notice derided “immorality and the lowering of ethical standards” for some in a community, arguing that “illicit sexual conduct, sexual perversions, illegitimacy, venereal disease, violent sex crimes” are elements that undermine a good society (Legal Notice, 1976, p. 8). Such statements are

⁶¹ Reporters from the *Idaho State Journal*, for example, were impressed and surprised by the film regulatory powers achieved within Utah County. In the article, Provo City officials boasted their ability to censor films they or the community considered offensive. Mayor Russell Grange said they “get cooperation from movie houses when questions or complaints arise about movies” (Moes, 1975, p. 8). Provo Police Chief Swen C. Nielsen agreed with the mayor, saying, “We have had no problem getting those involved with the movie industry to change or splice out certain objectionable material” (Moes, 1975, p. 8). Although no details were given on the films that had been censored or which theaters had provided the city with cooperation, it was clear that, for the time being, officials in Provo City were confident in their ability to regulate films and theater managers.

discordant to citizens not accustomed to BYU culture. It continued, “It is hereby declared as a matter of law and the conclusive legislative fact that the exhibition of (indecent) is patently offensive to the community standards of decency prevailing throughout the City of Orem, the State of Utah, and the nation as a whole” (Legal Notice, 1976, p. 8) which, although in line with *Miller vs. California*, assumes Orem’s definition of “community standards” to be the same not only statewide, but nationwide as well, which *Jenkins v. Georgia* had expressly ruled against.

In addition to the definitions of obscenity from Orem’s 1973 legal notice, the update boldly declared that no nude depictions of children past puberty would be allowed on the screen, an audacious stipulation that had already expressly been challenged in the *Jenkins* ruling. To elucidate why nudity was not permitted as moving pictures on a screen, the ordinance’s designers argued that large screen exhibitions “have an enormous shocking impact caused by the display of movement” with “scenes larger and more dramatic than real life” and in “attention-seizing quality” (Legal Notice, 1976, p. 8). The new ordinance also specifically emphasized that obscenity was strictly forbidden in public spaces such as outdoor movie screens, billboards, and public televisions, a guideline in a direct affront to the uproar surrounding the Timp Drive-In. Another updated ordinance guideline defined “theater manager” as “that person on the premises of a theater during an exhibition to the public who is authorized to be or is treated by the employees as the senior supervisor.” Theater managers, not just the owners, are prosecuted for exhibiting obscenity, another policy added based on Timp’s Russell Heaton’s previous legal disputes.⁶² Despite the theaters’ cooperation, patience was wearing thin, especially as new

⁶² It was also widely publicized at the time that “In order to facilitate cooperation, managers at local theaters are invited to attend the Public Decency Commission meetings” to better understand and unite with the commission’s objectives (Smith, 1976, p. 14). Such persons rarely attended as viewer autonomy and public negotiation were not stipulated in the guidelines.

owners began to construct and theater managers began to operate movie theaters in the late 1970s and were unfamiliar with the region's unique regulatory structure. Each adjustment further entrenched the ordinance in cultural policies that impeded First Amendment rights and viewer autonomy rather than offering inclusive policies for all citizens, not just the majority.

By the fall of 1976, the American Civil Liberties Union had declared Orem's obscenity laws unconstitutional and that they would defend anyone convicted of violating them (Legality Questioned On Orem Porno Law, 1976, p. 1). Attorney Gary Joslin, a Utah County resident and original author of most of the statutes in the ordinance, argued that the ACLU is "encouraging someone to break the law so that they can have a test case." Joslin claimed that unless they were willing to file an action asking for a declaratory judgment on whether Orem's ordinance was constitutional, "they are liars" (Legality Questioned On Orem Porno Law, 1976, p. 1). Frank Butterfield also refused to engage with the ACLU stating, "It is improper to discuss the constitutionality of the ordinance outside of a courtroom" (Legality Questioned On Orem Porno Law, 1976, p. 1). It was only a matter of time before the ACLU would have the opportunity to present their case in court.

Conclusion

Historical analysis of the development of Provo and Orem's ordinances, regulation commissions, the impact of U.S. Supreme Court obscenity rulings, as well as case studies of the regulation of film releases such as *Candy* (1968) and *Beyond the Valley of the Dolls* (1970) each reflect the cultural policies established in Utah County. These cultural policies encouraged the community to create ordinances that restricted content considered obscene but also resulted in limiting viewer autonomy. Despite the influence of BYU culture in the county, theatrical film

regulation often drew public backlash, generating unwanted publicity and interest in the media that the Orem Commission on Public Decency and others attempted to prohibit. When concerning the moral ethics of a community, Glen Ellis argued, “If a community is united, it can do more through community involvement than through the legal system,” which is a prophetic statement seemingly at the heart of Utah County’s regulation. However, such regulation becomes even more complex when the moral ethic of divinity is considered.

A month after Orem’s amplified Ordinance 298 and less than two weeks after the ACLU’s verbal challenge against Utah County’s obscenity laws, the R-rated *The Pom Pom Girls* (1976) played at the Pioneer Drive-In in Provo (Local Movie Advertisement Listings, 1976, p. 12). The separation of church and state was continually in conflict within the region. The events surrounding *The Pom Pom Girls* ushered one of the most heated eras in the battle over obscenity in Utah County, involving politics and religion. Although BYU and the LDS church were always tangled peripherally to incidents surrounding theatrical regulation, the lines between community and divinity soon became even more obscured as Utah County’s regional censorship moved into the late 1970s. More firmly incorporated and often compulsory, support from members of the LDS faith continued to suppress the autonomy of some citizens’ choice to view films without restriction. The battle further drew divisions among LDS church members as some retaliated against parochial cultural policies that limited autonomy. At the forefront of this newly energized surge of protests was UCCBML member Fred Podlesny who symbolically combated Jim Ferguson, a former BYU political rival, and LDS gentile, over the future of theatrical regulation in Utah County.

Chapter 3

THE HUE AND CRY: A PAROCHIAL BATTLE BETWEEN COMMUNITY, DIVINITY, AND POLITICS

(1976-1977)

“If there was such a pornography problem, I would be dedicated against this evil as you are if I thought it existed, but there is no hue and cry.”
(Provo City Court Judge)

The Varsity Theater opened in Brigham Young University’s Wilkinson Center in June 1964. From the beginning, the theater had effortlessly selected clean Hollywood movies like *Oklahoma!* (1955), *The Miracle Worker* (1962), and *To Kill a Mockingbird* (1963) to exhibit for BYU students and members of the community (Varsity Theater advertisements, March 4, 1966, p. 5; April 8, 1966, p. 4; July 15, 1966, p. 3). Until 1968, each film shown on campus was produced during the Production Code Administration era, which labored to ensure films were free from content generally considered “obscene” in American society (Doherty, 2009, p. 2). This changed in the late 1960s when mainstream filmmakers began including language, violence, nudity, and adult themes within their films (Monaco, 2003, p. 57-65). Although editing at the Varsity Theater occurred before, the first confirmed instance of sanitizing a theatrical film on campus was *Planet of the Apes* (1968) on September 29, 1969, screening (Hubbard, 1969, p. 2; Done et al., 1969, p. 2; Smith, 1970, p. 1).⁶³ In the final moments of the film, George Taylor (Charleston Heston), upon discovering that humanity had destroyed itself, exclaimed:

⁶³ A letter from the editor in the *Daily Universe* concerning *Planet of the Apes* mentioned that Jay Eitner and Lyle Curtis, who were in charge of operations at the Wilkinson Center, had edited movies “3-4 times” before *Planets* (Smith, 1970, p. 1). The cuts were likely to films such as *Spartacus* (1960), *In the Heat of the Night* (1967), *The Fortune Cookie* (1966), or *The Dirty Dozen* (1967) that played in the months leading to *Planets*.

Oh, my God! I'm back! I'm home. All the time, it was... We finally really did it.
[Screaming] You maniacs! You blew it up! God damn you! God damn you all to hell!

For those viewing the film at the Varsity, the entire ending monologue was muted, leaving many in the audience frustrated trying to interpret the film's ending.

Student Susan Hubbard later criticized the censorship, opining, "The censorship of his speech seems to lend credence to his theory," which she had argued to be "expounding on the stupidity of the human race"

(Hubbard, 1969, p. 2). Hubbard spoke against BYU's policy of selling the book "uncut," steps away from the theater where it had been censored as

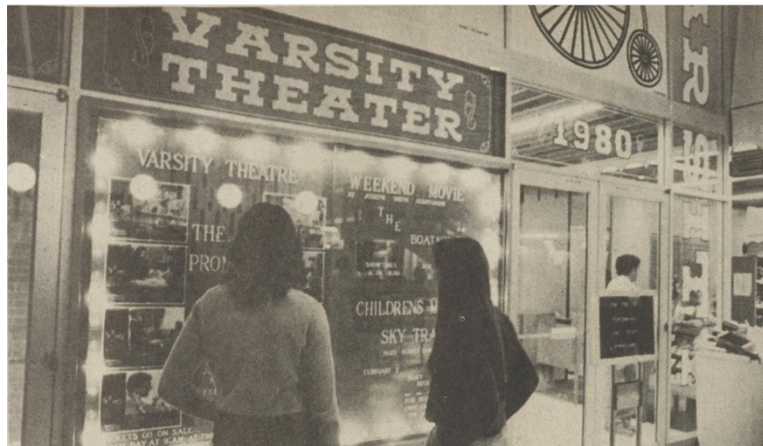


Figure 9 – BYU's Varsity Theater (circa 1980)

hypocritical that "destroy[s] the

effect] of the film and the Autonomy of those wanting to see the original work (Hubbard, 1969, p. 2).⁶⁴ Owned and operated by The Church of Jesus Christ of Latter-day Saints, both BYU and the Varsity Theater's mission was the same, to encourage students to live, learn, and view films in wholesome environments where Divinity and spiritual principles were paramount, which, as described in my introduction, extended to its community through the influence of BYU culture.

Like BYU, Utah County communities also fervently opposed obscenity beginning in the mid-1960s and worked together to encourage city officials to regulate it. As discussed in chapter two, the county's fight against obscenity resulted from established cultural policies, partly

⁶⁴ Lisa B. Done and six other students similarly criticized the censorship of *Apes* arguing, "This was a frustrating experience, being purely cruel—depriving the involved audience of the last few sentences in the whole film, which included a few sentences a few of the 'dirty' words that has been uttered previously in the picture" (Done et al., 1969, p. 2). Despite the frustration of some BYU students, the practice of film sanitization resumed another 30 years at the Varsity Theater and continues today in BYU educational screening venues like International Cinema.

because of the community's parochial convictions. Despite these cultural policies, some movies considered obscene thrived at theaters while some citizens, like Susan Hubbard, and theaters continued to fight for the Autonomy to view films without regulation. This chapter considers the specific impact of religion on the motivations of citizens and civic leaders against obscene film content, which prompted political maneuvers to compel residents to accept or tolerate the regulation of film media, including alterations to films in theaters.

The Church of Jesus Christ of Latter-Day Saints (LDS) had always peripherally been a part of Utah County's fight against obscenity. Still, the influence of the region's dominant religion was rarely evident or reported. The same was true concerning direct correlations behind many of the city's political strategies based on pressure from religious individuals or groups. Although LDS church leaders had always denounced materials considered obscene (Paulos, 2014, p. 53; Sumerau, 2016, p. 43), a 1974 worldwide conference address discussed later in this chapter expressly commanded all members and leaders to combat the rise of "obscenity" in their communities. This expedited many Community efforts against explicit media shortly after the U.S. Supreme Court ruled on *Miller v. California*. Citizens and members of the LDS church were entreated to raise a "hue and cry" in their communities against the purveyors of "obscenity" and battle together to hold civic leaders accountable for creating and enforcing ordinances to help eradicate objectionable content from their community.

Analysis of LDS church members' anti-obscenity efforts reveals the complex challenge of separating the actions of citizens from their religion (Van Alstyne, 1967, p. 75; Leith, 1978, p. 375). Calls from the LDS Prophet, the use of church buildings for campaigning, and the political ambitions of church members intending to eradicate film obscenity obscure the lines separating church and state (McHugh, 1996, p. 1515). This lack of separation, combined with the influence

of BYU culture, limits the rights and Autonomy of some residents. Examination of political rivals Fred Podlesny (LDS member) and Jim Ferguson (LDS non-member) offers insights into the delicate balance of church members and BYU culture's influence on "free agency" in a community. Although Podlesny and Ferguson attended the same conservative University, their views on movies and content considered obscene were not grounded in the same cultural policies or principles. Such incongruities became even more pronounced when other LDS church members, influenced by BYU culture, continued to attend controversial films that county regulators labored to prohibit.

In this chapter, I analyze the intersection of Divinity, Community, and politics concerning the county's regulatory practices. Although new anti-obscenity leaders exercised a hue and cry (and were heard and answered by many LDS church members throughout Utah County's communities), support for restricting others' viewing choices began showing fracture. Changes in political power and changing goals, especially, created division with the election of Provo's first non-Mormon mayor.

Frederick Podlesny and the Revenge of the Utah Council for Better Movies and Literature

In an October 1974 semi-annual General Conference address by Spencer W. Kimball, the Prophet and President of The Church of Jesus Christ of Latter-Day Saints, spoke to all LDS church members concerning their obligation to fight against obscenity in their communities. Kimball articulated the church leadership's hope that "parents and leaders will not tolerate pornography" of any kind, including on the screen (Kimball, 1974). Kimball boldly maintained that "we live in a culture that venerates the orgasm... and we pray with our Lord that we may be kept from being in the world." His words allude to a symbolic separation that Mormon culture

strives for, to live “in” but not be “of” the world. Denoting recent local and federal rulings on obscenity, such as *Miller v. California*, Kimball also emphasized that despite the valiant efforts of many members and civic leaders, obscenity “seemingly cannot be stopped by legislation” alone (Kimball, 1974). Kimball’s prophetic words to LDS church members were a “hue and cry,” not only to individuals but also to state and local political leaders, to do their part in hindering the spread of obscenity in their communities, particularly on movie screens.

The concept of a “hue and cry” goes back centuries into the Middle Ages. If a criminal committed a grievous crime, like stealing a purse of gold, victims of the crime were expected to make much noise and shout for assistance (Müller, 2005, p. 29). As there was no organized police force to pursue assailants, all those that heard their “hue and cry” were legally bound to join in pursuit of the perpetrator (Müller, 2005, p. 32). In modern terms, a hue and cry often refer to a public uproar, protest, or strong opposition against a policy, person, or event (Sagui, 2014, p. 179). When someone in the community cries against injustice or policy, other (like-minded) members of the public must also raise their voices in support. In a parochial society like Utah County, separating a hue and cry with the community from a dominant religion and political policies enacted is extremely difficult. The cultural ideals and regulatory procedures may align with the majority but also constrain the Autonomy of the minority, including constitutional rights (Lockhart, 1960, p. 289; Richards, 1974, p. 45).

After Kimball’s call for action, there were unwavering anti-pornography efforts by citizens and governing bodies throughout Utah, including updates to city ordinances to restrict content they considered objectionable. Despite these efforts, the state still experienced a rise in content considered obscene, especially in the exhibition of hard-core X-rated films and sex and nudity in mainstream movie theaters (Pornography Fight is Personal Matter, 1976, p. 12). To

combat the influx of offensive content on movie screens, watchdog organizations no longer only depended on devotedly concerned citizens to make their voices heard.

One such example occurred in early 1976 when Robert Stevens organized an LDS church-sponsored picket line campaign throughout the state. In response to the Prophet's call for more citizen action, Stevens assigned LDS congregations, especially in Salt Lake and Utah County, to picket "pornography" on movie screens. According to one demonstrator, Roger Mills, at least five picketers were asked to be present at each movie theater "at any one time" that screened X-rated content. Mills reported that "It's kind of worked through the church – the stakes, the wards – as far as the assignments go. Our stake got the assignment for this week, so it was divided among the wards to take so many hours" (Andrews, 1976, p. 12).⁶⁵ Similar to the "hue and cry" that led Catholics to protest movie theaters and resulted in enforcing the Production Code in 1934 (Couvares, 1992, p. 585), Steven's campaign effectively attracted political and LDS member support. The demonstrations, influenced by cultural policies and BYU culture, continued for months generating interest across the state (Unto Every Nation, 1976, p. 33).

By August, the picketing campaigns had lasted seven months, and some theaters had closed their doors. According to one theater manager, "Sometimes they affect business, and sometimes they help," a common phenomenon where some protests attract more attention and business than had they not demonstrated (Andrews, 1976, p. 12).⁶⁶ When Stevens, the organizer

⁶⁵ It was reported that young men and women under 21 were most often assigned to join the picket lines, which is ironic considering young adults were also the group most likely to attend R-rated films in the region (Andrews, 1976, p. 12).

² This phenomenon is colloquially referred to as "The Streisand Effect," based on the attention Barbra Streisand created when fighting publishers over aerial photographs of her at her home. The legal challenges resulted in more attention to the pictures than had she ignored them (Jansen, Sue Curry, and Brian Martin, 2015).

of the picketing campaign, was asked why other venues, like liquor and cigarette stores, were not also being targeted, he argued that seeing obscene movies “was a greater moral offense.”⁶⁷ Stevens also revealed that picketing R-rated films would be their next effort (Andrews, 1976, p. 12). These efforts were directly reflected in the Utah County Council for Better Movies and Literature’s work, an organization about to come back in full force based on the prophet’s “hue and cry” for LDS citizens and local leaders to continue to fight obscenity vigilantly in their communities.

As discussed in Chapter 2, the R-rated *The Pom Pom Girls* (1976) opened at the Pioneer Drive-In in Provo in September 1976 (Local Movie Advertisement Listings, 1976, p. 12.). This was only one month after Orem’s amplified Ordinance 298 and less than two weeks after the ACLU’s verbal challenge against Utah County’s obscenity laws. The film premiered nationally in May 1976 and played throughout much of Utah beginning in July 1976, so Provo regulators were aware of the film’s notoriously raucous content. Thus, when the film opened at the Pioneer Drive-In on Friday, September 17, plans were already in place for two Utah Council for Better Movies and Literature (UCCBML) members to attend and review the film based on the Prophet’s hue and cry.

After the screening, a formal complaint was sent to the police department and city attorney Glen Ellis’ office. When immediate action against the film did not occur, UCCBML members decided to demonstrate against the film. Although publicized efforts from the UCCBML had been relatively quiet throughout the first half of the 1970s, much of this can be

⁶⁷ The debate over morality in movies and alcohol consumption and was also heavily debated during Anthony Comstock’s moral reconstruction campaigns throughout the late 1800s and early 1900s (Foster, 2002, p. 50 & 154).

attributed to the organization's faith in city officials' abilities to enforce the obscenity ordinances they assisted in fashioning. More recent changes to national obscenity laws increasingly created apprehension for Provo and Orem's city attorneys, Glen Ellis and Frank Butterfield, to file legal complaints against theaters for non-compliance. Despite being LDS church members, they knew any legal action taken based on their ordinances might be tested and found unconstitutional in court.⁶⁸

Following President Kimball's call and Robert Steven's desire to begin protesting "pornographic" R-rated material, the UCCBML picketed *The Pom Pom Girls* Saturday night. Eleven picketers, including Provo resident and UCCBML junior member Frederick Podlesny, protested the R-rated film. According to The Pioneer Drive-In's owner and manager Marvin Cox, the group picketed at 7:30 pm near the box office during the peak ticket-selling time, which created "an unsafe traffic situation" (Film at Local Drive-In Draws Picketing by Area Resident, 1976 p. 17). When asked about Cox's claim that the group was creating unsafe conditions, Podlesny held that the picketers "were aware of the potential traffic problem and did their best to avoid issues." Still, he believed the cause outweighed the inconveniences (Film at Local Drive-In Draws Picketing, 1976, p. 17). Podlesny added that the group preferred to demonstrate at downtown theaters, where the visibility of their efforts to citizens might be higher, but the film did not play downtown.

⁶⁸ Other than in schools, regional regulation and censorship were practically non-existent throughout the United States other than in the state of Maryland and educational systems (Jamieson, 1987, p. 404).

The picketing of *The Pom Pom Girls* only lasted roughly 45 minutes, but according to Cox, the group received significant heckling from the incoming movie patrons.⁶⁹ Like *Candy* and *Beyond the Valley of the Dolls* before it, the effect of the UCCBML protest seemingly hurt their



Figure 10 – *The Pom Pom Girls* (1976) - Picket signs (Pioneer Drive-in)

cause, considering that *The Pom Pom Girls*, which was only scheduled to play for one week, was eventually held over a second week, due to the film's rapid rise in ticket sales following the controversy.⁷⁰ The heightened experience of protesting and the ensuing media exposure during and afterward provided UCCBML member Fred Podlesny a public platform he had long yearned for since attending BYU. The events following *The Pom Pom Girls* would fuel his ambition for lasting changes to

Provo's enforcement of obscenity and, eventually, his own long-gestating political aspirations.

It was a combination of the Prophet's call for members of the LDS faith to act in combating screen pornography in their communities and Provo City's inaction over *The Pom Pom Girls* that a new leader ascended as chairman of the Utah Council for Better Movies and Literature. Fred Podlesny, a 1971 graduate of Brigham Young University, an active member of the LDS faith, and a longtime member of UCCBML was elected to lead the organization in early November 1976, shortly after *The Pom Pom Girls* picketing incident.⁷¹ Podlesny felt that Provo City not only needed to pass a stronger ordinance, like Orem's, against obscenity but believed

⁶⁹ Like many other drive-in managers, Cox reiterated that strictly playing "Disney films," such as their recent release *Gus* (1976) that lost Cox money, rarely turns a profit compared to films aimed at young adults.

⁷⁰ The film *The Pom Pom Girls* would return to the Pioneer in January 1979. Marvin Cox's newspaper advertisement for the film declared, "The Pom Pom Girls are back!"

⁷¹ Winn Wilcox, Vivian Long & Hal Williams were also all elected as new members of the council

that once passed, the city needed to ensure that the laws were strictly enforced. Many Provo City officials and community members were divided on the necessity of a strengthened ordinance.

While Podlesny maintained, “whether most citizens realize it or not, Provo does have a severe obscenity problem,” others like Provo Police Chief Sven Nielson and BYU Communications professor M. Dallas Burnett contended that obscenity in Utah County is far from an issue compared to other places in the United States (Paris, 1974, p. 1; New Leader to Give Petitions to Provo, 1976, p. 5; Council Views Pornography, 1983, p. 10).⁷² Despite these claims, the police departments and UCCBML continued actively reviewing films and submitting official complaints to the city attorney’s offices.⁷³ Podlesny contended that a conspiratorial trend existed where R-rated movies were becoming as pornographic as X-rated films. Because of this, he felt all R-rated and some PG-rated movies needed to be examined for their compliance with city ordinances (Citizens Say They Got R-Rated Smut Trouble in Provo, 1976, p. 6). Such actions exemplify BYU culture and align with the Prophet’s hue and cry but do not entirely ally with the rights of all community members.

Within a week of being elected to the Utah County Council for Better Movies and Literature leadership, chairman Podlesny and vice-chairman Winn Wilcox began newspaper campaigns to raise awareness of what they considered Provo City’s incompetence in enforcing anti-obscenity laws already on the books. Wilcox questioned Mayor Grange’s confidence that “Provo has one of the best anti-pornography laws in the nation,” considering the types of

⁷² Throughout the history of film regulation in the United States many individuals that censored films, including controversial Maryland censor Mary Avara, considered there to be bigger “issues at work” than there arguably were (Porter, 2011, p. 26; Geltzer, 2015, p. 294; Kuhn, 2016, p. 1).

⁷³ The Provo’s police department was often trained how to recognize “obscenity” by exposing officers to explicit materials (Council Views Pornography, 1983, p. 10). The practice of exhibiting pornography throughout the regulatory process, that others were prohibited to view, was a common practice even outside of Utah County (Gunther, 1995, p. 27; Bronstein, 2011, p. 173; Ramond, 2013).

mainstream Hollywood films consistently played in the city (Wilcox, 1976, p. 35). Wilcox also suspected Grange's claim that the city attorney's office "quietly works with the theater proprietor who cuts any objectionable scenes" as these efforts were never confirmed or reported in the press or at their meetings (Wilcox, 1976, p. 35).

Mayor Grange insisted that a regulatory film committee, as Orem had, was not sustainable. He instead proposed that the City Attorney Glen Ellis continue to rely on concerned citizen complaints to identify what the public considered obscene rather than anti-obscenity groups who might be more easily offended than the average resident. Grange's positions were negated by Wilcox and others, as it challenges more hardline parochial views in favor of citizen Autonomy. Wilcox questioned the logic of Grange's proposed guidelines indicating that those who regularly attend R-rated films would likely never file an obscenity complaint. This was an ironic assertion considering that what citizens do not see cannot overtly hurt them, thus promoting the demand for more agency in the movies citizens choose to view.⁷⁴ Wilcox also reported that he was aware of at least seven complaints filed in the last six months, including objections against *The Pom Pom Girls*, *The Great Scout*, *Cathouse Thursday* (1976), *Marathon Man* (1976), and *A Clockwork Orange* (1972) where no action was taken by the city, making Provo's ordinance "worthless if not enforced."⁷⁵ A review panel, like Orem's, again was proposed to "make our ordinance work" (*Showed a Woman's Bare Breasts and Other Obscenities*, 1976, p.3).

⁷⁴ The notion of ignoring "obscenity" that does not affect society has also been researched by literature and journalism scholars (Freedman & Johnson, 2000, p. 369; Lieberman, 2000, p. 44).

⁷⁵ *A Clockwork Orange* was banned in the entire state of Utah upon its release in 1971 but was later released in a "cut version" outside of the Utah Valley.

A few days later, chairman Podlesny expressed similar concerns over obscenity.

Published in *The Daily Herald*, Podlesny stated,

More than three hundred R-rated movies have been shown in Provo in the last three years. Thousands of persons, particularly young people, have sat as eager disciples of evil and viewed scenes of lust, nudity, rape, contorting bodies, intercourse, and urination – complete with close-up photography, sweating faces, crude language, and ever-present violence.

What rational person can deny the adverse effect of this flood of pornography on society? Currently, venereal disease is pandemic and is the nation's number one communicable disease. Illegitimate births, abortions, and premarital sex have increased beyond comprehension. Homosexuality, lesbianism, and sexual perversions are rampant. And last year, in this country's elementary and high schools, nine thousand young girls were raped.

I ask you, Provo citizens, how much will you take before you fight?
(Podlesny, 1976, p. 58).

Following Podlesny's detailed list of anxieties concerning film content exhibited in Provo, he publicized a county-wide petition currently being distributed to residents. The petition had gathered thousands of citizen signatures that the UCCBML planned to present to the Provo City Commission at their next meeting. Podlesny called for all concerned citizens to "be there" at the meeting, emphasizing that "these days, public decency doesn't happen by accident" (Podlesny, 1976, p. 58). It was a clear "hue and cry" for like-minded citizens, predominately LDS church members, for their support.

It was not clear until significantly later how much the UCCBML's petition efforts that Podlesny mentioned in his editorial involved local LDS church leaders in gathering signatures throughout the campaign. Although Latter-Day Saints' involvement in such political matters might be assumed to occur frequently, such associations are rarely publicized. In a state like Utah, where a substantial portion of the population is influenced by parochial guidance from LDS church leaders, it is challenging to veil the lack of separation of church and state, unlike other areas and other religions (Couvares, 2016, p. 144; Lyons, 2016, p. 280).

Like Robert Steven's year-long, LDS church-sponsored picketing campaign following President Kimball's Conference address, the Utah County Council for Better Movies and Literature too would informally enlist LDS church members for their support. With the encouragement of Fred Podlesny, (former) UCCBML chairman J. Austin Cope started directly recruiting the assistance of LDS church leaders in the immediate aftermath of *The Pom Pom Girls* incident in September 1976. These leaders included LDS Stake Presidents (unpaid spiritual leaders that preside over 8-12 wards/congregations within a geographical area) and Bishops (unpaid spiritual leaders who officiate over those wards within a stake). Each spiritual leader urged and, in some cases, called (a formal spiritual request to commit to and complete a specific duty) their members to gather petition signatures.

When Podlesny was elected chairman in November 1976, these efforts greatly intensified. The UCCBML reportedly addressed thousands of citizens at stake conferences (stake-wide spiritual gatherings with thousands of members), Stake Priesthood meetings (exclusively for male church leadership), and various other groups within church buildings. It was estimated that 6,000-7,000 signatures came through the direct efforts from the wards and stakes in LDS church meetinghouses (Smurthwaite, 1977b, p. 2). As is often the case in parochial societies, the lack of separation of church and state when dealing with such controversial political matters creates questions of ethical misconduct.

Such debates were raised by Provo City Commissioner J. Earl Wignall, an LDS church member but one of the UCCBML's harshest critics. Wignall berated the group and contended that their methods were "an administrative subterfuge to use the Church members" (Smurthwaite, 1977b, p. 2). Provo resident Sharon Murphy also criticized the efforts saying, "The bishop called me in and asked me to take the petition around [the Ward], and I did it

because he was my Bishop. Now I wish I had thought about it and looked into it. It offends me because [the UCCBML] used my good name for their propaganda purposes. It's a subterfuge" (Smurthwaite, 1977b, p. 2).⁷⁶ Concerning the group's tactic to use church members and church meetings to gather signatures and support, Winn Wilcox argued that the LDS church was just one of many groups contacted, including the League of Women Voters. Wilcox also maintained that with so many citizens being LDS, asking them to take a stand on an issue is not a subterfuge as long as politics are left out (Smurthwaite, 1977b, p. 2). As mentioned, the difficulty separating religious motivation from the politics of film regulation is challenging, especially considering the unique nature of BYU culture's influence on Utah County's cultural policies. Such maneuvers can create factions even among those within the Community, resulting in further divisiveness.

Even BYU's *Daily Universe* editorial staff rebuked "over-zealous" church members in the community for using the LDS church to control Provo's anti-smut ordinance (LDS must control zeal on the anti-smut ordinance, 1977, p. 12). The authors cited several examples of societies and communities whose overreach unconstitutionally impeded the rights of other citizens, all in the name of "community standards."⁷⁷ Although not directly named, the film commission proposal, supported by the UCCBML, was questioned for its constitutionality. They examined the absurdity of expecting an entire community to "preserve decency" by mingling church and state and imposing universal standards on movie content (LDS must control zeal on

⁷⁶ Sharon Murphy, the Sunset Neighborhood Chairperson, later rebuked Fred Podlesny in a *Daily Herald* editorial for revealing a conversation between Commission Wignall and himself. Wignall used choice curse words speaking about citizens' autonomy to "watch whatever damn movie they choose," which she resented. She further argued that "President Kimball has urged us to fight pornography, not elected officials," further adding that Podlesny will bring future lawsuits against Provo if he continues to push his unconstitutional measures (Murphy, 1977, p. 11)

⁷⁷ Examples included "Hustler" magazine owner Larry Flynt and an incident of a U.S. customs inspector deeming "Ceiling Sistine Chapel" by Michael Angelo as being "obscene" (LDS must control zeal on the anti-smut ordinance, 1977, p. 12).

the anti-smut ordinance, 1977, p. 12).⁷⁸ Despite such appeals, the LDS church's association and influence on film regulation within Utah County only intensified as opposition from outside forces grew more assertive.

Wilcox and Podlesny's "hue and cry" to gather signatures, and enlist the support of LDS church members, leading up to the Provo City Commissioners meeting on Tuesday, November 16, 1976, had succeeded. Not only were they prepared to present the names of 6,000 Provo residents (30,000+ names from throughout the county), but citizens also overfilled the 250-seat city commission chambers.⁷⁹ Five-hundred citizens jammed into the auditorium filling every available seat. As more residents arrived, they began standing in the back, sitting on the floor, and listening from outside in the halls. Fred Podlesny, ordinance no. 210 author Gary Joslin, former County Attorney Dayle Jeffs, and several others spoke at the meeting. The group presented a 15-page proposal demanding an "Orem type ordinance restricting the types of movies that could be shown in the Provo City limits," including some PG-rated films containing nudity and other "obscenities" (Porno Opponents Seek Tightening of City Laws, 1976, p. 1). The proposal called not only for a similar decency committee as Orem but also forced theater operators to cut from movie prints all scenes deemed pornographic and force the owners to publicize notices that the film had been cut (Gibson, 1976, p. 1).⁸⁰

⁷⁸ Similar criticism of the separation of Church and State in film regulation was common in other regions of the United States throughout the 1960s and early 1970s (Fanning, 2023, p. 78). By the mid-1970s, few other areas debated these issues on such a grand scale as Utah County. Outside of the United States was a different story as areas such as Turkey (Biltereyst, 2013; Mutlu, 2013, p. 131), New Zealand (Guy, 2011, p. 17), Britain (Barber, 2016, p. 587), Spain (Morais, 2017, p. 93), Brazil (Schiff, 1993, p. 469), and India (Kumar, 2018, p. 102) each dealt with issues of separating religion from government and military institutions.

⁷⁹ It was revealed during the proceedings that "many of the signatures were gathered by passing petitions in LDS Church meetings," according to several that spoke at the meeting (Croft, 1976, p. 1).

⁸⁰ Six years later, Orem's Media Review Commission fulfilled this request by publishing details, in *The Daily Herald*, about R-rated and PG-rated film content.

Embodying the role of the voice of the citizens, Podlesny was the first to speak and repeated many of the points expressed in his *Daily Herald* editorial. He ended his remarks by firmly arguing that despite his and other members of the council's efforts in following the protocols of the ordinance by filing complaints to the City Attorney's office, Provo's "system didn't work." Podlesny firmly called for a renewed effort by the city to satisfy the demands of the majority of Provo citizens, especially the citizens in the chamber. To this, Commissioner E. Odell Miner affirmed that the city would look carefully at the proposal but resolutely said, "I disagree with the mob approach" utilized in the meeting (Gibson, 1976, p. 1). Gary Joslin swiftly shouted from the audience that Miner needed to explain the term "mob approach." Caught off guard, Miner attempted to explain his reasoning, but each response was quickly shot down. It was reported that Miner was shouted down "nine or ten times" by angry audience members and eventually gave up trying to explain himself, ironically validating the point of his original assertion. Joslin's actions fulfilled the Prophet's charge to encourage civic leaders to combat obscenity, but it also created palpable contention that stretched throughout the rest of the meeting.

Jan Fasselin spoke on behalf of Plitt Intermountain Theaters concerning their resistance to the city creating and imposing a stricter ordinance. Fasselin, who managed the Paramount Theater in downtown Provo and University Mall Theatre in Orem, said that in most instances, Plitt "goes along with the local ordinance" but only to be respectful to the legal guidelines established by the city. Despite Plitt's compliance to remove films when requested, Fasselin expressed his personal opinion to the boisterous crowd saying, "I think this is totally ridiculous...I don't think that people here understand what pornography means." Addressing the need for more Autonomy and using language that most LDS members would steadfastly

advocate for, Fasselin stated, “It goes right down to the basic principles that there is *free agency* in this world” (Gibson, 1976, p. 1).⁸¹

LDS members fought for the agency of religious freedom for over a century. Yet, the agency for citizens to unadulteratedly decide what films to view consistently challenged the agency of others. Fasselin ended his remarks by stating, “Our company’s lawyers have already advised us that none of the laws are, in effect, constitutional.” He continued, “If any actions are filed against any of the Plitt theaters, the company would have to defend itself” (Gibson, 1976, p. 1). It was a slightly veiled threat that, within a year, would become a discerning statement.

When it was former Utah County Attorney Dayle Jeffs’s turn to speak he stated, “I think we need to go even further than we have gone,” in the fight of obscenity. Still, he agreed with Fasselin’s reservations arguing, “We can’t go about it by [these] means” (Gibson, 1976, p. 1). Jeffs maintained that “We want compliance. We don’t want prosecution,” which city attorneys from Provo and Orem each feared. Jeffs astutely observed that “we don’t want the free advertising that goes with it.” As mentioned, such attention commonly attracts consumer interest in the regulated product due to the media response, even in Utah County by some in BYU culture (Croft, 1976a, p. 1).⁸²

⁸¹ In an interview with Jan Fasselin who emphasized was never LDS, admitted that a BYU student suggested he use the phrase “free agency” as the term was sure to resonate with LDS members (Fasselin interview, 2022).

⁸² At the meeting, Glen Ellis continued his public disagreements with the UCCBML and others that believed Orem’s ordinance was more successful than Provo’s. According to Orem City Attorney Frank Butterfield, Ellis revealed that Orem’s success stemmed from a politically driven meeting between Mayor James Mangum and Orem theater managers where a mutual understanding was arranged. Ellis argued it was not from any power or influence within their ordinance or procedures. He also claimed that Provo’s theaters have cooperated with their legal ordinance procedures, and theaters have historically discontinued showing “obscene” films immediately after receiving complaints from the city. Such backroom meetings allowed city regulators to keep disputes out of the papers and courtrooms. Still, cultural policies, for now, continued to demand ordinances be strictly adhered to.

Before the night was through, Joslin apologized for “introducing a spirit of contention” in the meeting. He explained that his study of pornography rulings was extensive and resented their 15-page proposal being challenged by those whose study had not been as thorough. He also accused the Supreme Court of making “lousy decisions,” maintaining “we’d enjoy taking it to the Supreme Court and “let them know what Provo stands for,” a sentiment that Provo’s elected officials surely did not share (Gibson, 1976, p. 1). It was also revealed during the proceedings, from several in attendance, that many signatures were gathered by passing petitions in LDS Church meetings. This information drew criticism from Commissioner Wignall and others for crossing the boundaries of church and state. (Croft, 1976a, p. 1). Despite protests, no guidelines were placed to discourage the future involvement of LDS church buildings for political canvassing. The impact these 30,000 religiously motivated signatures would have on convincing the city officials to adapt Provo’s ordinance was still undetermined.

Despite the robust supporters hoping to strengthen Provo’s ordinance, Mayor Russell Grange, a prominent LDS church member himself, was ultimately unsympathetic to their demands, partly because of the substantial lobbying at LDS churches. How representative a petition like this was of the wider Provo community was validly questioned. Like Jeffs, Grange also explained the difficult balancing act of finding “something fair and enforceable,” arguing that Provo’s ordinance “is as strong as we could enforce in a court of law” due to citizens’ First Amendment rights (Croft, 1976, p. 1). Grange postponed the meeting until Saturday morning to gather for what he called “a study session” to examine Provo’s ordinance and the proposed new law and pick the best portions. He clarified that a final decision was not to be made Saturday because the city needed “time to study it and let our legal department look at it” (Croft, 1976a, p. 1).

The final determination during the Saturday, November 20, 1976, commission meeting was that the city would conduct a city-wide survey. The survey results were to assist in establishing how many other Provo citizens were willing to join the UCCBML's hue and cry outside of the candid group of 500 citizens that attended the November commissioners meeting or those canvased at LDS meeting houses. It was reported that the commission had a much friendlier crowd than in November because mostly only Provo neighborhood representatives met on December 14, 1976, for a special meeting. Mayor Grange announced that the city would supply the survey to 16,000 homes using the neighborhood representatives and their committees as distributors (Croft, 1976b, p. 2).

City Attorney Glen Ellis announced a new enforcement strategy the city was to begin employing based on Police Chief Swen Nielsen's recommendation. To regulate whether a movie violates Provo's ordinance, an on-duty police officer would now attend the opening screening of all R-rated films rather than solely relying on citizen complaints which Podlesny had fervently criticized.⁸³ Concerning his decision, Nielsen stated, "Until the issue of the committee is resolved, I decided I would take the responsibility of screening R-rated films and filing complaints when necessary" (Woller, 1977a, p. 6).

Nielsen explained that if one of his officers concluded the film violated the ordinance, a judge would view the movie the following day. The owner or theater manager would be asked to remove the film if the judge agreed it was in violation. If they did not, the city attorney could take legal action without concerns of prior restraint (Croft, 1976b, p. 2). Ellis' new regulation method differed from Orem's decency commission as he felt the police officers held some city

⁸³ The City Attorney still relied on citizen complaints on all PG-rated movies. Police officers attending the films were mainly on the tactical unit, which had more downtime than other department branches.

authority and jurisdiction.⁸⁴ Ellis hoped that having an officer view the film could eliminate potential issues in court, but time would soon prove otherwise.

Mayor Grange continued his disinclination towards the methods of the Orem Commission on Public Decency by revealing he viewed the R-rated Sean Connery film *The Next Man* (1976) at Orem's University Mall the night after he had received petitions from the UCCBML against the film, to prevent a potential release in Provo. Surprised that the movie seemed fully intact, Grange spoke to theater manager Jan Fasselin after the movie. Grange discovered the film had not been cut despite having been reviewed by Orem's decency committee before its first exhibition. Fasselin confirmed that he did not comply with the committee's recommendations to make several cuts (Fasselin interview). Thus, no alterations were made to the film. Grange implied that had *The Next Man* played in Provo, it would have violated the city's ordinance, and theater managers then be compelled to comply by editing the film or removing it from the theater. Grange also said he similarly saw *Marathon Man* in Orem after Provo had banned it from Plitt's Paramount Theater and maintained the film was equally as bad as *The Next Man* and the film had also not been cut in any fashion (Croft, 1976b, p. 2). At the time, Fasselin again verified that Plitt International Theaters' standard practice was to refuse to edit films for legal reasons but work to remove a movie upon request of Orem's commission.⁸⁵

In the press, Glen Ellis and former Utah County Attorney Dayle Jeffs continued their public campaign against the UCCBML and Gary Joslin's desire for a stronger ordinance. Jeffs

⁸⁴ In defense of his office's ability to gain cooperation from theater managers, Glen Ellis contended that theaters nearly always remove a film after receiving a complaint. He also boasted that Provo has "had ten times better compliance than any place else in the country" in gaining cooperation from theaters (Croft, 1976, p. 2).

⁸⁵ In a conversation with Jan Fasselin, he argued that films were only removed if they were not doing well at the box office and rarely switched until a new incoming film was scheduled to be exhibited anyway. As history has shown, the longevity of R-rated movies in Orem/Provo usually always depended on the length of the controversies surrounding them. (i.e. *Candy*, *Beyond the Valley of the Dolls*, and later *Looking for Mr. Goodbar*, and *Porky's*).

said of Joslin, “It’s easy to scream that ‘public officials are not enforcing the law,’ but the city has to have a law to stand on.” Speaking for citizen Autonomy, Ellis continued that the city cannot just “prosecute anything that is offensive to us, as the U.S. Supreme Court sets the standards.” Ellis also reported speaking with judges in the Fourth District Court about Orem’s ordinance and that “the judges in our jurisdiction will not enforce an Orem-type ordinance” (Croft, 1976b, p. 2). Such attitudes as Ellis’ on film regulation were common throughout the rest of the United States. Most cities and courts began to stop prosecuting obscenity by the mid-1970s because the Supreme Court’s rulings had made winning them practically impossible, despite religious and conservative political pressure. Despite this, Joslin was irate about the commissions’ lack of support to tighten obscenity restrictions, and unlike others, he would not give up the fight.

Directly after the commission’s December 14 meeting, Gary Joslin filed a grand jury investigation against Glen Ellis and Utah County Attorney Noall Wooton for their “failure to keep dirty movies out of the city” (Grand Jury Probe Asked Regarding Dirty Film Claims, 1976, p. 2). The petition also requested an inquiry into alleged malfeasance, misfeasance, and nonfeasance in dereliction their political duties. After considering the allegations, however, the petition was quickly rejected by all four judges of the Fourth Judicial District Court. They concluded that the allegations did “not constitute a sufficient reason to consider the request at this time further” (Grand Jury Petition Denied, 1976, p. 5). The investigation was based on religious and moral grounds, not legal or political purposes.

Such infighting among those battling obscenity is intriguing, considering Glen Ellis, Noall Wooton, Dayle Jeffs, Russell Grange, and many others questioning Joslin and Podlesny’s methods and fervency were still dedicated to fighting obscenity within Provo City. Each worked

tirelessly to regulate and enforce the city's ordinances and rarely disagreed with Joslin or Podlesny on moral or religious arguments, only on legal ones. Finding a diplomatic solution that satisfied citizens, public decency groups, religious leaders, city regulators, lawyers, theater managers, and many other parties continued confounding political leaders.

In late January 1977, 15,000 surveys were sent to households throughout the city. Each survey contained a copy of Provo's current pornography laws and a questionnaire. The Utah County Council for Better Movies and Literature were reportedly unhappy with the study because, in December, they were promised space on the survey to express their support of forming a Commission on Public Decency. Still, the decision to include them was reversed at the January 1977 commission meeting, potentially in response to Joslin's December grand jury filings. Fred Podlesny criticized the council because "they broke their word" and considered the survey "biased" and nothing more than a "public relations stunt." He further contended that the study was "designed to create opinion, not measure it" (Smurthwaite, 1977a, p. 1).

To ensure the public was aware of the UCCBML's hopes for changes to Provo's ordinances, Podlesny and Winn Wilcox once again publicized the group's stand by writing an op-ed published in *The Daily Herald*. They proposed two ideas that they argued could "help make Provo's anti-obscenity law work." First, they shared with the public their desire for a 9-member Orem-like public decency board to review and report findings to city officials. They described the commission as "a fact-gathering body and would have no censorship powers" (Podlesny, 1977, p. 21). Secondly, they proposed harsh penalties for theater managers and operators that willfully violated the ordinance. Disseminating another "hue and cry," Podlesny and Wilcox implored residents to ask their neighborhood chairman for a copy of the poll to encourage the city to conform to the people's will.

As part of their efforts, Podlesny also participated in a televised debate with Plitt Theaters co-owner Edward Plitt, theatrical distributor Ed Brinn, and obscenity lawyer Rick Green.

Podlesny and others, primarily associated with the LDS church, had moved their sights beyond Utah County by supporting the development of a state film licensing board bill sponsored by Orem Congressman Dean Jeffs. The bill proposed a three-member panel to license all public films shown in Utah, using the same procedures as Maryland, the last remaining state film regulatory board still in existence.⁸⁶ Podlesny felt films could be adequately regulated in Utah County with a state-run licensing panel and city regulatory boards.

Others unanimously accused Podlesny in the debate of trying to “kill an ant with a sledgehammer” with such drastic measures. Plitt argued, for example, that such a proposal would cost its firm an estimated \$7,000 to \$10,000 a year to comply. Brinn, too felt that additional regulation would “cause delays and expenses that would put many Utah operators out of business” (Censorship Decried by Film Owner, 1977, p. 33).⁸⁷

Despite consistent pushback from city officials, under Podlesny’s steadfast direction, members of the UCCBML had worked tirelessly to gather signatures and support for better enforcing the county’s obscenity ordinances based on the religious standards of the area. The

⁸⁶ Every state with a state-run film censorship panel was dissolved by 1968 when the MPAA rating system was established, except Maryland.

1. Ohio Board of Censors (1914-1955)
2. Pennsylvania State Board of Censors (1914-1956; 1959-1961)
3. New York State Censorship Board (1921-1965)
4. Kansas State Board of Review (1915-1966)
5. Massachusetts Commissioner of Public Safety (1955-1967)
6. Virginia State Board of Censors (1922-1968)
7. Maryland State Board of Censors (1916-1981)

Maryland’s censorship procedures were upheld by the Supreme Court in 1965. Their censorship board did not dissolve until 1981 when the board’s license expired as a result of a “sunset law,” meant to rid Maryland of outdated state agencies (Franklin, 1981, p. A13).

⁸⁷ A bill proposing a three-member panel to license all public films shown in Utah was eventually vetoed by Utah Governor Scott Matheson, who stated, “I believe in local, vigorous control” (Porno control preferred local, 1977, p. 2).

group hoped Podlesny's strategic publicity, and efforts of other LDS members, along with the survey results, were enough to coerce Mayor Russell Grange and both commission members into acquiescing to the will of the strident majority, based on their Prophet's hue and call.

The Case of *The Sentinel*

City Attorney Glen Ellis' new protocol of assigning police officers to attend the first screening of all R-rated films to review and report on a film's content went into effect at the beginning of 1977. By February, the new practice was considered successful when the movie *The Sentinel* (1977) was reviewed, rejected, and replaced at Provo's Unita Theater using tactical political moves based on BYU culture. The events surrounding the regulatory action taken against the film were chronicled in BYU's Monday Magazine and recounted using rare precise details. The incidents present a case study of Provo's often mysterious regulatory protocols following their December 1976 revisions, which Ellis preferred to keep behind the scenes and out of the papers. The events provide clear examples of the interplay of Community, Divinity, politics, and cultural policies.

Officer Randy Johnson was assigned to review and report on *The Sentinel* from Universal Pictures, which opened at Plitt's Unita Theater on Friday, February 11, 1977. As a member of Provo's police tactical force, Johnson, and other squad members, took turns attending R-rated films playing in Provo theaters to assess whether the movie violated the city's obscenity ordinances. Such screenings went beyond entertainment, as officers were given a form with a checklist of items to track. These included the film's title, an estimated number of patrons in attendance, a brief synopsis, and detailed descriptions of the film's content.

According to Johnson’s report, he described *The Sentinel* as a movie “about a person chosen to guard the gates of hell and the choosing of a new sentinel as the old one was dying” (Woller, 1977a, p. 6). He also provided a 126-word description of the sex and nudity in the movie, which includes several scenes of “aberrant” sexual activity involving an octogenarian, two middle-aged topless women, and later bestiality. The question, “Does the movie appeal to the prurient interest?” was checked “yes” on his form (Woller, 1977a, p. 6).

The report was provided to Officer Johnson’s supervisors at the city the next day.⁸⁸ Provo City Judge J. Gordon Knudsen attended and reviewed the film Wednesday and found it “worthless” and “full of gore.” Knudsen, a member of the LDS faith, also reported to the city attorney that he felt one sex “scene fell within the ordinance’s prohibitions” (Woller, 1977a, p. 6). Upon confirmation of the judge’s decision, Glen Ellis immediately contacted Uinta Theater owner Henry G. Plitt in California, who agreed to remove *The Sentinel* as soon as possible.

Boasting Provo’s record of working with theater managers, Ellis stated, “We have 100 percent compliance with the law” from theaters. “When a violation is brought to their attention, the managers either cut the offensive scenes or move the film out of town.” Mann Theaters manager Nolan Hartley agreed with Ellis that “when asked to change movies, we change them.” Regarding the incident and the city’s regulations, Plitt theater manager Jan Fasselin said, “The

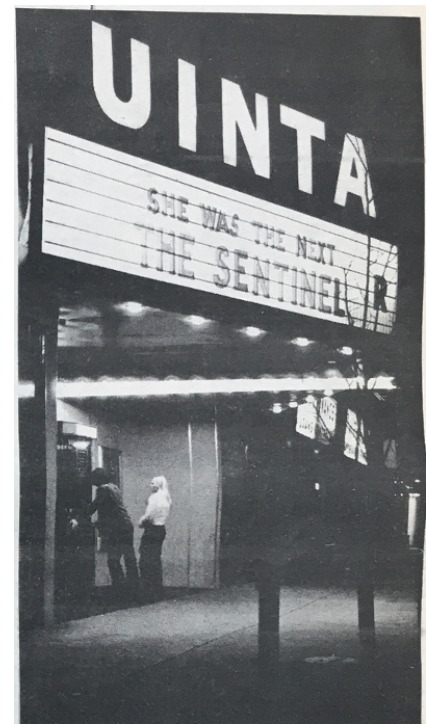


Figure 11 – The Uinta Theater (Provo) Marquee

⁸⁸ Due to a clerical error, the report did not reach the city attorney’s office until Wednesday afternoon.

laws are kind of an inconvenience, but we like to cooperate.” In the case of *The Sentinel*, however, the film was not a success at the box office in Provo or anywhere, and Plitt was likely quite content in obliging the request. *The Sentinel* was “removed” from the screen when scheduled initially on Friday, February 18th. As the film’s removal was not legally challenged or publicized until after its expulsion, it is difficult to predict what other business “Utah culture” might have aroused. It is also hard to consider the removal of the film from Plitt theaters to be a “victory,” as described by Ellis. Still, it demonstrates that the politics behind enforcing the ordinance worked, appeasing religious and conservative members of the community (Woller, 1977a, p. 7).

Changing a film schedule is an arduous task that takes planning and time. Knowing this, Fred Podlesny continued to sharply criticize Ellis’ procedures lamenting, “How many hundreds of people will see the film before action is taken?” Like the Orem Commission on Public Decency, Podlesny contended, “We need to give the theaters a chance to cut the films before they show them once.” Such policies of regulation and editing were standard not just in Orem but also a BYU’s Varsity Theater, where every film was reviewed by a committee and edited before the exhibition on campus beginning in 1969. Unlike BYU, where audiences choose to attend a movie that was edited, however, Podlesny’s ordinance disregarded the Autonomy of those choosing to attend. Speaking in direct contrast to Podlesny’s philosophies surrounding choice, Mayor Grange said, “We cannot impose our personal views on all 60,000 residents of Provo” (Woller, 1977a, p. 7). Grange’s statement is significant considering his use of “our.” The use of “our personal views” can easily be construed as “our religion,” “our culture,” and even the majority of “our community,” with “imposing” also implying the political nature of such an imposition on non-LDS church members.

Grange and other city leaders also emphasized the importance of the city's ordinances complying with the standards set by the U.S. Supreme Court, stating, "We have to work within the law too." About this concern, E. Odell Miner joined Wignall and Grange in expressing three reasons why he felt Podlesny's film panel proposal could not work after discussing the matter with legal experts. Miner explained that first, he is "afraid the committee might constitute prior restraint" should a case go to court. Second, from a religious, spiritual, and moral standpoint, he "could not think of anyone [he] would want to subject to the unpleasant task of seeing the dirty movies." Lastly, Miner felt that what is obscene "should be in the hands of the citizens who see and are offended by the films" and not a panel of individuals looking for something to be offended by (Woller, 1977a, p. 21). However, the city leaders would wait to decide until the survey results were in.

Despite a delay in *The Sentinel's* regulatory process, the incident was a success. It proved to Glen Ellis and Mayor Grange that the current system (with an amalgamation of influences within community, Divinity, and politics) operated effectively. Thus, the changes the UCCBML desired to impose were considered unnecessary. Repeated requests from the city to edit or remove films at Plitt Theaters also created tensions between them as making such accommodations were becoming burdensome. These events were just a precursor to a similar incident that, by the end of the year, led to one of the most significant court battles over theatrical obscenity that Provo would have with the forthcoming release of *Looking for Mr. Goodbar* (discussed in Chapter 4).

Survey Results and the Final Straw

With much anticipation, it was finally announced that the survey results would be released during the February 22, 1977, Commissioner's meeting. At the meeting, it was revealed

that the poll overwhelmingly supported further anti-pornography efforts, with 731 out of 1,108 (66%) respondents wanting more regulation. Podlesny was also delighted that the survey showed that 490 respondents wanted to see the establishment of a public decency committee. Only thirty-five (barely 3% of respondents) said they would like fewer efforts directed against film obscenity and pornography (Woller, 1977b, p. 1). The survey verified the power of BYU culture and the dominant force Divinity could have in political surveys for the community. The results overwhelmingly showed that most citizens (engaged enough in the issue to fill out and return the study) supported further regulation, in some cases likely due to religious guidance. For Fred Podlesny and the UCCBML, the results validated their work with Divinity triumphing over Autonomy. Despite the survey only showing that thirty-five residents preferred fewer efforts in regulation, each has First Amendment protections that are violated when an individual's agency is obstructed. What percentage of a community must desire constitutional rights before being granted agency or Autonomy?

Despite roughly half of Provo residents supporting the creation of a citizen-led regulatory commission, in the end, none of the chairpersons strongly endorsed Podlesny's proposal. On the one side, most of the neighborhood leaders agreed with Little Rock Canyon chairman J. Guy Glead's religious and moral sentiment that, "Frankly, I for one, would not want to serve on that committee and see all that junk" (Woller, 1977c, p. 1).⁸⁹ On the political side, William Bullock, chairman of the Wasatch neighborhood, felt that such a panel would take responsibility away from theater managers to self-control their own film obscenity. Bullock did, however, echo the

⁸⁹ An area that deserves further academic exploration is an analysis of religious or conservative individuals' challenges in reviewing films against their morals. Many members of the OCPD, including Linda Campbell and Stephen West, spoke of the struggle it was to "subject themselves" to view R-rated movies with "obscene" content. Early PCA administrator James Joyce also struggled with his role as a moral censor as it subjected him to content he considered immoral (Vanderham, 2016).

UCCBML’s proposal that the penalty for pornography should be amended. Instead of revoking a business license, Bullock proposed that theater managers be tried by jury for infractions of the pornography statutes. “Let’s make the penalty so severe that the managers can’t afford not to comply,” he said, suggesting that the managers be fined \$299 for each person who saw a film that violated the pornography law. (Woller, 1977b, p. 1). Ten out of fifteen of the neighborhood chairmen agreed that more responsibility should be placed on the theater managers to control obscenity contained in movies at their theaters. Such responsibility does offer managers more choices than being coerced, but at what cost to their business?

In response to the proposed measures against theater managers, Marvin Cox, owner of the Pioneer Drive-In, reiterated a similar concern to Ed Plitt and Ed Brinn at Podlesny’s debate. Cox responded, “It seems to me there’s a drive to run the theaters out of business,” a valid concern considering the result of Robert Steven’s earlier theater picket campaigns. Cox continued, “I turn down pictures daily only to see them play somewhere else in the county. You are as bad as we are if we show a pornographic movie, and then you run us out of business unconstitutionally” (Poll Tends to Back Porno

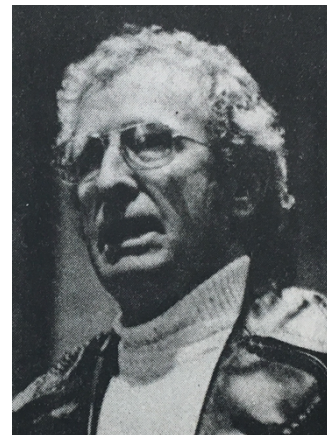


Figure 12 – Pioneer Drive-In owner and manager Marvin Cox

Law,” 1977, p. 3; Woller, 1977b, p. 1). Marvin Cox, also a member of the LDS faith, consistently made a passionate plea for a free market of theatrically exhibited movies in Provo. This paralleled an ongoing concern that such strict regulation (based so heavily on Divinity) hurts not just the Autonomy of the movie-going audience but theaters in Provo and Orem, in general, as theaters in surrounding cities significantly benefited monetarily by exhibiting films banned elsewhere.

Fred Podlesny's hope for a Provo screening panel was dashed, yet again, when Utah Attorney General Michael L. Deamer expressed his opinion on the matter based on materials sent to him by the UCCBML. Deamer's opinion stated, "It is my impression that the proposal as drafted would not be upheld in a court of law as constitutional." He continued, "You have to overcome the problem of 'void for vagueness' and 'prior restraint' on First Amendment rights" (Woller, 1977d, p. 1). When relying solely on Divinity to make political decisions for an entire region, it is difficult to "overcome the problem of...First Amendment Rights." Despite these rights, for Podlesny, this was the final straw. He believed Ellis was "too timid in enforcing the law" and that Provo needed stronger leaders to encourage him and others to take action (Woller, 1977a, p. 21). If city officials would not enact procedures to enforce the regulation the Prophet (Divinity) had commanded, then another way must be devised, even if he had to run for city office to try and achieve it.

Fred Podlesny for City Commissioner - The Ballad of Fred and Jim

Frederick Podlesny had finally had enough. He and other members of the UCCBML had spent countless hours as moral guardians for their communities in Utah County. Still, they felt their efforts were irrationally thwarted by members of their faith in city leadership each time, especially in Provo. So, on July 14, 1977, Podlesny formally announced his bid for one of Provo's two city commissioners. Podlesny felt Provo City needed a commissioner courageous enough to enact and enforce pornography ordinances closer to the guidelines advocated by the leadership of the LDS church. He felt his endeavors were for the moral benefit of the entire community because, if elected, he would strictly adhere to the obscenity ordinances already on the books and then work to strengthen them. Such regulation results, however, limit the

Autotomy of other citizens and restrain their First Amendment protections in choosing the media they want to view.

According to acquaintances of Podlesny, he had initially considered running for mayor of Provo. Eventually, he decided to run for city commissioner after a long-time political rival announced his ambition to become mayor of Provo. Although a political rematch between the two rivals was purposely avoided, their political platforms offer an intriguing dichotomy of approaches to media and a look at the future of regulation in Utah County.

As mentioned, this was not the first time Podlesny had run for political office. This was also not the first time he had campaigned at the same time as fellow BYU graduate Jim

Ferguson, who was one of the rare 2-5% of non-member students that enroll at Brigham Young University each year (Bergera, 2013; Eyre, 2019). In April 1969, both were candidates for the Associated Students of BYU (ASBYU), competing to be president



Figure 13 – James E. Ferguson (ASBYU student relations ad)

of student relations (Duncan, 1969, p. 2).⁹⁰ BYU students, like most universities, run for student office for such positions as president, organization, student relations, and activities. Candidates are voted upon by their fellow students. The April ticket for president of student relations included, in alphabetic order, Mike Edmunds, Jim Ferguson, Nick Horn, and Frederick Podlesny (Candidates In ASBYU Primary Elections, *Daily Universe*, April 17, 1969, p. 2). Ferguson had previously been an executive assistant in the ASBYU Student Relations office, was already well-liked, and was acquainted with the duties of the office (Sock It To ‘Em Baby, 1969, p. 1).

⁹⁰ The Associated Students of BYU (ASBYU) is BYU’s student government.

When the preliminary election results were announced, Podlesny lost the chance to be on the final ticket by a mere twenty-six votes (Geissler, 1969, p. 1). Podlesny was not pleased with the result and blamed his election loss on the order of the pictures of the candidates published in the *Daily Universe* (Podlesny, 1970, p. 4). Being the last pictured, he felt that future elections should have a drawing to determine the order of the images and names on election information articles to provide more equity. A recommendation that he also suggested for his bid for Provo City Commissioner. For now, Fred and Jim both had aspirations for high offices in Provo City's leadership.

Podlesny hoped to take control of E. Odell Miner's seat, who had spoken against the UCCBML's "mob approach" at Provo's November 1976 commissioners meeting. Although Miner originally announced he would run for re-election, he withdrew from the race in September, citing his departure as being for a job opportunity (Provo Filing Deadline Near, 1977, p. 35). Perhaps contributing to this decision, the UCCBML had actively protested his reappointment throughout 1977 because of his inaction in enforcing the city's obscenity ordinances. In a prepared statement to the press, Podlesny announced his central platform would be amending City Ordinance No. 396 to "put more responsibility on the exhibitors of films." The ordinance currently allowed a grace period in which a film could be exhibited until a city judge could determine if a movie was obscene. This was an extension that Podlesny wanted to eliminate as he believed watching "obscene" content spiritually degraded the morality or spirit of anyone exposed to it before being removed, following a judge's order (Anti-Pornography leader declares city candidacy, 1977, p. 1).

Throughout several political debates leading to the primary elections scheduled for Tuesday, October 12, 1977, Fred Podlesny endorsed his platform for tightening pornography

laws in Provo. While other candidates canvased to repair Provo’s shrinking tax base, low-income housing, and the need for new city libraries, and an expanded airport, Podlesny stuck closely to Divinity, with a desire for “a stronger anti-pornography law.” (Allen, 1977, p. 1). Secondarily to his central platform, he did join others in supporting the importance of “practicing frugality in city government.”

In October 1977, Podlesny began publishing political ads in *The Daily Herald* and other local papers. One quarter-page ad presented a picture of Podlesny warmly smiling in a suit.

Surrounded by legal texts on a shelf, Podlesny looked like a future politician. After his experiences in previous debates, the ad highlighted two platforms, “pornography” and the “economy.”

Concerning pornography, the ad stated, “National standards of decency are deteriorating. And Provo hasn’t escaped. In the last four years, Provo theaters have shown nearly 200 R-rated films to primarily young audiences. And not just the viewers are affected.

The influence of pornography can spread outward from them to other young people in our community. Provo needs a strong anti-pornography law and city officials who will enforce it. Elect Fred

Podlesny commissioner. He’ll fight pornography! – Paid For By Podlesny for Commissioner Committee (Podlesny Political Ad 1,

1977a, p. 3; Podlesny Political Ad 2, 1977b, p. 3).⁹¹ Throughout

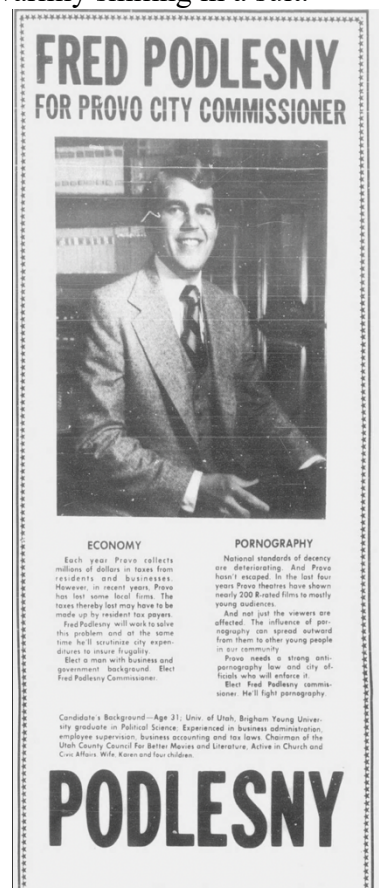


Figure 14 - Frederick Podlesny – Provo City Commissioner political advertisement

⁹¹ In another ad, Podlesny included an image of a hand-written note directed to potential voters. The letter stated, Dear Friends, I wish to thank the many persons who support my candidacy. I want you to know that I earnestly believe that promises made should be faithfully kept. In that spirit, I pledge to you that upon election, I will work to hold your taxes down and strengthen Provo’s anti-pornography law. I bring years of practical business experience and education in government to this office. Sincerely, Fred Podlesny.

history, politicians often promoted anti-obscenity ordinances as part of their campaigns to attract supporters, especially conservative voters (Strub, 2013, p. 7).⁹² While many of Podlesny's political opponents were also LDS with similar values, Podlesny had invested most of his campaign based on his impassioned religious principles on media.

Shortly before the primary election, Podlesny shared his unwavering commitment against obscenity by arguing its prohibition for society's temporal and spiritual betterment. To affirm this paradigm Podlesny frequently quoted, "America is great because America is good. If it ceases to be good, it ceases to be great" (Roberts, 1977, p. 3). His statement encapsulates not only his views on Utah County society but also a construct for what America needs to do to be considered a "good" and "moral" society. The necessity for spiritual perfection by eliminating obscenity from movie screens for America to be "great" is also a remnant of BYU culture that often expects the same moral aptitude of the majority for everyone within the community. Ralph D. Lassiter, a friend of Podlesny's and resident of Provo, championed him for "his desire to keep filth off the streets." Lassiter cited Podlesny's activity in the "church, community, and civic affairs" as his rationale for how he would demonstrate the integrity the community needed if elected (Lassiter, 1977, p. 16). As has been discussed, it is challenging to separate Podlesny's actions from his church and political ambitions from moralizing within his community.

In the Thursday, October 6, 1977, edition of *The Daily Herald*, an entire page was dedicated to exploring the platforms of the six candidates running for Provo city commissioner. The informational article featured a large photo of each candidate prominently displayed at the top of the page. This was followed by a long column of information based on each candidate's

⁹² Anti-obscenity political reform was widespread for women at the turn of the century leading to the establishment of the Production Code (Wheeler, 2004, p. 2 & 4).

responses to the same questions concerning their stand on issues and policies. Frederick S. Podlesny was featured first, which is unsurprising considering his belief that candidates whose names are featured earlier on such balloting resources result in higher vote counts. Podlesny was followed by Israel C. Heaton, Richard Valgardson, Charles A. Henson, Anagene Meecham, and Stanley G. Brown.⁹³ Due to Podlesny's strong opinions on the topic of fighting obscenity, not only did *he* express his feelings on the subject, but each candidate was also queried concerning their stand and plan of action on the issue. Where most candidates spent 3-5 sentences expressing their thoughts, Podlesny spent three paragraphs conveying his plans to battle film obscenity. Similar to his previous statements, Podlesny focused on the inadequacies of Provo's current ordinance that permits theater managers to exhibit obscenity without fear of prosecution. He also supported a Utah Supreme Court Chief Justice who opined that the UCCBML's proposed new ordinance was "constitutional" (Roberts, 1977, p. 5).

Each candidate's views encompassed elements of BYU culture and aligned with the cultural policies standard in Provo's obscenity regulation. Heaton, for example, agreed with Podlesny when questioning Provo's reputation for having "one of the best, most enforceable pornography laws." He argued that if the city does everything the law calls for, "then it doesn't call for enough." Meecham spoke about the nation's failure to uphold moral standards and expressed the need for citizens to join groups to formulate and enforce stronger antipornography laws." Not all of the candidates supported these views. Valgardson felt that, yes, the law corresponded with the moral standards of the area, but worried about "some of the constitutional problems with the rights of other people." Brown contended that "parents should carry the

⁹³ It is unclear if the name order was determined by drawing numbers or another such method or if Podlesny requested/demanded to be featured first based on his belief that candidates whose names appear earlier have a better chance of winning elections.

responsibility of scrutinizing the [film] viewing of their children,” not the city. Lastly, Henson questioned the law’s ability to hold up in court, because, as of now, the ordinance had only worked because theater managers “voluntarily comply with the ordinance” (Roberts, 1977, p. 5).

Podlesny ended his interview by stating, “Where men take a strong stand, they will succeed more so than someone who doesn’t fight,” a statement that could be argued to describe Utah County’s battle, for Divinity and “his” Community, against “obscenity” from the beginning. Not only did they have men and women willing to continue to fight, but they also had cultural policies that conserved regional film regulation longer than other areas of the nation. Where other regions may have had citizens desiring more strict film regulation, few had communities like Utah County with strong spiritual, political, and cultural policies that theaters voluntarily complied with.

Fred Podlesny had dedicated much of his campaign to his aggressive anti-obscenity platform. The primary election results, however, conveyed whether Provo residents felt as strongly as he did concerning the city’s need for stronger film regulation. When all the votes were counted, Fred Podlesny not only lost the primary bid but also received fewer votes than all six of the other candidates. Out of 6,863 votes, Podlesny received 341 votes, securing only 4.9% of the total. This indicated that an anti-obscenity platform alone was insufficient to convince voters. In good spirits, after the primary election, Podlesny wrote a letter to the editor of *The Daily Herald*. For the first time in years, his published words did not mention his fight against pornography. Instead, he thanked those that supported his candidacy and expressed the valuable experience of having the freedom to run for public office. Finally, he rallied the support of the candidates for mayor and commissioner, reminding voters that they would be controlling the

office for the next four years. Not mentioning his rivals Ferguson or Grange by name, it is unclear whom he most desired to fill the mayoral seat.

Although Podlesny felt his campaign more strongly aligned with LDS church members and the church's institutional guidelines on film obscenity regulation, he found that despite his declarations for help in his fight, few answered his hue and cry. With this political loss and the upcoming completion of his time as chairman of the UCCBML, regulation in Provo had an uncertain future. Although Podlesny had lost his chance at becoming city commissioner, his rival Jim Ferguson did win his primary election to challenge Russell Grange on November's ballot for Provo City mayor.

Jim Ferguson for Mayor

James E. Ferguson (Jim) adamantly felt that Provo's present mayor and commissioners were "lacking the type of leadership necessary to handle the problems facing Provo" and, as a member of the community, aspired to be the one to make those changes (Allen, 1977, p. 4). A native of Palestine, Illinois, and father of four children, Ferguson graduated from BYU in Psychology in 1969 but worked in business and advertising after graduating. Unbeknownst to many at BYU and in the community, Ferguson was not a member of the LDS church. Despite never hiding this detail about himself, reporters widely publicized it upon announcing his candidacy. Ferguson defended his non-member status by saying, "Although I'm not LDS, I chose BYU because of its standards." He continued, "There are good people with LDS standards who are not LDS." As a religious "outsider," Ferguson's campaign offered the potential for more Autonomy for film viewers as Ferguson fought to be Provo's first non-LDS mayor.

Ferguson's status as an "outsider" was used against him throughout the campaign, demonstrating that although technically a part of the "community," inquiries concerning his

loyalty to BYU culture and LDS Divinity were persistently questioned. This was especially true in allegations that a vote for Jim was a vote for “obscenity” from residents and his challengers. Despite Ferguson’s firm belief in Christian family values, Ferguson lamented that “religion has been used against me by my opponent,” the mayoral incumbent Russell Grange. Mayor Grange was also a father of four but was much older and far more politically experienced than Ferguson, having graduated from BYU in Business Administration in 1946. Where Ferguson seemingly had to prove his moral aptitude to the press and citizens of Provo, Grange, being LDS, did little to prove his principles. Grange used his affiliation with the church and past anti-pornography efforts to confirm his clean record. This is intriguing as many, including Podlesny, consistently questioned Grange’s commitment to ridding film obscenity in Provo. Grange instead accused Ferguson of being a potential gateway to Provo’s moral abyss if he were to be elected (Bean, 1977, p. 1).

When questioned whether he was committed to the “standards of the community,” including fighting film obscenity, Ferguson responded, “Of course, or I wouldn’t have lived here for the past 12 years. This is my home and the home of my children” (Bean, 1977, p. 1). Speaking specifically on Provo’s obscenity battle, Jim quelled rumors concerning his stand on pornography. Ferguson, in a conversation with a leader from the UCCBML, presumed Podlesny, related that “the person said a vote for me would open the flood gates of pornography. Nothing could be farther from the truth. And even if it was the truth, it would be political suicide to feel that way and continue to live in Provo” (Bean, 1977, p. 1). Ferguson’s revelations concerning such opposition speak strongly concerning the area’s cultural policies and resistance to religious outsiders, especially when their attitudes might not fully align with church guidelines.

Jan Ferguson, Jim's wife, was always quick to defend her husband against those that questioned his standards. Despite not being an LDS member, she often pointed out that Jim was an LDS Sunday School teacher while attending BYU. Jan also expressed that "from his appearance and ideals, many people believe he is a returned missionary; when we were canvassing, one woman said she admired him very much. But in her next breath, she was concerned that since he wasn't LDS, he would not have LDS ideals and reflect the principles of the community. Nothing could be further from the truth." (Bean, 1977, p. 4).⁹⁴ The close correlations between religion and politics in Utah County are often difficult to distinguish. Ferguson consistently said that he regretted having his religious principles "intermingled with political views during the campaign."

However, the "intermingling" of religion and politics was not mutually exclusive between candidates. While both Ferguson and Grange were interviewed for in-depth interviews published in *The Daily Herald*, only Ferguson was interrogated concerning his religious views, with almost every paragraph focused on his moral character. In contrast, a two-line story concerning an LDS "Sunday School" lesson was all Grange needed to establish his religious credentials (Allen, 1976, p. 1). Speaking against the backlash from Grange throughout the campaign, Jim said, "My religious views and principles are more important to me than this political campaign," adding that "the two should not be mixed" (Allen, 1976, p. 4). The mixing of morals and politics was the standard in Provo, not the exception, and it was unclear how a vote for Ferguson might change this.

⁹⁴ Several individuals interviewed for this project, who knew Jim Ferguson, mentioned the uncanny resemblance of looking and acting like an LDS missionary, or in most cases, the assumption that he was a member of the Church of Jesus Christ of Latter-day Saints.

When the final election results arrived on November 8, 1977, Jim Ferguson beat his incumbent opponent Russell Grange by roughly 1300 votes. (Election results encouraging, 1977, p. 1).⁹⁵ *The Daily Universe*'s frontpage headline announced, "The People's Choice? Change!" when announcing Ferguson's upset victory.⁹⁶ Ferguson, when asked about his rivalry with Grange, only humbly conveyed, "I've tried to be cordial, but sometimes relationships were strained" (Page, 1977, p. 2).⁹⁷ What was not clear was how relationships with members of the UCCBML might also be affected.⁹⁸



Figure 15 – Provo Mayor Jim Ferguson with City Commissioner Analgene Meecham

The future of Provo's battle over obscenity was now in the hands of a mayor who, although asserted to have LDS standards, proved to have different views on media than his other political incumbents. Where Utah County's unique BYU cultural heritage of clean media was often infused in lifelong residents, such views were not always a priority for those born outside

⁹⁵ Ferguson votes 5,764 (56.7%) – Grange votes 4,452 (43.2%) – with only 20% of Provo's registered voters casting a ballot (Election results encouraging, 1977, p. 1).

⁹⁶ Anagene Meecham's victory over favored candidate Israel Heaton was another sign that Provo residents were looking for "change."

⁹⁷ Ferguson, who studied Psychology at BYU, once again won a bid for political office, an achievement that Fred Podlesny had not yet attained, despite his studies in political science. Podlesny's losses were perhaps more of a reflection of residents' changing opinions on media and a vote for change, more than his ability to run a successful campaign. Recalling an interaction with Podlesny years after the 1977 elections, Ferguson implied that Podlesny still had hard feelings against him for reasons unclear to him. Ferguson also discovered that Podlesny had changed his name and planned to move out of state. Although not confirmed, it is assumed his last name was changed to be earlier in the alphabet.

⁹⁸ One of the main things that Jim Ferguson brought Provo was a strong connection to BYU. Ferguson had long supported the university and promised to lend an ear to all students and administrators who wanted to "approach city government on subjects of interest to them." Ferguson himself said, "We're all one community, and if there have been any hard feelings, I hope that have all been forgotten. I will do my part to open up the channels of communication between BYU and Provo" (Page, 1977, p. 2).

of it. This was especially true for non-LDS individuals. The parochial views on obscenity based on LDS church teachings were still strong. Still, time would tell how diligently film regulation under Ferguson would be fought without someone like Podlesny championing and overseeing film obscenity with Provo's city leadership.

Conclusion

The late 1970s was far from the last time that Utah County's cultural policies created legal and political tensions. After BYU ceased editing films at the Varsity Theater in 1998, film sanitization companies like CleanFlicks (VHS) and ClearPlay (DVD) began providing viewers opportunities to view edited mainstream films at home, in part, based on individuals' adhering to principles of Divinity (Scahill, 2011, p. 69). Organizations, including the Director's Guild of America and the Hollywood studios, felt such alterations violated their artistic and ownership rights and sued these companies for copyright infringement (Jordan, 2007, p. 27). Through political maneuvers, with the assistance of politicians like Utah Senator Orrin Hatch, the *Family Entertainment and Copyright Act 2005* was signed into law by President George W. Bush (Entertainment, 2005, p. 119; United States, 2005, p. 1). The act legally permitted film sanitization as long as "fixed copies" were not produced (Pillai, 2006, p. 339). These political and legal fights demonstrate the fervor and lasting impact that Utah County's cultural policies had not only in the 1970s but the events leading to today's sanitization industry.

The thin line between Community, Divinity, and politics can lead to friction between these groups. The demonstration of these cultural policies based on politics and the need for more support from students at BYU reveals how the amalgamation of these factors contradicts the Autonomy of some residents within the community. As was clear from the beginning of editing at the Varsity Theater, students and other citizens, despite their moral upbringing, often

desire to see films unaltered, especially when controversy arises. The “hue and cry” of some LDS church members, based on their Prophet’s guidance to fight against materials considered pornographic, demonstrated the problematic nature of coalescing the gaps between them. Picket campaigns and gathering signatures for political support were critical examples of blurring the lines between religion and politics to monitor the community's morals. Despite the youth frequently being the laborers of these pickets, ironically BYU students and other youth were the most likely demographic to attend films containing “obscenity.” Notwithstanding the overwhelming support of 30,000 county signatures and a 66% majority of Provo residents wanting strengthened film regulation, political leaders resisted intensifying restrictions to not impose the personal views of the vocal majority “on all 60,000 residents of Provo.” But still, the battle raged on.

Regulation committees in both Orem and Provo were slowly losing power and control over theater owners and managers. Where once small and locally owned independent theaters could easily be coerced by Utah County regulators, many of these theaters and drive-ins closed or were sold due to sluggish box office receipts. As national syndicates acquired and built theaters, such as Mann and Plitt International Inc., they were not as willing to edit or ban films without a fight, despite expressing cooperation publicly. It was a matter of how soon, not when, a nationally syndicated theater chain decided to challenge such regulation.

With Fred Podlesny’s anti-pornography platform significantly being rejected by voters, the tide against obscenity had changed. On the surface, it appeared that the citizens of Provo were no longer interested in regulating theatrical films within the city. However, within months of the election, Provo and its citizens engaged in one of the most heated and controversial battles over obscenity in the city’s history. The UCCBML and Podlesny may have lost a battle in their

quest against obscenity, but the war raged following the November elections. With Russell Grange and E. Odell Miner set to leave the office at the end of the year, the duo's once-conservative stance on prosecuting distributors, theaters, and theater managers was also soon to change. A "hue and cry" by a Provo police detective and the city attorneys left incoming mayor Jim Ferguson and other city leaders in a difficult position on how to move forward best.

Chapter 4

FIGHTING FOR MR. GOODBAR: THE TRIALS OVER “AUTONOMY” IN UTAH COUNTY

(1977-1978)

By the winter of 1976, Provo, Utah, encountered significant struggles in the battle over obscenity within the Community. City officials found it increasingly challenging to hold major theater chains accountable to the city’s obscenity ordinances, with some national theater chains beginning to contest the removal of films or requests for edits. The Utah County Council for Better Movies and Literature (UCCBML) was also frustrated by the ordinance's inadequate enforcement, as theatrical licenses were not being revoked or fines imposed for incompliance. UCCBML leader Fred Podlesny, whose central platform was to reform and strictly regulate obscenity within the city, had also just lost his controversial bid for Provo City Commissioner. Jim Ferguson, a non-Mormon BYU graduate (and Podlesny rival), won the mayoral seat set to begin in January 1978. Amid these struggles, Ferguson and other Provo city officials encountered the most publicized and contentious legal conflict over theatrical obscenity in Utah County’s history. Until now, communities in the region seemingly had the advantage in this battle as they had been relatively unchallenged in the courts due to theater owners’ and managers’ previous compliance. However, the question of whether a community’s moral standards can override the First Amendment rights of other citizens was about to be tested with the release of Paramount Pictures *Looking for Mr. Goodbar* (1977) in Provo.

The historical accounts analyzed in this chapter are the battles and trials over “Autonomy” in Utah County. Each of the several parties examined in this chapter, either for or

against the release of *Looking for Mr. Goodbar*, viewed the concept of Autonomy differently than the others. Lene-Arnett Jensen described Autonomy as an individual's (or group's) needs, desires, and preferences and someone who believes in being free to make choices with few limits (Jensen, 2011, p. 448). While others have added that Autonomy should include an "interest in equality" and not "encroaching on others' privileges," this generally requires nebulous arbitrations of what is equitable, impartial, and proper (DiBianca, 2018, p. 1657). For example, individuals outside a Community, as analyzed throughout much of this dissertation, argue for the Constitutional rights afforded them by the First Amendment. Others, like those influenced by BYU culture, were seeking Autonomy based on religious and societal freedoms to maintain a Community curated only to include media free from obscene content that matches their principles of Divinity. For Mayor Jim Ferguson, he sought the ability to govern Provo without grandfathered notions of how to regulate media with concerns of a free market. City Attorneys sought legal Autonomy to define what was "obscene" and what was not based on their Community or established "standards." Even film studios (Paramount), theater operators, and owners (Plitt) sought the Autonomy of free commerce. Moreover, Richard Brooks and other filmmakers sought Autonomy for artistic freedom.

All sides felt like they were "right" and diligently combated for the privileges they felt afforded, as analyzed throughout this chapter. Focusing on several parties at BYU, including students, faculty, and administrators, further complicates this history. More than ever, BYU students fought for Autonomy to view films without repercussions, despite church teachings and the university's honor code. Resisting the urge to attend controversial films was difficult due to Utah culture's influence on BYU culture. Brigham Young University faculty members such as James D'Arc and Edward Geary also sought the right to speak their conscience even when

difficult. Lastly, BYU President Dallin H. Oaks fought for the Autonomy to dictate who can speak when communicating “for the university.” Each specific area of this history presents an added layer to the ethics of Community, Divinity, and Autonomy surrounding the controversial release of *Looking for Mr. Goodbar*.

Although *Looking for Mr. Goodbar* is not a widely remembered or celebrated film today, Provo’s legal challenges present a distinctive case study for regional theatrical regulation in the late 1970s.⁹⁹ The intricacies surrounding the battles and trials over Autonomy, based on Utah County’s cultural policies and influenced by BYU culture, offer a distinct view of how *Jenkins v. Georgia* and other Supreme Court decisions affected Utah County’s ability to uphold their “community standards.” This chapter also argues that during citizens’ struggle for viewing Autonomy (many of them BYU students), the anti-obscenity actions by city officials ultimately attracted more attention to the film and revenue to the theater than if they had not fought it.¹⁰⁰ The events surrounding the release of *Looking for Mr. Goodbar* strongly reflect the Streisand Effect and demonstrate a turning of the tide in Utah County citizens’ desire to resist attending popular R-rated films, as mentioned, especially BYU students.

This chapter analyzes cross-sections of Community, Divinity, politics, and the legal system on Autonomy using minute details of the many peculiar and unforeseen events, including the trial proceedings. Nominal use of textual analysis of political cartoons, archival letters, and

⁹⁹ With its distinct disco theme and music, the film has not aged as well as many of Paramount’s films in the 1970s, including *The Conversation* (1972) or *The Godfather* (1972). The film is also not as highly regarded as Richard Brooks’s earlier films, such as *Blackboard Jungle* (1955), *Cat on a Hot Tin Roof* (1958), and *On Cold Blood* (1967). The film was also not widely distributed on home video, with only VHS releases, most recently in 1997.

¹⁰⁰ This phenomenon had already been validated in Utah County with the theatrical success of *Candy* (1969), *Beyond the Valley of the Dolls* (1970), *Big Bad Mama* (1974), *The Pom Pom Girls* (1976), and most other films when legal action was taken against a film.

the film itself, offers specific insights into one of the most controversial and highly publicized film obscenity trials of the late 1970s.

Foreplay - The Beginnings of Mr. Goodbar

The film *Looking for Mr. Goodbar*, based on the pulpy best-selling novel by Judith Rossner, was released theatrically just two years after the book's publication. Both present a cautionary tale concerning the ramifications that sex and drugs can have on individuals and society. Based on actual

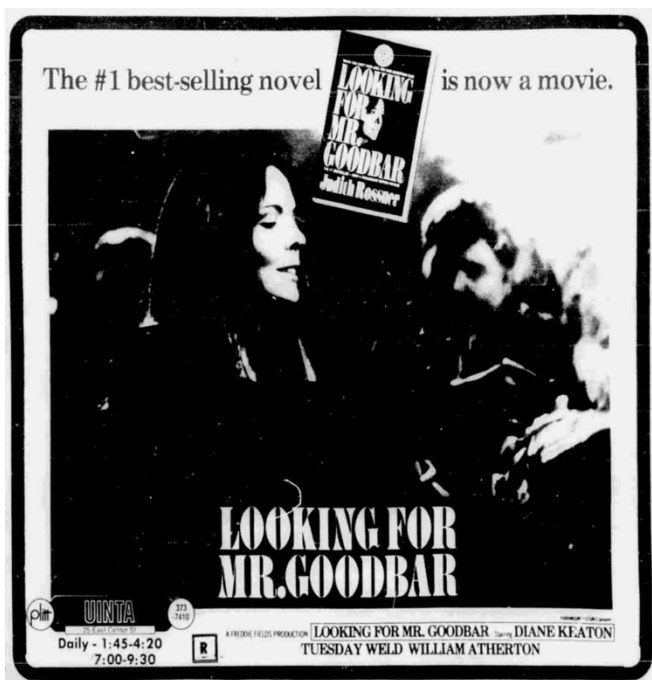


Figure 16 – *Looking for Mr. Goodbar* (1977) *Daily Herald* advertisement (Unita)

events, the film follows Theresa Dunn, a Catholic schoolteacher for deaf children, who secretly leads a double life. At night Theresa barhops from one disco bar to another, looking for drugs and sexual conquests in defiance of her religious upbringing and overbearing father. After deciding to turn a new leaf at the beginning of the new year, Theresa is ultimately murdered by a troubled man she picks up on New Year's Day. The film opened nationwide on October 19, 1977, becoming the

top-grossing film on its opening weekend.¹⁰¹ Released in Provo at the tail end of its 10-week theatrical run, national theater chain Plitt Theaters Inc. was scheduled to exhibit *Looking for Mr. Goodbar* in downtown Provo the week of Christmas 1977.¹⁰²

¹⁰¹ *Looking for Mr. Goodbar* had a solid \$1,540,635 opening weekend. The film became the seventh highest-grossing film of 1977, making \$22,512,655 during its theatrical run (Box Office Mojo, 2022).

¹⁰² Plitt Theaters controversially scheduled two R-rated films in Downtown Provo over the week of Christmas, including *Looking for Mr. Goodbar* at the Unita Theater and *The Gauntlet* (1977) at the Paramount. Although the

Looking for Mr. Goodbar opened at the Unita Theater on Wednesday, December 21, 1977, to a sparsely occupied auditorium.¹⁰³ That same night, Don Barber, a member of the Provo Police Department's tactical force, and his wife Robin attended the 9:45 pm screening of *Looking for Mr. Goodbar*.¹⁰⁴ Immediately following the screening, Barber wrote a report indicating that the film violated Provo's obscenity ordinance and recommended that a judge also view it to ensure they offered a concurring assessment. City Judge J. Gordon Knudsen attended a film screening alongside Assistant City Attorney Richard D. (Dee) Bradford the next day. The pair arrived at the Unita Theater about 20 minutes after the screening began in a practically empty theater. Recalling the film later, Knudsen said, "I was surprised it got an 'R' rating," while also admitting that *Looking for Mr. Goodbar* was the first R-rated film he had ever seen ('R' Film Viewed by Provo Officials, 1977, p. C5). Bradford reported the film contained "female nudity, normal and perverted sex between couples, and foul language," which were all banned under Provo's Ordinance No. 396. Bradford added, "and I understand the first part had several scenes of raw sex in it," which they had missed due to their late arrival (District Judge Rules for 'Goodbar,' Disallows Provo, Utah Legal Claims, 1978, p. W6). After the screening, Knudsen concurred with Barber's assessment that the film violated Provo's ordinance.

judge reviewed both films, he decided against prosecuting *The Gauntlet*. Orem's OCPD had contemplated removing Paramount's *Saturday Night Fever* (1978) during the same period but reversed that decision after Provo's incidents (Provo, Utah, Raids Par's 'Mr. Goodbar,' 1978, p. 50).

¹⁰³ Located at 33 E. Center Street in downtown Provo, the Unita Theater was built by John B. Ashton and opened as The Princess Theater on January 1, 1912. In the decades following the theater's opening, the building underwent numerous cosmetic and ownership changes. However, it remained a staple of downtown Provo, along with the Paramount and the Academy, each located within walking distance.

¹⁰⁴ Don Charles Barber, originally from Colorado Springs, Colorado, moved to Provo to attend Brigham Young University in 1967, and joined Provo's tactical squad after graduating in 1971 (Collett, 1980, p. 3). As a member of Provo's police tactical squad, they were frequently assigned to view R-rated films, including *Goodbar*, to report on the film's content and determine if a movie violates Provo's obscenity ordinance.

After Knudsen's verdict, Glen Ellis contacted Robert (Bob) Bathey, manager of the Uinta Theater, who referred Ellis to the firm of Howard and Lewis, then representing Plitt Theaters. In a conversation between the attorneys for Plitt and Paramount Motion Pictures, Ellis claimed that an agreement was met between the parties on Thursday to remove the film, stating that the theater operator (Bathey) has been "very cooperative" in the matter (Provo

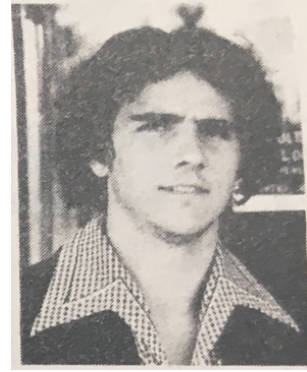


Figure 17 – Uinta Theater manager Robert (Bob) Bathey

Movie Operator Agrees to Halt R Show, 1977, p. 2B). Appearing before the City Commissioners on Friday evening, Ellis reported the film to be a "Hard 'R' [that] obviously violates the city's ordinance," but was pleased to say that the theater chain had already agreed to pull the film after its screenings on Christmas Day, the time needed to receive a replacement film ('R' Rated Film To Be Changed, 1977, p. 5).

Fred Podlesny, in his last weeks as chairman of the Utah County Council for Better Movies and Literature, said he was "pleased with the city's action in seeking to ban the film." Due to the busy holiday season and the assumption that the film would close after the announced Christmas Day screenings, Podlesny stated there were "no plans at present to picket or take any action regarding the movie" (Emmerson, 1977b, p. 2). This was soon to change.

Despite the Provo City Attorney's supposed arrangement, Uinta's marquee still prominently announced the film's presence all day Monday, following the Christmas deadline. When the film's title was still displayed Tuesday morning, Dee Bradford decided to follow up on the agreement previously arranged by his superior. With Glen Ellis out of town for the holidays, Bradford alone had to consider whether to take any legal action concerning the matter. Upon further inquiry, theater manager Bob Bathey claimed that earlier reports that he had agreed to

pull the film were false, stating he “did not make any statement that [they] would stop showing the film (Alger, 1978a, p. 1). Ernest (Ernie) Hoffman, the district manager for Plitt Theater’s Intermountain division, confirmed this, indicating that he was not part of any discussions to stop the film’s exhibition in Provo. He claimed he was surprised to read such a story in the newspapers. Hoffman was frustrated because the Plitt Theater chain had always cooperated with Utah County regulators but preferred working with cities through “low-key approaches” to avoid such public issues (City Considers Action As ‘R’ Film Continues, 1977, p. 2). Hoffman also reported to *The Daily Herald* that as of Tuesday morning, “he had not been informed of any agreement to stop the film” as “it would have been impossible to get a movie in from California to replace the film in question” (City Considers Action As ‘R’ Film Continues, 1977, p. 2).

Assistant City Attorney Dee Bradford confirmed Ellis’s earlier claim that an agreement was reached in a telephone conversation with Plitt’s Provo-based representatives and attorneys from Paramount. The film was not to have played past the evening of Sunday (Christmas). Bradford told the press Tuesday morning, “We don’t wish to act unduly if there was some good reason for the agreement not being carried out. They were very cooperative, and we thought the matter had been taken care of, but I have been given instructions to pursue the matter, and we can’t hold off acting indefinitely” (City Considers Action As ‘R’ Film Continues, 1977, p. 2). The city had successfully avoided litigation of theaters for incompliance for almost a decade, but Bradford felt compelled to act based on growing pressure from the UCCBML and other residents. Bradford was optimistic that taking action now might also encourage future compliance.

On the afternoon of Tuesday, December 27, 1977, Bradford arrived at the Unita Theater along with Detective Glade Terry and Officer Don Barber to confiscate, as contraband, the film

print of *Looking for Mr. Goodbar*. Bradford obtained a search and seizure warrant from Provo City Judge E. Patrick McGuire after it was clear that the film would likely still be played at its scheduled 1:45 pm showtime (Battle Moves to Courts in Provo Movie Dispute, 1977, p. 8B). Bradford probably informed the local media of this action as they were already present upon the city officials' arrival. The media thoroughly documented the proceedings, taking photographs inside and outside the Unita (Bathey Interview, 2022). Until the moment they entered the theater, Bradford had wrestled with the decision to proceed with a confiscation. He defended his decision to act after receiving "a number of complaints," claiming, "We had no choice but to act" (Emmerson, 1977a, p. 3). Demonstrating the power of cultural policies, he conceded, "We have been able to work cooperatively with the theater in the past, but we must do what the people of Provo want us to do" (Emmerson, 1977a, p. 3). Bradford's assertion that his actions were the will of the "people," thus being compelled to act effusively, shows the area's parochial control and evident influence of BYU culture, which often limits the Autonomy of others in pursuit of their own moral desires.

With an auditorium filled with about 50 (autonomous) theater patrons, Bradford, and his officers handed projectionist Mark Jenkins a search and seizure warrant at 2:05 pm, approximately 20 minutes after the screening had begun. The projector was immediately switched off, and patrons were quickly ushered out of the theater. As the film had already started, the print had to be rewound by hand, a painstaking and time-consuming process, before it could be turned over to the officers. While Jenkins was rewinding and taking apart the film into reels, theater manager Bob Bathey and Plitt district manager Ernie Hoffman arrived at the scene. A series of frantic and hurried phone calls occurred between Hoffman and Paramount Motion

Pictures' New York attorneys, Plitt's local lawyers, and theater co-owner Edward (Ed) Plitt.¹⁰⁵ Also arriving to observe the proceedings was City Commissioner E. Odell Miner, the only city administrator in town during the holidays. Miner congratulated Mr. Bradford and the officers for their diligence in executing their duties and expressed that Mayor Grange and Commissioner J. Earl Wignall were sure to be pleased by their actions. City officials did not know the storm of controversy looming in theater operators' struggle for the Autonomy of free business practices.

In contrast to Miner, Ernie Hoffman adamantly protested the city's actions conveying, "It would be tough to cooperate with the city in the future" (Emmerson, 1977a, p. 3). Bradford clarified that the film's confiscation did not reflect Plitt's past cooperation, reasoning that "cooperation has prevented this sort of thing up until now" (Emmerson, 1977a, p. 3). Provo City film regulators had spent over a decade enforcing the city's obscenity ordinances. *Looking for Mr. Goodbar* was only the second film that necessitated confiscation in Provo since the seizure of *Candy* in 1969. This situation was different for Plitt Theaters as years of accommodating decency commissions and city attorneys had taken their toll. With the support of a formidable studio like Paramount behind them, Plitt and their representatives decided that despite their earlier reports of cooperation, they were not backing down from their fight for Autonomy.

At around 4:00 pm, roughly two hours after the city's raid began, Dee Bradford was photographed overseeing Glade Terry and Don Barber carrying the two confiscated film canisters out the front doors of



Figure 18 – Dee Bradford (left), Terry Glade (middle), and Don Barber (right) confiscating Goodbar

¹⁰⁵ Hoffman claimed that the theater's local representatives, Howard and Lewis, were fired for agreeing with the city that the film was "pornographic." A spokesman from H&L later clarified that they were not fired but had "withdrawn from this particular action" due to a conflict of interest (Emmerson, 1977a, p. 3)

the Unita Theater. In the photograph's background is Ernie Hoffman looking back into the theater while holding the door for manager Bob Bathey and projectionist Mark Jenkins. As the officers departed, Hoffman escorted Bathey and Jenkins to his car to retrieve a second copy of



Figure 19 – Unita projectionist Mark Jenkins & manager Bob Bathey carrying new print

Looking for Mr. Goodbar that had been requested before Christmas (Bathey Interview, 2022). Carrying a freshly boxed copy of the film, Bathey, and Jenkins walked calmly past reporters into the theater and back up the stairs to the projection booth to prepare for the scheduled 7:00 pm screening only three hours away. Anxiety followed as a waiting game ensued. Provo Police officers immediately returned to the theater and stood outside the building's doors

in anticipation of receiving orders to seize the second print copy should the 7:00 pm screening proceed. While awaiting their orders to raid for a second time, Ernie Hoffman spent hours on the phone speaking with various lawyers and city officials to discuss the legality of their actions. After much debate, Dee Bradford concluded that the city had no choice but to allow the next scheduled screening to proceed. He explained that an adversary hearing, as required by law, was expected to occur the next day to be granted a temporary injunction. Thus, at 7:00 pm, *Looking for Mr. Goodbar* played at the Unita to an energetic and full-capacity theater, thanks to the free publicity offered by the city's fight for their Autonomy to enforce their obscenity ordinances.

It was later revealed that legal counsel from Paramount had recommended that Ernie Hoffman and theater owner Ed Plitt request a second film print because the city legally could not seize an additional print before an adversary hearing. Assistant City Attorney Dee Bradford explained that “any other effort to intercept and apprehend another copy of the film...could have

been construed as a prior restraint, which the Supreme Court has ruled is illegal” (Film’s Showing a Legal Matter, 1977, p. 2). With the courts on holiday break and to not further delay the due process, the city decided on Wednesday, December 28, to take the matter directly to the Fourth District Court and seek an injunction against any further showings of the film in Provo. The complaint filed by Provo City listed the defendants as Robert (Bob) Bathey – Unita Theater Manager, the Unita Theaters, Ernest Hoffman – Plitt Theaters, and Paramount Pictures. They were charged with “exhibiting an obscene motion picture as defined in the Provo city ordinance (Film’s Showing a Legal Matter, 1977, p. 2). As no judges were available, a hearing time was not immediately set but was later scheduled for January 6, 1978, after Judge George E. Ballif’s return from his holiday vacation. Bradford hoped Judge Ballif might allow the trial to be moved up to January 2, 1978, to potentially seize Unita’s second film print of *Looking for Mr. Goodbar*, but his request was denied (Emmerson, 1977a, p. 3).

In the meantime, it was reported that city officials were pursuing a private meeting with Unita theater manager Bob Bathey in hopes that a behind-the-scenes deal might be met. Such isolated meetings with city officials were commonly used as a method of coercing acquiescence from theater operators and usually resulted in settling disagreements out of court. When Bob Bathey was asked if he planned to attend an invited meeting with the city’s legal staff, he said, “I’m just going ahead and running my theater” (Battle Moves to Courts in Provo Movie Dispute, 1977, p. 8B). Bathey affirmed his position that he would continue to run his theater when his attorneys tell him to run it, “And they have not told me not to run it,” indicating that Bathey could not be coerced into submission exercising his and Plitt Theaters Autonomy (Battle Moves to Courts in Provo Movie Dispute, 1977, p. 8B).

Based on the unusual circumstances, the attorneys representing the Plitt Theater chain requested a hearing before U.S. District Court Judge Aldon Anderson in Salt Lake City. They requested a temporary restraining order against Provo city authorities, barring the city from confiscating additional film copies. Plitt's suit maintained that the seizure of the print might "damage its contractual relations with Paramount Pictures, deny them their rights of the exhibition under the First Amendment, and was taking property without cause" (District Judge Rules for 'Goodbar,' Disallows Provo, Utah Legal Claims, 1978, p. W6). However, shortly before the Thursday, December 29, 1977, federal hearing with Anderson, the parties came to an out-of-court settlement. The agreement allowed Unita to continue exhibiting *Looking for Mr. Goodbar* until an adversary hearing in the Fourth Judicial Court. Provo City also agreed that "Provo police, their agents, employees or representatives" will refrain from further "harassing, intimidating, or threatening theater employees," such as private meetings with Bathey, and no longer interfere with the exhibition of the film (Emmerson, 1977c, p. 1). For their part, Plitt theaters operators agreed only to seek a resolution for their Autonomy in courts within the state of Utah rather than in federal courts.

Provo Mayor Russell Grange and City Commissioner E. Odell Miner, in the last couple days of their tenure, attended the hearing in Salt Lake City, and both agreed to follow due process of law concerning the matter. Miner, frustrated with the situation, maintained that "the interest of the citizens of Provo was not being served in the continued delay over a decision on the motion picture." He continued, "We find ourselves in the untenable position of having declared the film to be obscene and in violation of community standards, but unable to immediately do anything about it" (Emmerson, 1977c, p. 1). Miner's objections were similar to many other areas of the United States during the 1960s and early 1970s that felt Autonomy for

“community standards” outweighed Autonomy for First Amendment protections. Provo’s impending legal action against Plitt and Paramount could permanently impact Utah County’s and other regions’ ability to regulate films based on “community standards.” Paramount Vice President and Chief Council Walter Josiah acknowledged at the time that the last few “hot spots” in the county, besides Provo, only included Salt Lake City, Dallas, and Chicago (Mr. Goodbar Wins Over Provo, 1978, p. 34), so much weighed in the balance concerning the outcome of the trial for the Autonomy of the Community.

Although city officials abided by their agreement not to pressure or coerce the theater workforce, Bob Bathey claimed that he and his staff were still harassed by persecution by many local citizens. Bathey reported that he even received threats of violence against him for his role in disseminating obscenity within the city (Bathey Interview, 2022). In between the threats and periodic letters berating him for “breaking the law,” however, Bathey recalled that “phone calls and letters received at the theater were overwhelmingly in support of the film” and of him (District Judge Rules for ‘Goodbar,’ 1978, W6). Out of over fifty or so personal letters that he directly received; he recalls only about five that spoke against his actions. Instead, they championed his role in permitting some adult citizens the Autonomy to choose whether to view the film.

Fred Podlesny was dismayed over such Autonomy and expressed his dissatisfaction with the lack of compliance from Plitt’s theater owners and operators. Podlesny claimed the theater had “reneged on their agreement to control incoming films and comply with the city ordinance.” He explained that Plitt and their legal counsel “met last year with representatives of the city and our committee and assured us they would cooperate fully and comply with city ordinances. They have clearly reneged, and I don’t think can be trusted” (Emmerson, 1977b, p. 2). Following the

agreement that *Looking for Mr. Goodbar* could continue playing at the Unita while awaiting the hearing, the UCCBML finally decided to take public action.

At the film's evening screenings on December 29, 1977, the UCCBML marched down Center Street and protested the theater and the movie. As more than 25 theater patrons lined up in front of the Unita for a 7:00 pm showing, roughly a dozen UCCBML members carried signs imploring the theater operators to "Stop Smut" and "Protect Youth" (Emmerson, 1977b, p. 2).¹⁰⁶ The group marched up and down East Center Street, and according to Podlesny, he saw "a large number of people walk up to the theater and then turn away after they saw the pickets" (Emmerson, 1977b, p. 2). Patrons waiting to purchase tickets verbally challenged the picketers, with some exchanges reportedly becoming "loud on several occasions." During one of these exchanges, Podlesny took an informal poll of those waiting in line and determined that, while some were BYU students, roughly 60% of theater patrons were visiting from outside of Provo.¹⁰⁷ Despite these exchanges, however, Podlesny considered their endeavors "an effective undertaking" in their own Autonomy to protest "obscenity" and that "peace prevailed" (Emmerson, 1977b, p. 2). He also professed that picketing would continue until *Looking for Mr. Goodbar* was removed from Provo.

The effectiveness of the Utah County Council for Better Movies and Literature, picketing of the Unita, was certainly not successful in decreasing their box office receipts. Unita's theater manager Bob Bathey reported that after the seizure of the first print of the film on Tuesday, their business had tripled, a number that was maintained throughout the film's run (Police seize

¹⁰⁶ As discussed in Chapter 2, Utah County used the importance of protecting the youth as a guise for regulating films for all citizens. The initial obscenity laws established in Orem and Provo were based on these "Youth Protection Laws," common in censorship history (Kendrick, 1996, p. 33).

¹⁰⁷ Podlesny cited the out-of-town patrons as being from Santaquin, Payson, Orem, American Fork, Ogden, Price, Salt Lake, Goshen, and Gunnison, Utah, as well as Idaho, Louisiana, and California (Emmerson, 1977b, p. 2).

Goodbar, 1977, p. 9; Alger, 1978b, p. 6; District Judge Rules, 1978, p. W6; Looking for Mr. Goodbar Court Decision Upcoming, 1978, p. SE7; Unita Theatre Proves It Still Has Drawing Power, 1978, SW8). Dee Bradford was initially informed that “the movie was brought to Provo for a one-week showing” (Battle Moves to Courts in Provo Movie Dispute, 1977, p. 8B). Now entering its second week, Bathey reported to the media that “if business continues as good as it has been it will probably play longer,” a statement that aggravated Bradford (Alger, 1978a, p. 1; Looking for Mr. Goodbar Court Decision Upcoming, 1978, p. SE7). Bob Bathey also boasted that the daily grosses at the Unita equaled the grosses of much larger theaters in California in multiple circumstances (District Judge Rules for ‘Goodbar,’ 1978, p. W6).

To meet the theater’s newfound demand following the film’s confiscation, the daily screenings also went from twice a day to four screenings a day. Each screening remained well-attended especially moving into the first week of January, which was impressive considering movie attendance is historically at its slowest during this time (Liu, 2016, p. 1511). Sybel Alger, a BYU student, and writer for the *Daily Universe*, began to chronicle the trial starting in early January. Alger later claimed that the success of the film screenings throughout January resulted from curious BYU students. Alger recalled that after winter break, when BYU students returned to Provo, “we heard about the controversy, and students lined up to buy tickets” (Alger Interview, 2022). Lines extended down Center Street, unlike anything the area had ever seen. Lines to see a film that some argue could have been avoided. Decades after the events, Bob Bathey emphasized that had Provo City not acted against *Looking for Mr. Goodbar*, the film might have quickly faded as the community had no interest in seeing the movie until the legal controversy generated interest. Instead of being a money-loser for the theater, the publicity surrounding the proceedings attracted audiences through the rest of its theatrical exhibition in

Provo. Plitt only paid for two newspaper advertisements in Utah County throughout its run. In *The Daily Herald* on December 21, 1977 (the film's opening day) and January 11, 1978, to announce that the film was entering its "4th Week" at the Unita. Bradford later conceded to a *Variety* reporter that his actions had "greatly increased their business," demonstrating the result such free publicity can have on a film's box office due to the Streisand Effect (Provo, Utah, Raids Par's 'Mr. Goodbar,' 1978, p. 50).

Oral Deliberations - Opining on Mr. Goodbar

One Orem resident attending the film on the evening of the UCCBML protest was Susanne Huff, who thanked Provo City for generating interest in the movie. Huff, like many others, maintained that she "was not even interested in this movie until all of the publicity came to the surface about it" and later related that "curiosity got the best of me" (Huff, 1978, p. 21). Ridiculing those protesting the film outside the Unita, Huff teased, "You are going to catch a lot of colds and flu if you don't quit standing out in the cold all night to try and discourage us poor suckers into not going to such an R-rated show." Huff's editorial also addressed several key points concerning the problematic nature of suppressing the Autonomy of adults that desire to view "obscene" films. She declared that everything was meticulously controlled as the theater required IDs, and the movie was indoors in an enclosed environment. Displeased with the situation, she said, "We went of our own free will – no one forced us. No one forced the rest of those who paid to see the movie. If you don't want to see this movie or if it affects your beliefs, stay away from it. But let the rest of us choose for ourselves what we want to look at. We are responsible adults who enjoy seeing an adult movie" (Huff, 1978, p. 21).

Huff's opinions express the often-silent minority as many within the Community "heartily congratulated" Provo City on the seizure of the film (Gourley, 1978, p. 21). Orem resident Vaughn Gourley, for example, spoke against Ernie Hoffman for being "visibly upset over the city's move to condemn the film" (Emmerson, 1977a, p. 3). Gourley opined, "The majority of the people in this area do not support this type of movie or want it shown." He continued, "For those disbelievers, like Mr. Hoffman, take a poll of the area and find out that the majority supports the anti-obscenity ordinance" (Gourley, 1978, p. 21). However, Gourley's opinion ignores those in such a poll who might desire Autonomy to view more adult content and suppress First Amendment rights, including the filmmakers and patrons. Other Provo residents soon opposed Huff's arguments and concurred with Gourley. Charlies H. McConnell Jr., along with ten other citizens, contended that obeying the law is at the heart of the issue, not "choice" or "monetary enrichment." (McConnell, 1978, p. 17). To validate their position, each vowed not to monetarily enrich the Unita for six months by abstaining from attending any films at the theater during that time. They asked citizens of Utah County to join them in the hopes that the shortage in business might "provide an incentive to keep Unita Theater within the bounds of the law in the future" (McConnell, 1978, p. 17).

Several editorials addressed the hypocrisy of "free agency" in Utah County, including Hugh Alan Butler, who was saddened about lawmakers and citizens who rationalize "free agency" but only when it favors their own causes (Butler, 1978, p. A13). Butler also decried Utah Attorney General Robert Hansen for informing theater owners they should check IDs for adults before screening potentially obscene films. He, too, was shocked that Assistant City Attorney Dee Bradford could not correctly define "censorship" and needed a reporter to explain it to him before continuing with his interview. Most of all, Butler was "disgusted" by the use of

“legal and financial harassment to destroy anyone who doesn’t adhere to their moral code” (Butler, 1978, p. A13). Others were also upset at hypocrisy, but that of Utah County citizens that “condemns R-rated films yet fail to support G-rated films.” Ultimately holding greedy Hollywood producers responsible for making movies that are “boring” and “exploit[ing] the decent values many families share by offering hastily made [movies] which have no substance. (Neves, 1978, p. 15).

Bye-Line Jensen, a Provo-based commentator, addressed that many of the nation’s premier movie critics had praised the film and its performances as one of the year’s best. Jensen asked whether it is they that “march to a different drumbeat than us folks in Utah County? Or is it us that marches to a different drumbeat?” (Jensen, 1978, p. 2). The editorial staff at the University of Utah’s *Daily Utah Chronicle* posed similar questions when reporting that only a week after *Looking for Mr. Goodbar* was confiscated, *Newsweek* named the film one of the year’s ten best (Catching Up, 1978, p. 4). Making distinctions between what is considered art, entertainment, or obscenity is challenging, especially in more parochial societies solely wanting to ban obscenity in all forms. Each editorial raised essential questions when considering how theatrical media in Utah County is monitored differently than other areas of the United States, with many questions soon to be addressed at the upcoming Friday, January 6, 1978, hearing.

Extending Mr. Goodbar – The Phenomenon of Free Publicity

When the day of the hearing finally arrived, tensions were high in and out of the courtroom. Despite Dee Bradford’s best efforts to have an adversary hearing nine days earlier to remove *Looking for Mr. Goodbar* from Provo City limits, the film had instead screened four times a day with staggeringly strong attendance. County residents, including Utah County

Council for Better Movies and Literature members, continued to protest the film in the papers and at the Unita. Jim Ferguson, Provo's newly inaugurated mayor, too, was feeling the pressure. Only days earlier, Ferguson inherited one of the most publicized regulation controversies Utah County had ever encountered and one that Ferguson was not fully prepared to tackle. On Thursday, the day before the hearing, Ferguson revealed that he had been asked to testify in the trial but declined because he had not yet seen the movie and did not plan to.¹⁰⁸ Ferguson defended his decision by stating, "This movie isn't important enough for me. The issue is important, but not the movie." He continued, "We are doing everything we can within the law to get this movie out of town" (Alger, 1978a, p. 1). Noticeably wary about the city's chances of winning, Ferguson said, "There is no question that the way the present ordinance is written, the movie violates it. It just boils down to whether our law is constitutional," a fear that Grange, Ellis and many other city officials felt as well (Alger, 1978a, p. 1). The city had purposely avoided its ordinance being tested in court since first initiating Provo's obscenity guidelines.

The attorneys representing Paramount and Plitt knew they had a strong case against Provo City and had put the burden of proof on Glen Ellis and Dee Bradford. The city attorneys now had to prove, "beyond a reasonable doubt," that *Looking for Mr. Goodbar* was not only "pornographic" but also lacked "artistic and social value" (Provo, Utah, Raids Par's 'Mr. Goodbar,' 1978, p. 50). What was planned as a brief hearing simply to be granted permission to seize Unita's second copy of *Goodbar* turned into a spectacle reported around the country. Much of this frenzy was stirred by Plitt's and Paramount Pictures' lawyers, who continually

¹⁰⁸ Whether city prosecutors or the defense requested Mayor Jim Ferguson to testify is unclear. Either way, Ferguson was placed in a challenging position considering he did not feel strongly about the issue either way. In a phone conversation, Ferguson relayed that Provo's theatrical regulation was not his fight, but it was one that he was thrust into due to the city's interest in it. Testifying that the film was "obscene" or even "not obscene" could irreparably damage his political and personal reputation in either scenario (Ferguson Interview, 2022).

accentuated Ellis and Bradford's novice abilities to test obscenity within the courts. Each legal maneuver by attorneys from both sides attempted to prove the Autonomy of those they had stewardship over to validate whether Provo's ordinances were legal based on cultural policies.

The issues arose moments after the hearing was called into session on January 6, 1978. Robert Maack, a Salt Lake City-based attorney, who eventually represented Plitt Theaters, district manager Ernie Hoffman, and theater manager Bob Bathey, informed Judge Ballif that none of his clients were served a summons notifying them concerning their need to appear in court. Maack admitted that one copy of the complaint was delivered to his office but that it did not have a name on it. It was forwarded to the headquarters of the Plitt Theater chain in New York City (Alger, 1978b, p. 6). Maack clarified that the complaint did have the order to show cause, but he had never agreed to accept service for his clients, nor was he legally authorized to do without a summons being delivered. Dee Bradford retorted that "an order to show cause is tantamount to a summons," but Judge Ballif suspected Bradford's claim, declaring that the law requires that specific steps be taken (Legal Problems Keep 'Goodbar' Show Alive, 1978, p. 1). After over an hour of protest by the Provo City Attorneys justifying their actions, Ellis concluded his counterarguments by informing the judge that the "papers the defendants previously served the city [in their federal hearing] were also in error." Unconcerned with this substantiation, Judge Ballif replied, "If someone has you out on a limb and is attempting to chop it off, that's your problem" (Alger, 1978b, p. 6). Judge Ballif granted the prosecution a three-hour recess to give Ellis and Bradford time to research the law to support their arguments better.

At 2:00 pm, the court resumed, and Dee Bradford presented the city's arguments about why the court already had jurisdiction. First, they disputed that obscenity cases differ because the Utah Criminal Code declares that "anything that gives notice gives court jurisdiction" (Legal

Problems Keep ‘Goodbar’ Show Alive, 1978, p. 1). Second, they presented a receipt proving that a “roommate” of Bob Bathey was served a summons during recess.¹⁰⁹ Bradford also announced that a Provo police officer would soon return with confirmation that Ernie Hoffman and Plitt Theaters were also served a summons in Salt Lake City. Judge Ballif conceded that jurisdiction had been established but questioned whether the law allowed him to backdate the summons and continue the hearing that day.

Despite these seemingly insurmountable setbacks, Bradford still expressed the city’s desire for the proceedings to continue. Provo attorneys were optimistic that a temporary injunction might be granted that day, ending the ongoing blockbuster screenings of *Looking for Mr. Goodbar*. These hopes were dashed, however, when Allen Young, the attorney representing Paramount Pictures, read the law regarding the serving of summonses. Young stated that summons “must be served by a sheriff of the jurisdiction or his deputy,” charging that Provo police officers were a party to this action, making service by them improper (Legal Problems Keep ‘Goodbar’ Show Alive, 1978, p. 1). Visibly angered by Young’s assertion, Glen Ellis said, “Those men are officers of the State of Utah. Not by any stretch of the imagination are they parties in this case” (Alger, 1978b, p. 6). Still aggravated, Ellis asked the court not to needlessly restrict the city by maintaining that “we can’t use city officers to serve city papers” (Alger, 1978b, p. 6).

Judge Ballif refused to rule on the matter then but admitted that Young’s point could be valid. To appease Ellis’ contestation, Robert Maack emphasized that they wanted a clean trial

¹⁰⁹ In a conversation with Bob Bathey, he did not recall ever being served a summons in such a manner and did not have a roommate living at his apartment when living in Orem. Bathey did admit that his LDS fiancé sometimes spent the night and might have been at his apartment to accept it. However, when asked about the possibility, she did not recall receiving such a summons either. She also argued that she would not have identified herself as a “roommate” had she been contacted with a subpoena for Bathey. So, whom the police approached on January 6, 1978, is unclear (Bathey interview).

from the beginning, and it was not the defenses' desire to build errors into the record for later appeal, mainly because the serving of summons is "a fairly fundamental process." In protest to Maack's insult, Ellis expressed frustration that Maack, at the federal trial in Salt Lake City, "had made him believe he was the attorney for Mr. Hoffman and Plitt Theaters" (Legal Problems, 1978, p. 1). Judge Ballif, almost in disbelief at such a groundless squabble, reminded Ellis that, "None of this is part of the record in this case. You are asking me to believe something that is outside the record," ending the Provo City Attorney's attempted arguments concerning why the hearing should resume.

Hearing enough, George Ballif ordered a six-day reprieve to give the Provo City attorneys time to revise their documents. He also instructed them to investigate whether city police officers can serve a summons. Regardless of what they discovered, he suggested they "have other agencies properly serve" new summons to each defendant. Ballif ended the deliberations by arguing it is "an exercise in futility [for the court] to go ahead at this time." Still, he would take under advisement Maack's motion to quash and allow both sides to present substantiation of their claims when back in court on Thursday, January 12, 1978, at 1:30 pm (Legal Problems, 1978, p. 1). The first day of the proceedings revealed that both Provo City attorneys were inexperienced at defending their ordinances and might be over their heads. It also indicated that cultural policies and pressure might likely compel theaters into submission, not the strength of their legal abilities or the actual ordinances. After the trial, the defense fervently countered charges that they were simply trying to delay the hearing on technicalities, arguing that had the court's action continued and later proved faulty, any action taken during the hearing would subsequently be void and meaningless" (Only G's If Provo Wins Case, 1978, p. 1). The delay proved vitally significant for the defense, as it provided them the additional time needed to

gather further evidence and locate individuals willing to offer expert testimony, which had, thus far, proven difficult.

With that, the floodgates of curiosity and desire to view *Looking for Mr. Goodbar* had burst for the second time. Rather than expelling the film from Provo theaters, the hearing created an immense spectacle. The film continued to screen four times daily, filling each of the Unita's 625 seats, including the 100 seats in the theater's rarely used balcony, at almost every screening (Unita Theatre Proves It Still Has Drawing Power, 1978, p. SW 8).

During these six days, Steve Benson, the popular political cartoonist for BYU's *The Daily Universe*, produced a cartoon that captured the zeitgeist of this moment.¹¹⁰ The cartoon depicts a dilapidated Unita Theater with a rickety marquee held together by tape and string. To the far left of the comic is a "Theater Manager" (Bob Bathey) dressed in an exaggerated plaid and polka dot clown costume, parading around the front of the theater yelling, "Right This Way, Folks!" Facing away from the theater, the manager is gleefully advertising the letter "R," which can be found on his balloons, a shaking tambourine, and a large wooden sign worn down his body that reads "R rated." To the immediate right of the clown is a plus (+) sign followed by a bald, potbellied, and angry man in a pinstripe suit holding a picket sign that states, "City Commission Reaction." Facing the theater, the city commissioner (J. Earl Wignall) shouts "Repulsive!" towards an equal (=) sign and two young blonde BYU students standing in front of the Unita box office. As the dating couple lustily pant with dripping tongues, they state, "Row

¹¹⁰ Steve Benson was the grandson of Ezra Taft Benson, an LDS Apostle and future President of The Church of Jesus Christ of Latter-Day Saints. Steve Benson became a Pulitzer Prize winner in editorial cartooning while working for the Arizona Republic.

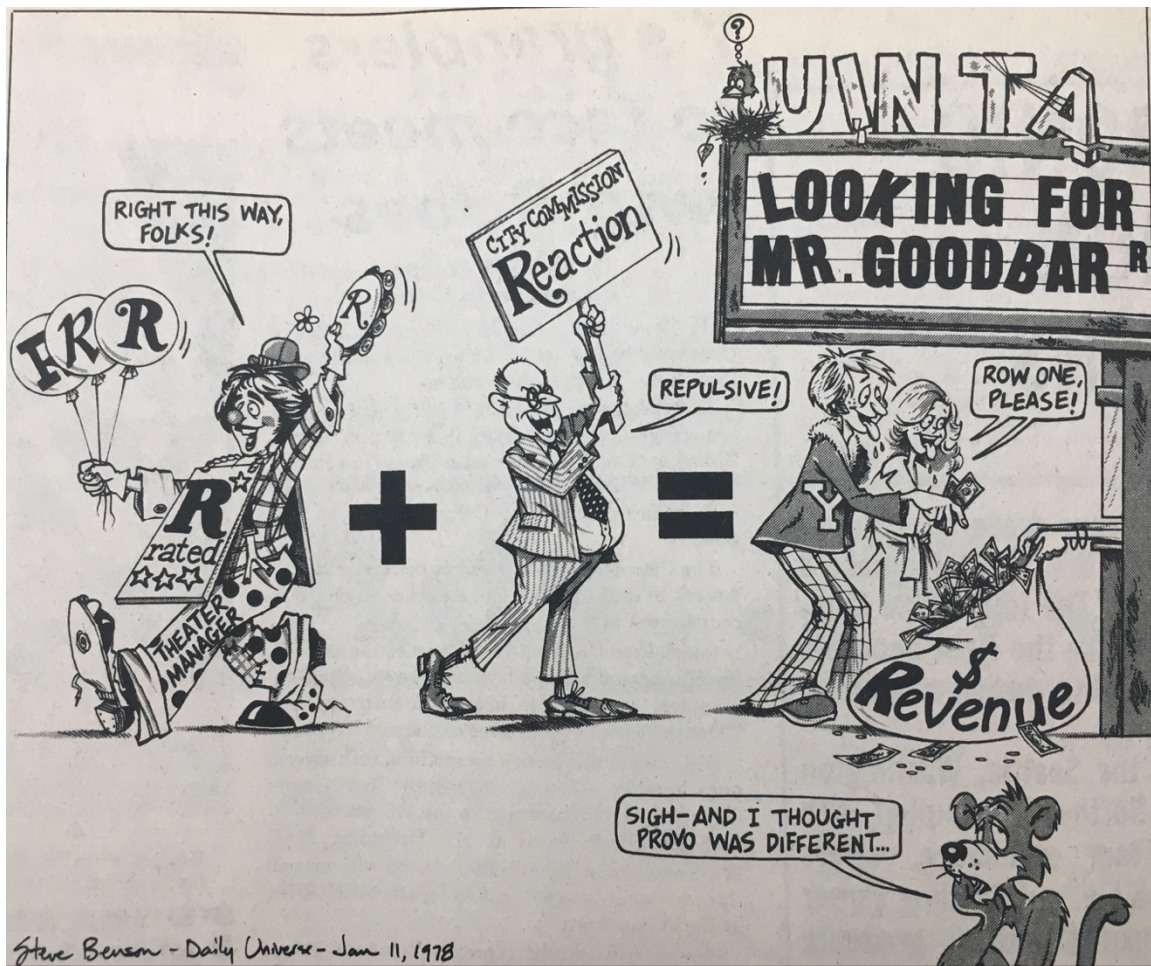


Figure 20 – Cartoonist Steven Benson’s Unita/Goodbar political cartoon

One, Please!” Benson’s formula is evident when the students eagerly drop their money into the bulging and overflowing sack of cash labeled “\$ Revenue” held by a Unita Theater box office clerk. The cartoon is further accentuated by Benson’s iconic interpretation of BYU’s Cosmo the Cougar. Cosmo, sitting on the bottom right side of the comic, disapprovingly watches the above “circus” and states, “Sigh—And I thought Provo Was Different...” a reflection that many in Provo perceived to be true (Benson, 1978, p. 8).

Benson’s implication that the combination of theatrical promotion and municipal protest stirred vast consumer interest in the film is a formula that, in some cases, is historically

predictable (Greenberg, 2007; Nabi, 2014, p. 1; Heffernan, 2015, p. 14-16).¹¹¹ It has been argued that while large-scale statewide censorship generally decreased revenue, smaller-scale regional censorship often had the opposite effect of generating more consumer interest when the media publicized controversial films (Kubincanek, 2020). Others have argued that film censorship, in general, can lead to more significant monetary compensation as it forces filmmakers to be more artistic in their expressions (Cornick, 2017). Although BYU culture eventually influenced interest for third-party editors in Utah County to monetarize film sanitization, for now, Provo's goal was simply to purge "obscenity" from the city.

One might assume the film's success resulted from a scrupulous promotional campaign by Plitt and Bathey, benefiting from the very public controversy. Bob Bathey contended, however, that neither he nor the Unita promoted the film because they "didn't have to anything" (Bathey interview, 2022). As mentioned, the only newspaper advertisements published for *Goodbar*'s run were the film's opening day on December 21, 1978, and January 11, 1978, coincidentally the same day that *The Daily Universe* published Steven Benson's cartoon. Bathey later revealed that he resented being depicted as a clown in Benson's cartoon, remembering that from the very beginning of the controversy with the city, he was asked by Ernie Hoffman to "lay low" and not aggravate the situation any further. Despite "laying low," Bathey sold tickets to any consenting adult in line at the theater's box office. Though the early success of *Looking for Mr. Goodbar* at the Unita had much to do with the legal actions taken by the city, the film's continued success was not due to Bathey. The film's later success was due to the victory of Plitt

¹¹¹ More contemporary studies on The Streisand Effect have shown that algorithmic configurations have the potential to decrease traffic to videos and images posted online, but such technologies did not exist during Provo's theatrical regulation period (Watters, 2015, p. 1)

and Paramount's attorneys, Robert Maack and Allen Young, who efficaciously extended the city's injunction hearing.

An editorial published in *The Daily Universe* blamed the theater's monetary gain on an "internal enemy" within Utah County; the culprit was the citizens themselves. The author stated, "Ironically, the proceedings to ban the movie may only be contributing to its success" and pondered, "Could it be that the R rating stands for "revenue?" (R-rated Movie Battle Meets Internal Enemy, 1978, p. 8). Like Benson's cartoon, it was argued that Provo residents, especially BYU students, were to blame for financially contributing to a film violating Provo's obscenity ordinance. "Either the ordinance was passed to protect the people from something many of them were not entirely eager to be protected from, or their objections are not supported by their actions." BYU culture's influence from both Utah culture (interest in arts and entertainment) and Mormon culture (urge to be obedient to doctrinal and prophetic council) had always triggered "internal adversity" for BYU students and other LDS residents in the area. This "internal adversity" was verified when Edward M. Plitt revealed that "nearly 10,000 people paid \$3 to see *Goodbar* since it opened." Plitt argued, "How can the community be construed to be offended by the actions within the film when 15 percent of them has paid to see *Looking for Mr. Goodbar*" (Alger, 1978f, p. 12). The film's continued success as the prosecution and defense prepared their case certainly called to question the city's opposition to the film being based on "contemporary community standards."

One complication that was quite evident leading to the January 12, 1978, hearing was that Judge Ballif had, thus far, chosen not to view *Looking for Mr. Goodbar*. The day after the January 6th hearing extension, Robert Maack expressed his interest in having a "special screening" for Ballif. Still, for personal reasons, he had continually turned down the invitation

(Only G's If Provo Wins Case, 1978, p. 1). Judge Ballif eventually agreed to attend a special screening the morning before the hearing began. Due to privacy concerns and timing, the Judge asked for the screening to occur at the BYU Motion Picture Studio, located Southwest of campus. However, the LDS-operated studio unsurprisingly refused (Looking for Mr. Goodbar Court Decision Upcoming, 1978, p. SE7). Instead, the screening was arranged at one of the two University Mall auditoriums. The film print screened was the confiscated copy that had been held in the "police evidence room at the Provo Police Department since December 27 (Police Seize Film in Provo Theater, 1978, p. 1E). Using the confiscated copy was crucial as the second print was still screening to sold-out crowds at the Unita, and Bathey did not desire to cancel a paid screening (Bathey interview, 2022). University Mall's theater manager Jan Fasselin and the theater's co-owner Ed Plitt were present to ensure the screening went successfully. According to Fasselin, city attorneys Glen Ellis, Dee Bradford, and several others, including Ed Plitt and his and Paramount's attorneys, joined Judge Ballif. Having never seen *Looking for Mr. Goodbar*, Fasselin, recalled chucklingly throughout much of the film due to the circumstances of the screening itself and because he considered the movie poorly made, with numerous laughable moments (Fasselin Interview, 2022). On several occasions, Ed Plitt asked Fasselin to quiet down to not upset Judge Ballif, who would likely rule on the matter within hours.

Sexual Congress in Court – The Trial (Day One)

The air outside was brisk on the afternoon of Thursday, January 12, 1978, as the injunction hearing resumed at 1:30 pm. Still, it was reported that the topics discussed in the courtroom that day warmed observers from all the blushing (Alger, 1978c, p. 1). Judge George E. Ballif called the proceeding to order, and Provo City's prosecutors summoned Provo Police

Officer Don Charles Barber to the stand. As part of their regular duties, the tactical squad was charged with viewing and reporting on all R-rated films exhibited in theaters within Provo City limits.¹¹² Barber reported seeing *Looking for Mr. Goodbar* the second time the film was shown in Provo at 9:45 pm on December 21, 1977 (Alger, 1978c, p. 1). In his report, first presented to the city attorney's office, Barber listed four areas where the film violated Provo City's obscenity ordinance. These included: language, nudity, sexual actions, and the use of drugs. After a protest concerning the inclusion of drugs as being "obscene," Judge Ballif ruled the drug references irrelevant to the hearing. This sustained objection indicates that Provo administrators, regulators, and attorneys either misunderstood legal definitions of obscenity or, more likely, defined it differently than other regions based on the region's cultural policies. Under the examination of Glen Ellis, Barber testified, in detail, concerning the film's other offending content.

For *language*, Barber included nine words in his report, which referred to various sexual acts, blaspheming deities, and other common curse words. When cross-examined by Robert Maack, Barber was asked if he considered the words used "expletives," such as "when someone hits a finger with a hammer." Barber agreed with that assessment. Maack then asked Barber to clarify the response that such words produced when he watched the film. "Disgust, I guess," Barber replied. Maack then closed his questioning by asking for clarification that the terms did not cause "arousal," to which Barber agreed they did not (Alger, 1978c, p. 1). Religions, nationalities, and cultures usually define their own objectionable words, especially those with sexual connotations (Johnson & Fine, 1985, p. 12; Davis, 2016, p. 6 & 35). As described in my

¹¹² As the tactical squad often experienced periodic downtime, this gave the city a chance to utilize its time better. Because of the odd hours, it was also typical for the tactical squad's wives to attend these screenings, which were paid for by Provo City tax funds (Emmerson, 1977a, p. 3).

introduction, Utah and Mormon cultures have strict guidelines on words considered “obscene,” which usually include most any “curse word” but certainly include terms that are sexually suggestive or defame deity. Theatrical film regulation in Utah County originally included monitoring a film’s dialogue for language considered “obscene.” However, after Maack’s testimony, Provo and the OCPD, only nudity and sex were prosecuted by the cities in the future.¹¹³

Concerning the film’s depictions of *nudity*, Barber recounted multiple examples of scenes that included bare bodies, such as Theresa Dunn’s (Diane Keaton) and Tony’s (Richard Gere) buttocks. There were several instances of breasts, especially Theresa and other members attending a swinger’s party. Under cross-examination, Barber admitted that the only time that male or female genitalia was shown was in a “stag” film projected onto a small screen in Katherine Dunn’s (Theresa’s sister) apartment during a party. Termed a “film-within-a-film” by Maack, Barber confirmed that these shots were visible for “only five or 10 seconds” and took up a tiny portion of the screen (Alger, 1978c, p. 1).

Lastly, for *sexual actions*, Barber said he counted “at least nine” acts of sexual intercourse within the film. Sybel Alger later recollected that Barber “struggled on the stand to explain what was pornographic about the movie.” Barber testified that he considered the sex acts “perverted” and recalled “one incident of masturbation.” Upon mentioning the film’s inclusion of masturbation, Paramount’s legal counsel, Paul Springer, turned to Alger and mockingly mouthed, “What is he talking about?” Alger later concluded that “it could have been a scene with

¹¹³ The Orem Commission on Public Decency, beginning in the late 1970s, for example, started viewing films sped up without sound, and two reels at a time, to expedite their reviewing procedures. This demonstrates not only the influence of Maack’s questioning in changing views on what is considered “obscene” but also shows that nudity and sex were of most concern from the beginning, and language was used to embellish a film’s “obscene” content.

her putting a pillow between her legs,” but considered this “definitely not masturbation” (Alger Interview, 2022).¹¹⁴ Based on Barber’s unclear testimony, Maack explained to the court the difference between “eroticism” and “pornography” to clarify that the two terms were not synonymous. Maack felt this was necessary, considering Barber had repeatedly used the terms interchangeably (Judge May Announce Film Decision Monday, 1978, p. 5). To further his point, Maack also defined the terms “explicit” and “implicit” and asked Barber to describe how sexual acts were depicted in the film. Barber expressed that no sexual activity was ever shown; thus, they were “probably implicit,” as the sex acts were each implied (Alger, 1978c, p. 1). Allen Young, too argued that the sex was “implicit” because they were, in fact, “masked and played down by lighting, clothing,” and camera compositions (Judge May Announce Film Decision Monday, 1978, p. 5). Each question Barber answered revealed holes in Provo’s and Orem’s current obscenity ordinances based on changes after the Supreme Court decided on *Miller* and *Jenkins*.

Attorney Robert Maack also emphasized to the court that “the sole purpose here is whether this film is hard-core pornography.” Paramount Pictures attorney Allen Young, speaking directly to this point, claimed that there was no evidence of hard-core pornography anywhere within the film. Young stated, “To say the film was produced and marketed to exploit sex is ludicrous. If the film were shown at an X-rated film theater, it wouldn’t draw a crowd” (Motion to Quash Obscenity Charge, 1978, p. 2). During his testimony, Don Barber revealed that he had viewed the X-rated *Deep Throat*, a film that Barber considered “hard-core pornography” because the sex acts contained throughout the film are explicitly shown. Barber continued, “*Looking for*

¹¹⁴ Barber might also have been referring to Theresa’s final bar pick-up Gary (Tom Berenger), who appears to be masturbating when attempting, yet failing, to become aroused.

Mr. Goodbar doesn't approach *Deep Throat*," confirming Young's assessment (Alger, 1978c, p. 1).

City Attorney Glen Ellis, in counterpoint to the notion of the film not being "hard-core" pornography, argued that there are no national standards for obscenity. He daringly contended that because *Looking for Mr. Goodbar* violates "Provo's community standards," it should also not "be treated as a film, but rather as an act" (Motion to Quash Obscenity Charge, 1978, p. 2). Expounding upon this and concepts of "reality," Ellis reiterated that had these sex acts been "committed in reality, they would have broken the city's code." Film obscenity, Ellis maintained, is "the same as an act being portrayed live on the stage" and again stressed that because "obscenity varies from community to community and is not a national standard," Provo's tolerance for obscenity is distinctive (Judge May Announce Film Decision Monday, 1978, p. 5). Confused by Glen Ellis' assertions, Judge Ballif asked if he were really "asking that the bench place itself in the position of an average person, considering there is a single dominating faith and that there are a number of BYU students – that the bench considers itself a typical cross-section of that community in dealing with the film?" Ellis said "Yes" (Motion to Quash Obscenity Charge, 1978, p. 2). When defining community standards, Robert Maack spoke directly against Ellis' misconception of this and past obscenity cases, such as *Jenkins vs. Georgia*. He reminded the court that with *Carnal Knowledge* (1971), the Supreme Court had ruled that because sex was implied and did not show specific acts, it was not considered obscene, despite the community's standards, which limit the Autonomy of those not of the Community.

On several occasions, Glen Ellis also spoke directly against the U.S. film industry, claiming that many of their films, including *Looking for Mr. Goodbar*, are nothing more than "an attempt to commercialize sex." He warned that "we cannot let the movie industry dictate the

standards we are to follow” or abandon community standards by imposing an industry rating system that is used for marketing obscene films (Roberg, 1978a, p. 2D). In speaking against accusations that upholding Provo’s ordinance violates First Amendment protections, Ellis clarified, “I’m not trying to infringe on anyone’s right to free speech. But I am concerned with upholding the community standard. The movie industry can make all the money it wants, but not when they capitalize on lust,” at least not in Provo (Roberg, 1978a, p. 2D). Ellis’s argument that Provo be granted Autonomy to define and uphold their definition of “obscenity” based on the “community standards” and cultural policies, worked in theory, but as with other regions, not always when challenged in court. The future of Utah County regulation hinged on working behind the scenes and keeping disputes out of court.

Lastly, Ellis questioned the film's artistic quality, contending that it lacked a significant plot and was instead a film of strung-together sexual encounters. Robert Maack strongly countered this argument by claiming that the film has “great artistic value.” He contended that the plot “involved the disintegration of a human being” and should be seen as a cautionary tale, not a celebration of the character’s downward actions. Despite this interpretation, Maack reminded the court that artistic assessment should not even be involved when deliberating notions of community standards (Roberg, 1978a, p. 2D). With Ellis’ assertion that the film lacked artistic value, Maack and Young had found the foundation of their upcoming defense strategy. During Thursday’s hearing, it became apparent that a second day was needed before Judge Ballif made a final decision, so the court was adjourned until 9:30 am Friday.

Carnal Knowledge – The Trial (Day Two)

Early the next day, it was reported in *The Daily Herald* that Judge Ballif was already “considering a motion to quash obscenity charges” against the defendants, even before Friday’s hearing had begun. The judge granted the defense a day of testimonies to further prove their case (Motion to Quash Obscenity Charge, 1978, p. 2). The defense had managed to secure an impressive line-up of ten individuals who agreed to speak on behalf of *Looking for Mr. Goodbar*. Each testimony advocated for the Autonomy of filmmaker’s rights, viewer’s rights, and the freedoms afforded citizens of the United States, no matter the community standards.

Glen Ellis rested the city’s case within an hour of Friday’s six-hour hearing. Ellis once again emphasized his contention that the state and city have “an interest in prohibiting the commercialization of acts which, if they were committed in person, could be punishable by law.” Judge Ballif stressed the importance of moving beyond solely the standards within a community. Autonomy for a Community, such as Utah County, to enforce its “community standards” limits the Autonomy of those outside of it, thus violating others’ rights. Ballif reiterated that in *Jenkins*, the Supreme Court ruled that “literary, artistic, scientific, and social value” must also be considered, which was an area the city had not considered or lacked an understanding of in their overall arguments (Motion to Quash Obscenity Charge, 1978, p. 2).

With that seamless transition from Judge Ballif, Robert Maack called four expert witnesses to defend the literary, artistic, scientific, and social value based on the Supreme Court’s obscenity test. Securing these witnesses was difficult, considering it required finding reputable individuals within the Community who could also speak with authority concerning the

film's artistic and social value.¹¹⁵ The defense was careful to find individuals that had already seen *Looking for Goodbar* before being contacted to testify and asked that the media emphasize this in their published reports on the trial (Alger, 1978d, p. 2). This was partly because they wanted to make clear to the Community that no one was forced to view the film to be a witness. After numerous denied requests, the defense eventually gathered a strong group of movie and literary specialists willing to testify, including Utah natives Paul Swenson and Ranae Pierce and two BYU-affiliated faculty and staff members, Dr. Edward Geary and James D'Arc. Each compellingly spoke concerning different aspects of the film, its source material, and the filmmaker's intent.

Paul Swenson, a Salt Lake City-based film and literary critic and the founder and editor of the popular Utah Holiday magazine, was the first to speak. Swenson, a well-respected mentor to many Utah writers and journalists, was known for fighting for "the underdog" (Fulton, 2012). A lifelong member of The Church of Jesus Christ of Latter-Day Saints, Swenson also often struggled to reconcile his devotion to the church with his support causes that challenged their stances on specific topics. His testimony on behalf of *Looking for Mr. Goodbar* was no exception. Although the LDS church had not taken an official stand on the film, they had called upon civic leaders throughout Utah to fight film "obscenity" in their communities, which Swenson was against (Fulton, 2012). Swenson shared specific details concerning the differences between the book and the film as part of his testimony. He testified that compared to the book, "the movie played down sex. The passages in the book are very explicit" (Judge's Ruling

¹¹⁵ The defense attorneys had relayed their plan to Bob Bathey concerning this strategy as they had originally planned to call Bathey as a witness, which worried him. He was later assured that he did not need to testify because Ernie Hoffman and the expert witnesses were to provide everything they needed for the case with their change in focus toward the film's artistic value (Bathey Interview, 2022).

Expected Today, 1978, p. 2). Countering Ellis' argument that the film was simply a string of sexual encounters, he believed the film contained not only a plot but also a strong moral message. Swensen also adamantly attested that the film should not be considered pornographic and that sex scenes were managed more tastefully than in the movie *Carnal Knowledge*, which the U.S. Supreme Court ruled was protected by the First Amendment (Roberg, 1978b, p. 15B).

Ranae Pierce, the president and founder of the Utah Cinema Council and long-time librarian at the Salt Lake City Library, echoed much of Swenson's testimony. Peirce, too, compared some of the similarities and differences with *Carnal Knowledge*, but overall, testified on "behalf of the film's artistic merits" (Judge's Ruling Expected Today, 1978, p. 2). However, the defense's clear star witnesses were BYU's Edward Geary and James D'Arc.

Dr. Edward Geary, an associate professor of English at Brigham Young University and Provo resident, stated that his response toward the film overall was "mixed." Nevertheless, Geary affirmed the movie as a "serious piece of social criticism of serious social intent" (Judge May Announce Film Decision Monday, 1978, p. 5). As an author, poet, and book review editor for *Dialogue* and a member of the executive committee for the Utah Arts Council, Geary's opinions carried much credibility. On the stand, Geary was asked several times if he found portions of the film objectionable, and he ultimately concluded that they were not offensive to him but rather "distasteful." He described the film as being "a parable" with a message of "how permissive modern society and the temptation of easy gratification leads to destruction" (Judge's Ruling Expected Today, 1978, p. 2). In speaking about the film's artistic sensibilities and overall success of the work, however, Geary expressed reservations as he felt it fell short of what he believed the director's intention to be (Judge May Announce Film Decision Monday, 1978, p. 5). In counterpoint to Ellis's assertion that the film had no plot or moral message, Geary contended

that, if anything, “the director was too moralistic...He was too preachy” (Judge’s Ruling Expected Today, 1978, p. 2). Despite Geary’s “distaste” for the film, he ultimately testified on behalf of the filmmaker’s Autonomy for artistic expression, seemingly challenging his Community.

The final witness was James D’Arc, the director of BYU’s library film archives and periodic film critic for their newspaper, *The Daily Universe*. D’Arc testified at length about *Looking for Mr. Goodbar*’s writer and director, Richard Brooks. He described Brooks as “a pioneer in the field of realism” and spoke highly of Brooks’ ability to produce films that dealt with social issues that had not been portrayed previously on screen (Judge May Announce Film Decision Monday, 1978, p. 5). Social issues such as racial tensions in *Blackboard Jungle* (1955), sexuality in *Cat on a Hot Tin Roof* (1958), religious corruption in *Elmer Gantry* (1960), and the death penalty in *In Cold Blood* (1967) also matched *Goodbar*’s attempt at reflecting historical social and moral issues. More than any other witness in the hearing, Glen Ellis voiced continuous objections throughout D’Arc’s testimony. Ellis found the detailed discussions of Brooks’ various films immaterial to the topic of obscenity, but each argued Brook’s place as a thoughtful filmmaker whose film deserved artistic Autonomy.¹¹⁶

D’Arc reaffirmed that Brooks had always gravitated to controversial themes, undoubtedly demonstrated in *Looking for Mr. Goodbar*. He described the theme of *Goodbar* as “the decadent decline of a woman who ends up making wrong choices in life. It is a story of good versus evil” (Alger, 1978d, p. 2). James D’Arc understatedly admitted, however, that “some fair-minded

¹¹⁶ D’Arc also evaluated the performance and career of Diana Keaton, who had already starred in films such as *The Godfather* (1972), but Ellis also found such testimony immaterial. That same year Keaton also starred in Woody Allen’s *Annie Hall* (1977), which garnered Keaton an Oscar for Best Actress just months later (Judge’s Ruling Expected Today, 1978, p. 2).

people in this community may be shocked and disturbed” by the film’s story and content (Roberg, 1978b, p. 15B). Like Edward Geary, D’Arc confessed that he “didn’t entirely like the film” but that “basically, *Looking for Mr. Goodbar* is a highly artistic and significant film” (Roberg, 1978b, p. 2D). He ended his testimony by declaring that “It is probably one of the most electrifying motion pictures of 1977” a quote that was widely reported in the press around the nation (Alger, 1978d, p. 2).

After the expert witnesses’ testimonies, City Attorney Glen Ellis questioned each of their comments, especially the local movie critics. Ellis reasoned that “Experts are experts because they are being paid to be experts. Their sensibilities are somewhat dulled,” a denunciation of which many might also accuse of lawyers. Ellis further challenged critics when contending that reviews of the film by several national film critics, offered as evidence by defense lawyers, should be ruled as immaterial. He argued that the only materials considered relevant should concern the community standards of Provo (*Goodbar is Artistic Work, Judge Decides*, 1978). The defense was fortunate to have secured the testimonies of Geary and D’Arc, considering they were well-respected in their areas of study and members of the LDS faith living within the Community. Based on the credibility of these expert testimonies, Judge Ballif eventually ruled that the critical reviews of *Looking for Mr. Goodbar* could be admitted into evidence and considered material concerning the film’s literary and artistic value.

After the critical expert testimonies were complete, Robert Maack called an additional six witnesses to describe the typical distribution processes in the industry, speaking on behalf of the Autonomy of studios, theater, and filmmakers. Ernie Hoffman, the district manager for Plitt Theaters, explained the complicated scheduling procedures and contracted the theater chain has with Hollywood studios that prevent them from altering the films they exhibit. Edward Plitt, the

co-owner and vice president of Plitt's western division, told the court that his company had "never been accused of exhibiting pornography" until Provo's allegations. He further claimed that neither the company's theaters nor employees have "been convicted of showing pornographic films." He contended that none of their theaters exhibited *Looking for Mr. Goodbar* because of the sexual material (Judge's Ruling Expected Today, 1978, p. 2). Lastly, Paul Springer, associate counsel for obscenity at Paramount Pictures, and director Richard Brooks' legal counsel, said, "No other city in the nation has attempted to ban [*Looking for Mr. Goodbar*]." Paramount Pictures stands by the film as a piece of artistic expression that has been widely embraced by audiences and critics alike" (Judge's Ruling Expected Today, 1978, p. 2).¹¹⁷ The list of those testifying for the film was impressive and imperative in challenging Provo's cultural policies.

Just before moving to each side's closing statements, Robert Maack refuted Ellis's contention that *Goodbar* had no plot from the previous day. As substantiation for his claim, Maack revealed that he had timed the sexual interludes in the film, including the kissing. "In a two-hour and ten-minute film," he said, "I timed 12 minutes of sexual activity." He admitted that, yes, "there is a very strong plot involving sex," but much of the film revolves around "relationships with family" as well as other social themes (Judge Ruling Expected Today, 1978, p. 1). To counterbalance this, Glen Ellis's closing remarks emphasized distinguishing between "Soft R" and "Hard R" movies. He maintained that "'Hard R' movies really reach into your

¹¹⁷ Paul D. Springer, associate counsel for theatrical distribution at Paramount, then owned by Gulf + Western based out of New York City, also represented director Richard Brooks. Springer sent court documents, news articles, and other information to Brooks before and after the trial.

insides and tear at you,” just like *Looking for Mr. Goodbar*, “they are offensive” (Alger, 1978d, p. 2). Defending the city’s request to ban the film, Ellis ended by stating,

“The standards of the industry are not the standards of our community. We don’t want to be book-burners – We don’t consider ourselves that ‘benighted.’ We’re not doing this, so the press can say *Looking for Mr. Goodbar* was banned in Provo. If these acts were done in person, they would be legally prohibited. The fact that they were put on celluloid and in color doesn’t mean they are legal” (Alger, 1978b, p. 2).

After *Jenkins*, arguments like Ellis’s had become difficult to prove, but Utah County was not like every other region. The standards of the Community had long dictated much of the media content, yet proving that their cultural policies were legal in a court of law was another matter.

In their closing statements, defense attorneys Robert Maack and Allen Young reemphasized their position that artistic value overrides that of community standards. Maack used the May 1977 Supreme Court ruling of *Smith v. the United States* as precedent in arguing that a community “cannot impose its standards on artistic and literary value” [**Smith v. United States, 431 U.S. 291 (1977)**]. **Maack accused Provo of trying to say, “The First Amendment doesn’t apply if our standard is different than everyone else.” Putting his cards on the table concerning potential future appeals, Maack stated, “If that were true, we wouldn’t have to take this to the Supreme Court,” should Plitt and Paramount lose this case** (Alger, 1978d, p. 2). With that, the heated hearing ended, and Judge Ballif disclosed that his final decision would be released the next day. On Saturday, however, the Judge, apparently requiring more time, delaying his decisions until “sometime Monday,” allowing *Looking for Mr. Goodbar* to continue playing at the Unita at least through the weekend.

Climax – The Ruling

On the afternoon of Monday, January 16, 1978, Judge George E. Ballif filed his decision in the Fourth District Court. The judge ruled that Provo City had failed to offer the proof necessary to declare *Looking for Mr. Goodbar* obscene. The film was free to play at the Unita and other Provo theaters for as long as residents of the area desired to see it.

In his five-page decision, Judge Ballif stated, “Provo City Ordinance No. 396 prohibits obscene acts and representations of sex in the form of film or picture and defines an obscene performance as one which reveals nudity as part of explicit sexual conduct” (*Provo City Corp v. Plitt Intermountain Theaters*, 1978, p. 2). The judge argued that the defined local offense is limited because it must also, “appeal to the prurient interest in sex and portray sexual misconduct in a patently offensive way, that when taken as a whole, lacks serious literary, artistic, political, or scientific value,” a definition he found significant concerns with.

Ballif’s judgment stated that U.S. Supreme Court’s *Miller v. California* decision emphasized, “No one will be subject to prosecution for exposure to obscene materials unless these materials depict patently offensive ‘hard core’ sexual conduct” (*Provo v. Plitt*, 1978 p. 3). Ballif pointed out that the term ‘hard core’ had been judiciously defined after *Miller*, most pertinently in *Jenkins v. Georgia*, concerning the film *Carnal Knowledge* (*Provo v. Plitt*, 1978, p. 4). The *Jenkins* decision ruled that “nudity alone is insufficient to make materially legally obscene under the Miller standards.” It also ruled that the film *Carnal Knowledge* was not “simply the public portrayal of hard-core sexual conduct for its own sake and for the ensuing commercial gain,” which he said was punishable in *Miller*. The judge also ruled that in *Goodbar*, “although ultimate sex acts were portrayed, they were not explicit” and that “hardcore representations of ultimate sex acts are absent” (*Provo v. Plitt*, 1978, p. 5). Accordingly, he ruled

that the film did not fall within the prohibition of Miller or the Provo City ordinance, as the sexual matters portrayed lacked the 'hard core' qualities defined by the United States Supreme Court.

He also noted that evidence before the court by the literary and movie experts who saw both *Carnal Knowledge* and *Looking for Mr. Goodbar* in the handling of sexual matters, *Mr. Goodbar* was less offensive than in *Carnal Knowledge*. He reiterated that the U.S. Supreme Court had determined *Carnal Knowledge* not to have been obscene and, therefore, was entitled to the protection of the First Amendment.

Finally, the Judge ended his motion by emphasizing, "As to the question of serious literary or artistic value, the evidence presented by movie critics and literary experts conclusively established that the film is a serious work in the field of art and literature and for that reason alone is entitled to the protection of the First Amendment" (*Provo v. Plitt*, 1978, p. 5).

The Sloppy Aftermath

When Glen J. Ellis was asked at 5:00 pm following the final ruling whether Provo City planned to appeal, he said that he "hadn't had a chance to digest the decision" (Alger, 1978e, p. 1). By the next day, Ellis, still unsure of how to proceed, articulated that "legally, the city could still prosecute the movie for being obscene since the judge ruled only on the question of a temporary injunction. He continued, "He didn't actually dismiss the case, but he did rule that the movie met the Supreme Court test." He despondently added, "We are not sure just where we will go from here" ('Goodbar' is artistic work, the judge decides, 1978). Newly elected Mayor Jim Ferguson, who had inherited the theatrical controversy when taking office less than three weeks earlier, too was unsure how to proceed. Despite not discussing it with Ellis, Ferguson said he

preferred “to sit down with the owners and see if we can find a workable agreement” (Judge Rules No Basis to Stop Mr. Goodbar Movie, 1978, p. 1). A practice that Ferguson endorsed for the rest of his tenure as mayor. The trial, and the negative publicity that accompanied it, had cost the city more than just money; it had also impaired years of progress the city had made in regulating theatrical distribution. Larger theater chains like Plitt and Mann Theaters had always reluctantly cooperated with Provo regulators to remove obscene films. Still, the court’s decision now called into question how willing theaters be in their cooperation. Even smaller independent venues like Marvin Cox’s Pioneer Drive-In were bound to contemplate challenging Provo’s obscenity ordinance. Ferguson’s desire to keep obscenity regulation out of the courts was a worthy pursuit but one that might also find challenges. (Judge Rules No Basis to Stop Mr. Goodbar Movie, 1978, p. 1).

On January 18, 1978, two days following Judge Ballif’s decision, Provo City Attorney Glen J. Ellis and Jim Ferguson decided not to pursue any further civil or criminal action against the defendants. Despite believing in the Community’s Autonomy to define their standards, Ellis sent each of those included in the indictment, including Plitt Theaters (Robert Maack), Ernest Hoffman, Robert J. Bathey, and Paramount Pictures (Allen K. Young), a “notice of dismissal without prejudice” (Notice of Dismissal, 1978, p. 1). Following the dismissal, Richard Brooks sent personal mailgrams to each individual who testified on behalf of the film, including James V. D’Arc, Professor Edward A. Geary, Ms. Ranae Pierce & Paul Swensen. The mailgram for James D’Arc stated:

January 24, 1978

Thank you for testifying in (sic) behalf of “Looking for Mr. Goodbar” in Provo, Utah. There never has been an easy time to move against the grain. In these perilous times, in your position and vulnerability, your freely-given opinions in a public consisting of your neighbors is an act of courage and conviction. I am deeply indebted. I am ready to reciprocate whenever called upon. I have responded similarly to the others who chose to stand beside you. Without your individual and combined efforts, the day certainly would have been lost.

Most gratefully,
Richard Brooks

(Richard Brooks Papers, Academy Library, January 24, 1978, p. 1).

Richard Brooks’ caution concerning the potential outcome of losing the trial shows the assumed power that “community standards” held in Utah County. With the county being one of the few remaining areas with regional censorship regulation in the country, much was at stake in Provo prevailing in the courts. Plitt and Paramount, too, felt pressure to succeed in the courtroom as the future of regulation not just in Utah County but the rest of the nation watched closely at the result of Provo’s injunction hearing. The effects of the trial on regulation, viewer Autonomy, and artistic expression were all at stake.

Resolution Stage - The Purpose and Impact of Winning Mr. Goodbar

Attorney Robert Maack speculated during the trial that “if Provo should win this case in court, there won’t be anything but G-rated movies shown here from now on” (Only G’s If Provo Wins Case, 1978, p. 1). Although hyperbole, Maack’s prediction was a worry often addressed by theater operators in Utah County, considering solely exhibiting family films was not a lucrative business (Russ Heaton & Marvin Cox). Maack adamantly exclaimed that his clients were not defending the movie or themselves for monetary purposes, implying that “the Provo market does not produce a large revenue from motion pictures,” in general, let alone in films with more adult themes. Responding to conjecture that there was a conspiracy among motion picture producers

and theater operators to “break the “R” code in Provo,” Maack revealed their much loftier goal of defending themselves “as a matter of the right to freedom of speech as guaranteed by the First Amendment to the constitution” (Only G’s If Provo Wins Case, 1978, p. 1). It was the city’s accusations of the theater peddling “pornography” that placed Bathey, Hoffman, Paramount, and even Richard Brooks “in the position of defending their good names” in the first place. Had they lost the case, each “felt strong enough to take this matter to the U.S. Supreme Court,” which might have occurred had Judge Ballif ruled the film obscene.

Despite Maack’s verbal apprehensions conveyed to the press, according to Bob Bathey, the defense lawyers were reportedly not worried about the case not going in their favor. Bathey went as far as to claim that Plitt’s and Paramount’s lawyers enjoyed provoking Ellis and Bradford throughout the trial implying “they had never had more fun on this case than ever before,” as they knew they were novices at prosecuting obscenity. It was not yet learned the influence of the *Goodbar* decision in breaking down regional regulation in Utah and beyond. Walter Josiah, Paramount’s chief counsel, opined that the ruling was a “not-unexpected victory as censorship” has “become less and less of a problem of late because of the rating system” (Mr. Goodbar Wins Over Provo, 1978, p. 34). As analyzed in my introduction, the rating system initiated the massive “problem” in Utah County and other areas of Utah that continues to affect film regulation and distribution in the region even today.

The impact of Judge Ballif’s decision on other regional regulations was demonstrated shortly after his *Goodbar* ruling. In late January, for example, Cache County Attorney Burton Harris refused to challenge *Looking for Mr. Goodbar*, despite protests and letters from dozens of concerned parties. Logan, Utah, Mayor Walter Nichol claimed he had letters “piled to the roof” from 518 citizens opposed to the film showing (Logan Council Condemns R-Rated Film, 1978,

p. 10). An anti-pornography group called “Citizens for True Freedom” circulated petitions around the county. Harris firmly reasoned that “the fact that Provo failed demonstrates that this movie is not the kind that should be challenged” (Cache Attorney Say No to Court Fight Over Logan Showing of R-rated Film, 1978, p. 19). Paralleling a similar argument as many in Utah County, Harris contended, “I’m sure the people who are concerned should be concerned because it’s an unsavory situation, but because something is unsavory or violates a person’s personal standards, that doesn’t make it subject to action by the public or law enforcement” (Cache Attorney Say, 1978, p. 19). Ultimately, no protesters attended the opening night screening, but over a thousand Logan’s residents did. So many arrived that the police were called to maintain order in the block-long line of people hoping to purchase tickets (Many View Film, No One Pickets, 1978, 8C). In correspondence with Richard Brooks, Paul Springer proudly informed Brooks of Logan’s decision, confidently expecting the Provo ruling to have a lasting effect benefiting other artists and the industry. Articles in *Boxoffice Magazine* (film distributors and exhibitors) and Newsletter on Intellectual Freedom (an anti-censorship caucus) soon reported on the Provo case presenting a desire that regional censorship offered more Autonomy to theater patrons throughout the United States (District Judge Rules for ‘Goodbar,’ 1978, W6; Newsletter on Intellectual Freedom, May 1978, p. 66).

The hearing decision also significantly affected policies and procedures at Brigham Young University. At a faculty meeting on January 26, 1978, Dallin H. Oaks, President of BYU and prominent lawyer, spoke at length concerning what occurred at the trial for *Looking for Mr. Goodbar*. Oak condemned D’Arc and Geary’s decision to testify at the trial without permission, arguing that by agreeing to speak, their words invariably functioned as official spokespersons of the University. He argued that due to their affiliation with BYU, the media, and others construed

their words as the institution's stance. D'Arc and Geary were reprimanded, and the policies were updated to ensure no BYU-affiliated employee testified at a trial without administrative approval. His words created instant controversy among the BYU faculty as they restricted their ability to speak to their expertise concerning legal matters while employed by the university. These exchanges communicate powerfully how more the University manages controversial issues and BYU culture's quest to control Autonomy.

Several in the BYU community felt compelled to speak against such forms of censorship by President Oaks. Bruce W. Jorgensen, a celebrated poet, fiction writer, and faculty member in the English Department, for example, wrote, speaking against Oak's insistence that BYU employees do not speak on matters of conscience. In rebuttal to Jorgenson's memo, President Oaks stated,

Whether these two individuals 'acted in good conscience and on correct principle' is entirely beside the point. They had no business speaking for the University in a situation where they would inevitably be understood as speaking for the University. My grievance with them would have been the same if they had been testifying against the film. The point is that there are some situations of a quite deliberate public nature that are apt to be misunderstood where we have a duty to be quiet. That is why I do not speak out on a lot of things on which I would like to speak out. I would consider it irresponsible to be expressing my personal opinions (however right and proper they might be) in a situation where they would be understood as the opinions of the institution, in a case where the institution should not have an official position" (Oaks' memo to Jorgensen, 1978, p. 1).

Steven C. Walker, an English and Religion faculty member specializing in moral criticism, took issue with Oak's guidelines and "after three weeks of mental, moral wrestling," decided to join Bruce Jorgeson in condemning such strict reproach against speaking on one's conscience (Walker to Oaks Memo, 1978, p. 1). Thus, on February 16, 1978, Walker sent his letter expressing his opinion. Walker spoke against Oak's directive of what Walker deduced was to "lie by silence" and considered "withholding of expert opinion" as "blatantly immoral" (Walker

to Oaks Memo, 1978, p. 2).¹¹⁸ He ended his remarks arguing for Autonomy stating, “I think faculty members ought to be encouraged rather than discouraged from speaking out on matters of conscience, voluntarily or not, in court or out” ((Walker to Oaks Memo, 1978, p. 2).

In a final response, Oaks sent Walker a four-and-half-page reply chastising him for misunderstanding his position and asking him to read what he said carefully. Oak reiterated that his position remained unchanged even if D’Arc or Geary testified against *Looking for Mr. Goodbar*. It is unknown whether Oaks would have felt as firmly on this issue had D’Arc and Geary testified against the film rather than for it. The controversy surrounding the film made a lasting change not only for cities in Utah County but also in how BYU and the LDS church should handle legal matters. The hearing decision challenged Brigham Young University’s and the LDS church’s parochial authority against Autonomy, as the region seemingly lost ground in its battle against obscenity. Oaks ensured that faculty and staff were never again used, like with *Goodbar*, in associating church support or sponsorship when speaking on a legal matter. The intermingling of religion with politics and expert testimony further demonstrates the complicated motivations of individuals within the community that often go against the grain and their own definitions of Autonomy for the Community.

Conclusion - The Awkward Silence

When describing the experience of visiting Provo for the first time, many individuals, including Bob Bathey and Jan Fasselin, recall the city’s quaint appearance. Visiting downtown Provo in the mid-1970s was like stepping back into a bygone era in looks and social attitudes

¹¹⁸ Walker also stated, “Can we really afford to ‘withhold truth’ when ‘honesty may prove our best policy?’ Handwritten notes from Oaks or his counsel accused Walker of confusing “truth” with “opinion” (Walker memo).

(Bathey & Fasselin Interviews, 2022). Ernest Hoffman similarly observed that coming to Provo was like stepping back 50 years to a time when every town had a local censorship board that monitored citizens' morals (City Considers Action As 'R' Film Continues, 1977, p. 2). Where the rest of the country had, in most cases, moved past mentalities on the need for wholesome media for all members of society, Hoffman described Utah County as progressively moving backward. Provo's legal battle against *Looking for Mr. Goodbar* reveals theatrical film regulation in action in the late 1970s and individuals' struggles for Autonomy at a time when few other areas continued to challenge obscenity ordinances (Mr. Goodbar Wins Over Provo, 1978, p. 34).

In a parochial society, as found in Utah County, the assumption often is that because most citizens reject films with adult content, all others must do the same. The case of fighting for Autonomy surrounding *Looking for Mr. Goodbar* finally challenged this notion and Provo's right to establish standards for its community, especially when such standards deny fundamental constitutional rights and protection of all citizens. Other cities, such as Orem and other conservative areas throughout the United States, watched anxiously as the court's decision might impact the future of film regulation. The trial offered a critical evaluation of how changes in the Supreme Court's obscenity rulings, including *Miller* and *Jenkins*, created new challenges for all conservative regions of the United States.

The enigma surrounding Utah County, however, is defining what Autonomy is and who is entitled to it. The battle over obscenity was always centered around how individuals and groups understood Autonomy, whether for themselves, their Community, their businesses, or their institutions. Each party comprehended its freedoms differently when controlling varying rights such as morality, speech, commerce, or viewing autonomy. All were insistent that theirs

was the correct and fair way and fought hard for those beliefs. In the end, however, there was no clear winner, as very little actually changed. Yes, Provo City and some citizens were bruised by the supposed loss in court. Still, the region's cultural policies remained the impetus in influencing and sometimes dictating the films allowed to be exhibited in the area. None of those involved in the *Goodbar* debate wanted to end back up in court, most of all Mayor Jim Ferguson, who made it his goal to find ways to work behind the scenes and outside of the courts.

Film obscenity regulation by Utah County cities had operated relatively unrestrained for years. The regulation was mainly considered a nuisance that theater managers felt obligated to tolerate (Fasselin Interview, 2022). One of the main factors concerning cities' ability to maintain such control over theater managers was not just a desire for cooperation but, in some cases, fear. Trepidation over indictments and boycotts had usually been enough to coax support. Despite the adverse economic effects of only scheduling family films, as drive-ins usually made more money when scheduling more adult content, few theaters could afford to challenge regulators in court. For example, Marvin Cox, the owner of the Pioneer Drive-in and independent exhibitor, lost much revenue to appease notions of BYU culture and not schedule adult films.¹¹⁹ It took an established national chain (Plitt) and a large Hollywood studio (Paramount) to challenge these cultural demands.

The phenomenon surrounding *Looking for Mr. Goodbar's* unprecedented success in Provo also illustrates that the actions of city officials against obscenity ultimately result in drawing more notoriety and revenue to the theater than had the city not challenged it. This was proven time and again in Utah County with *Candy* (1969), *Beyond the Valley of the Dolls* (1970), *Big Bad Mama* (1974), and *The Pom Pom Girls* (1976), with each drawing increased attendance

¹¹⁹ The Geneva Drive-in closed in the mid-1970s, primarily due to only showing family-oriented films.

numbers every time a film was widely publicized in the media. These factors and others motivated city officials to work harder to come to agreements behind the scenes with theaters to restrict audiences from viewing films they considered obscene.

The *Goodbar* trial revealed that regulation in Provo had little to do with the ordinances or the city attorney's effectiveness in testing obscenity in court but rather with their ability to rely on concepts of cultural policies. These policies were echoed by citizens and city regulators, which theaters were then forced to abide by, determining that it was not the ordinances' strength that enforced censorship in Utah County but rather its unwavering culture. The incidents showed that citizens influenced by BYU culture, many of them BYU students within the Community, supported the film, not only because of the Streisand Effect but also due to Utah culture's difficulty in avoiding popular films and other entertainment. Due to this rise in interest in seeing a wider variety of films, BYU's Varsity Theater, within two years, began exhibiting edited R-rated films. Doing so appealed BYU culture and encouraged students and members of the Community to view sanitized versions of films on campus rather than versions containing "obscene" material that might spiritually corrupt them. Film sanitization practices at BYU eventually influenced Utah County's filtering and sanitization industry today.

Charles McConnell's hope for many citizens to follow them in boycotting the Unita Theater never came to pass. Before *Goodbar*, the Unita was only seen as an aging theater with "no grossing potential" yet "attracted record crowds during the first 14 weeks of 1978" (Unita Theatre Proves It Still Has Drawing Power, 1978, SW8). Bob Bathey



Figure 21 – Unita Theater on Center Street in Provo, Utah

also remembered the publicity surrounding the court case as having the opposite effect as the controversy providing new life to the aging theater. Bathey recalled citizens' repeated encouragement following *Goodbar*'s exit, supporting the theater's First Amendment rights and resident Autonomy for choice in the media viewed (Bathey Interview, 2022). The case of *Looking for Mr. Goodbar* validated that despite Provo's obscenity ordinances, citizens' and theater's rights were paramount, outweighing a society's "community standards," not just legally but in some ways culturally too. These protections became more apparent as additional theaters in Utah County continued to screen films violating the city ordinances.

After almost two decades of regulation oversight, the events surrounding the film's confiscation were a perfect storm that tipped favor to the theaters and the studios, at least for a while. This ushered in a final era of theatrical film regulation in mainstream theaters, lasting another half a decade. Continued legal and cultural pressure ultimately forced Utah County citizens to reassess their goals and the future of viewing films free from content considered objectionable as they moved away from regulation towards education.¹²⁰

¹²⁰ The incidents also forever changed how films were regulated in county theaters and led to the desire to begin editing R-rated movies at the Varsity Theater at BYU to offer a venue for BYU students to view popular films free from objectionable content. This change eventually encouraged the sanitization industry in Utah County still operating today.

Chapter 5

FROM REGULATION TO EDUCATION: LESSONS FROM PORKY'S AND THE MEDIA REVIEW COMMISSION

(1978-1984)

“If you are to be effective in your fight you
must know the enemy and the rules of the game.
I suggest you learn, then teach.”

(Policeman Responds to Criticism, 1980)

The fallout after the release of *Looking for Mr. Goodbar* (1977) resulted in Provo City regulators cautiously approaching film regulation with theaters, but it also did not halt their efforts altogether. The spectacle-filled trial and public debate that sided mostly with Paramount and the Unita Theater did little to dissuade other cities and organizations. Watchdog groups like the Utah County Council for Better Movies and Literature and Orem's Commission on Public Decency rejuvenated their efforts to combat theatrical film content considered obscene. During Provo's public relations challenges with *Goodbar*, Orem City attorneys, city council persons, and decency commission members reevaluated their obscenity ordinances to ensure all loopholes, like those discovered in Provo's regulations, were adjusted, and intensified.¹²¹

Orem's commission had long been brandished by decency leaders, such as Fred Podlesny, residents, and city leaders, as the “gold standard” of film regulation within Utah County. Still, they had some tough lessons to learn (City of Orem Happenings, 1977, p. 1). Like

¹²¹ A published legal notice in the Orem-Geneva Times on January 26, 1978, added clarifications on summons/subpoena delivery and punishment for conspiracy offenses. Each was directly related to issues raised in the *Looking for Mr. Goodbar* trial, discouraging theaters from deliberately violating an obscenity ordinance, such as “conspiring” to use a second print of the same film directly following the seizure of a first print.

Orem, the leaders of Provo also adjusted and tightened their ordinances in 1978. Despite continual appeals by the UCCBML and others for an Orem-style commission, however, Mayor Jim Ferguson stood by his longstanding sentiment that Provo did not need one, as the city's ordinances and current protocols were sufficient (Ferguson opposed porn panel, 1980, 8A; Kofoed, 1980, p. 2). Calls for Orem and Provo to combine their efforts in screening and regulating obscene films in the Valley from new UCCBML chairwoman Karleen Barker and others were also consistently ignored (Christensen, 1978, p. 35; Smith, 1979, p. 11; Ferguson, 1980, p. 8A; Barker, 1980, p. A12; Giunta, 1981, p. 8; Moore, 1982, 7).

By March 1979, OCPD chairman David Hansen described the commission's new purposes as "not to condemn or to condone literature or film content" but to aid the city council, businesses, and citizens in understanding the importance of 'maintaining community standards'" (City of Orem Happenings, 1979, p. 2). City Councilman Earl Farnsworth positively described the OCPD's new aim, sharing that local theater managers have also strived to educate the city leaders about the realities of their business protocols. Farnsworth stated, "According to some of the local theatre owners, it is very difficult to know just what is in the movie before they must make a decision whether or not to show it." He continued, "There is much controversy surrounding blind bidding," which requires theaters to fiercely compete for exclusive rights to particular films (City of Orem Happenings, 1979, p. 2). He maintained that the city had received an "outstanding response from businessmen" in addressing concerns over content as they arose (City of Orem Happenings, 1979, p. 2). Constructive collaborations such as this validate that open discussions, where each side can educate the others concerning their ambitions and corporate decisions, are critical in offering more Autonomy to all involved.

Mayor Ferguson reported in March 1980 that Provo had received few complaints about theatrical obscenity in the two years following *Goodbar*. Ferguson conveyed, “We have had some segments of movies cut out after a review, and all the theater people cooperate extremely well with us” (Ferguson opposed porn panel, 1980, 8A). After such a problematic public debate, Ferguson, too, felt it was vital to confer with theater operators behind the scenes and out of the courtroom. The goal when regulating films was to create a product that satisfied citizens and generated a profit. Educating the theater owners and operators about this mutually beneficial relationship of working together to satisfy paying audiences was essential. Issues may arise, however, when some audiences’ desire to satisfy other cravings in their theatrical viewing is not met due to restrictive regulations. This was a lesson that Provo and Orem's regulators were unwilling to learn or discuss.

By early 1980, Orem’s Public Decency Commission continued to rebrand the commission’s roles. The OCPD again described their objectives as more than just regulating films but also “to help the public, theater owners and operators, businessmen, and other parties *understand* the positive aspects of living in a community free from the characteristics of pornography and obscenity” (City of Orem Happenings, 1980, p 2; emphasis added). To do this, the OCPD restructured its focus to educate theater owners and the public about these benefits, which differed significantly from the organization’s original aims to standardize morality through strict enforcement of its ordinances strictly.

Insights into the shifting ambitions and operations of Orem’s Commission on Public Decency and Provo City film regulators following the release of *Looking for Mr. Goodbar* reveal a downward trend in theatrical regulation in mainstream theaters and a rise in interest in sanitized films at other venues such as BYU’s Varsity Theater. Assessing the difficulties and lessons

learned by Utah County regulators reveals a steady delineation from regulation towards education. After another devastating loss in Provo courts over Porky's in early 1982, each city's regulatory leaders learned a valuable lesson that strict enforcement of their original ordinances would continue to meet social dissonance and potential legal disputes. Thus, a refocus on educating the public about the dangers of obscenity, rather than strictly enforcing and intimidating theater operators to edit films, offered more Autonomy to each group that desired fewer film restrictions.

Informing the public about the content of theatrical films within Orem and Provo by publishing the content descriptions also encouraged more Autonomy for those influenced by BYU culture, as they could select movies based on content rather than nebulous ratings. This enabled audiences to view sanitized versions of mainstream films at theatrical venues at Brigham Young University, like the Varsity Theater. Such Autonomy in film viewing options formed an avenue for allowing R-rated movies to play unaltered in mainstream theaters despite titles being vetted for obscene content before the exhibition by a refashioned Media Review Commission.

This chapter analyzes the end of film regulation in Utah County and the challenges and lessons taught and learned during the twilight of such regulation. These final challenges indicated that the cost was too much monetarily, politically, legally, and in social discord in a post-*Miller* world. These brutal lessons led to significant changes in Provo and Orem's regulation trajectory as the cities moved towards mutual understanding and focused on education rather than regulation.

The Orem Commission on Public Decency: Lessons Learned - The Hard Way

In this section, I examine the history of the Orem Commission on Public Decency, focusing on its regulatory challenges and the lessons it learned as it shifted its approach and mission by the end of the 1970s. We gain valuable insights into how they overcame regulatory obstacles by evaluating specific examples from the OCPD's regulatory experiences. Commission member Stephen West played an important role during this transitional period and is highlighted due to the OCPD's shift to education during his time. Examples and case studies with films such as *The Other Side of Midnight* (1977) and *The Groove Tube* (1974) reveal the high cost of regulation in a changing social dynamic, even among those influenced by BYU culture. The lack of Autonomy for theater managers, owners, and film viewers prompted the commission to prioritize educating citizens through information rather than stringent regulation. Changes were necessary as most national theater chains in Orem and Provo no longer complied with suggested content edits. Multiple challenges, lessons, and mistakes eventually led Orem to transition into the Media Review Commission, which is further explored in this chapter.



Figure 22 – *The Groove Tube* (1974) *Daily Herald* advertisement (Carillon Square)

The Other Side of Regulation – Learning from Challenges and Mistakes

With all the challenges that Provo citizens and regulators encountered with *Looking for Mr. Goodbar*, Orem's Commission on Public Decency also faced their own complications. When the commission started actively regulating films following the release of *ECCO* in 1965,

there were only three independently owned and operated theaters in Orem.¹²² Despite occasional infractions, these drive-ins were exceedingly compliant with Orem’s decency commission. By the mid-1970s, this changed. As new theaters were erected, the OCPD learned the hard way that regulation produces costly challenges.

The opening of Plitt International Inc.’s University Mall Twin Theatre in 1974 represented a significant challenge to the OCPD’s power. As a national theater distributor, Plitt’s contracts required them to screen entire films. So the company never seriously considered altering movies based on the committee’s recommendations, despite often speaking of their promise and obligation to comply (Fasselin Interview, 2022).¹²³ Films were sometimes replaced when requested, but according to Fasselin, usually only when they were previously scheduled to do so (Woller, 1977a, p. 1).¹²⁴ When Mann Theaters opened their four-plex Carillion Square Theatre in 1977, Orem had another national theater chain to regulate. This created more work and complications for the OCPD, most notably with the release of *The Other Side of Midnight* (1977), which caused quite a stir, cost Orem a lot of money, and taught them a lesson in the challenges of regulation in a post-*Miller* America.

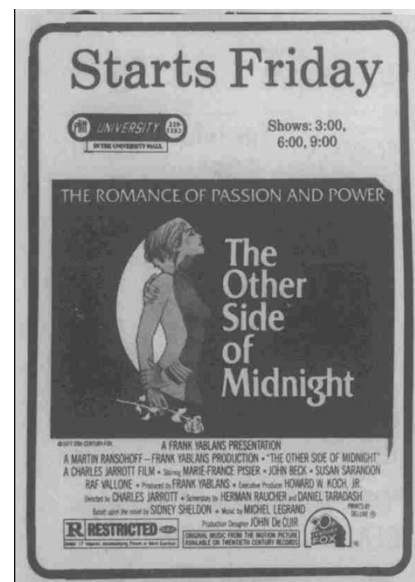


Figure 23 - *The Other Side of Midnight* (1977) *Daily Herald* ad (University Mall Twin)

¹²² The three theaters included two independently owned drive-in theaters, the Geneva Drive-In (1948-1970) and The Timp Drive-In (1950-1993). The only indoor venue was the SCERA Theater that has only exhibited family-friendly films since 1941 and is still in operation today. The Geneva closed in 1970, partly due to their effort to only show family films, resulting in abysmal business that led to the drive-in’s closure in 1970.

¹²³ Mayor Russell Grange or Provo discovered Plitt was not editing its films when attending *The Next Man* in 1976, as discussed in Chapter 3.

¹²⁴ Such as with *The Sentinel*, which was discussed in Chapter 3.

The trouble started when *The Other Side of Midnight* was scheduled to play at the University Mall Twin Theatres on July 22, 1977. The print was delivered to Orem's City Center on schedule early Friday morning to be reviewed by the OCPD. Larry Healey, the manager of The Timp Drive-In, was hired by Orem City to screen each R-rated film for commission members before its first showing. After reviewing the first two reels and commission members took notes concerning the movie's objectionable content, it was discovered that the film prints had been misthreaded, which destroyed the sprocket holes on one side of the filmstrip (Fasselin Interview, 2022). This made the print unusable for exhibition at its 3:00 pm screening that afternoon. Although another print was rushed from California to screen the next day, according to theater manager Jan Fasselin, the damaged print cost Orem roughly \$5,000 to replace, far more than the OCPD's yearly budget. Although the media did not report the incident, it did raise concerns among Orem's leadership regarding the risk of the commission mismanaging taxpayer funds and questions about how better to regulate films before their exhibition in the future. Additional troubles concerning the film also soon arose.

As a result of the screening fiasco, *The Other Side of Midnight* had not been thoroughly reviewed before being exhibited. Word of the film's sexual content spread resulting in multiple citizen complaints being submitted to Councilman Harley Gillman and City Attorney Frank Butterfield. Decency Chairman Leo Hall previewed the movie again, but this time at the theater. Hall asked that "two scenes be cut" to comply with Orem's obscenity ordinance (Local Theatre Showing Brings Citizen Disapproval, 1977, p. 6). To confirm Hall's assessment, City Manager

Al Haines sent two police officers and their wives to view the film. The group reportedly each agreed that the film violated Orem's ordinance.¹²⁵

Despite reports from Leo Hall and the police officers, Butterfield felt that filing a suit against any theater or individual based on Orem's current ordinance "would not be favorable," but also agreed that the film "deserved" its R-rating (Local Theatre Showing Brings Citizen Disapproval, 1977, p. 6). Discussing the concerns, Fasselin explained Plitt's position "that they could not cut the film, by contract," as they are forced either to show the film in its original form or not at all (Local Theatre Showing Brings Citizen Disapproval, 1977, p. 6). Mann's "our hands are tied" workaround had succeeded, thus far, in Orem. It also demonstrates the complexity of managing theater compliance with editing suggestions made by the commission. As explained by Mayor Russell Grange, however, enforcing the cutting or removal of films was more firmly imposed in Provo, a hard line that Mann and Provo City would soon be tested on with the release and *Porky's* (1982), as analyzed later in this chapter.

Based on the unusual circumstances and perhaps because they were still licking their wounds after the costly film mishreading, *The Other Side of Midnight* was allowed to play one more week through August 12th. To prevent future disputes, the city council members voted to hire Bryce McEuen, Provo's future city attorney, to review the city's current ordinance to determine if it would hold up under a test case. Mayor James Mangum gathered all of Orem's theater managers to discuss again a mutual behind-the-scenes agreement to keep "obscene" films out of theaters and disputes out of court. The issues surrounding *Midnight* and *Goodbar* taught both Orem and Provo a lesson in the future of battling obscenity. Not only can regulation be

¹²⁵ Jan Fasselin recalled that one of the officer's wives, who was LDS, told him after the screening, "Sure, there was nudity, but it had a good story" (Fasselin Interview, 2022). Rationalizing certain film content to view particular movies is common if a film's narrative, history, or themes can be justified.

costly, but in some cases, it outweighs the benefits. The future of regulation needed to happen behind closed doors and out of the courtroom.

Where Provo's regulation occurred more quietly behind the scenes, the efforts and meetings of Orem's Commission on Public Decency were open to the public, unflinching, and, through much of the 1970s, resolutely backed with the city's support.¹²⁶ The commission's endeavors were strategically publicized and summoned average citizens to join and take part in battling against obscenity in their community. One such "average citizen," Stephen West, witnessed firsthand the struggles of theatrical film regulation by the end of the 1970s. Based on his own experiences with these challenges, West was instrumental in making lasting changes to the OCPD and implementing a new mission to educate businesses and society about the importance of moral media.

Stephen West - Learning to Educate

Stephen West, a successful businessman and entrepreneur, played a significant role in the Orem Commission on Public Decency's history and transition from a public decency regulatory board to a public decency educational board.¹²⁷ West moved to Orem in the fall of 1976 and was impressed by the city's ordinances battling obscenity. Shortly after arriving, West was approached by Richard Pierce, a prominent leader in his church congregation (Ward), to inquire about his interest in potentially joining the OCPD. It was imparted to West that the commission's

¹²⁶ Despite the OCPD meetings being open to the public and theatrical film regulation being such an indelible part of life in Utah County for decades, few primary documents concerning these regulatory practices have survived. Provo and Orem discarded all documents from this era, and few senior city employees, even recall that such regulation existed there (Riddle, 2021).

¹²⁷ As commission chairman from 1979 to 1981, Stephen West personally archived the commission's operations during his time as their leader. His materials offer a glimpse into the commission's meetings and protocols not reported by the press. Discourse analysis of some of these documents assists in presenting critical insights into the group's motivations, challenges, successes, and lessons gleaned.

purpose was to assist in shaping views on morality in the community. In February 1977, Stephen West, and his wife Kathy, met with Orem City Councilman Wayne Watson, where West formally accepted a one-year appointment as a junior member of the Commission (Letter from Wayne Watson, 1977, p. 1), while Kathy took an appointment as an alternate member. In a December 3, 1978, reappointment letter, Mayor James Mangum thanked West for his continued service. He sympathetically said, “I am sure that, at times, it seems a thankless job and is often frustrating, but your dedication is truly an example to us all” (Letter from James Mangum letter, 1978, p. 1). West strongly believed in public morality as he witnessed firsthand what he saw as threats of “obscenity” on society while living outside Utah County. Stephen West’s tenure as chairman of the OCPD eventually inspired the organization’s transformation into Orem’s Media Review Commission, discussed later in this chapter, that had a lasting effect on regulation in Utah County, allowing the commission to review all PG, PG-13, and R-rated films for another two decades.



Figure 24 – Orem Commission on Public Decency members (circa 1979) - Stephen West (seated in middle)

Members of the Orem Commission on Public Decency attended monthly public meetings as part of their duties. Stephen West preserved the meeting minutes and agendas from January 18, 1979, to November 20, 1980. These documents offer valuable insights into the organization’s history and operations as West attempted to educate the public about the importance of film

regulation in Utah County communities. The minutes provide additional details that were not reported by local newspapers, which assists in discerning some of the challenges regulators faced in the late 1970s and examples of Orem's cultural policies in action. Insights from Les Campbell, one of the original OCPD members, also emphasize some of the organization's procedure changes.

Convening on the third Thursday of the month, a typical OCPD meeting consisted of approval of minutes from the previous meeting, movie and book reviews, including new assignments, and special reports from various members or city officials. These reports often addressed public relations issues, advertising ideas, survey creation, cable TV challenges, and political and legal updates from city council members and attorneys. The Citizen Education committee, led by West, also taught committee members, organizations, and the public about topics such as the MPAA rating system, the psychological harms of pornography on society, and the benefits of a community free from obscenity. Each meeting opened with a prayer as a form of reverence in petitioning for the Lord's assistance to reach their goals and overcome obstacles that may be faced. One of those obstacles involved finding ways to ensure minors were not admitted into R-rated films. West decided to educate theaters through action by conducting an experiment, using his own sons, to ensure theaters followed the city's obscenity ordinances by checking for IDs.

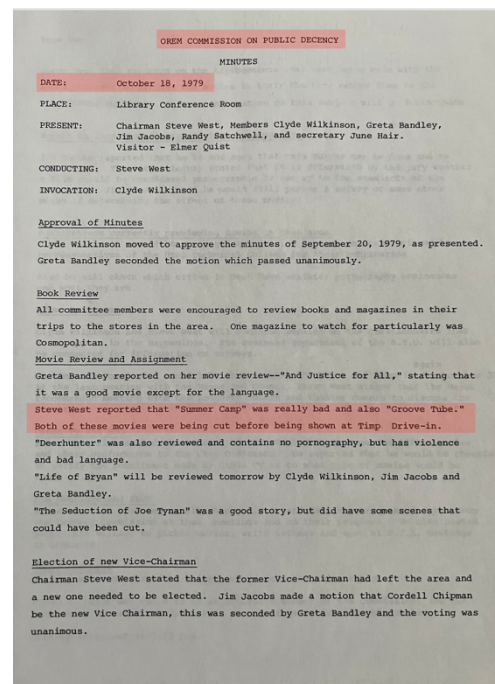


Figure 25 – OCPD Meeting Minutes (October 1979)

The R-Rated Experiment: Enforcing ID Checks

One of the more intriguing challenges addressed in the minutes was the commission's desire to keep underage minors out of R-rated films and hold theaters accountable. The issue was first discussed in March 1979, when a commission member attended a "sneak preview" screening for an R-rated movie that Carillion Square Theatre failed to submit to the commission for a review. The member witnessed several underage youths he knew purchase tickets for the screening without being asked for their identification to confirm their age. Although the group decided not to take action against the theater for not submitting their film for review, further inquiry into theaters checking IDs was scheduled for future meetings (OCPD minutes, 1979b, p. 1). By June, Stephen West was frustrated with the lack of action to enforce Orem's obscenity ordinances, especially for minors. City Attorney Bryce McEuen reiterated that state and city law could only enforce minors under eighteen from attending R-rated films without a parent. A recommendation was made for Orem City police officers to be sent on Friday and Saturday nights to check on ages (OCPD minutes, 1979e, p. 1). An update after the commission's summer break showed that theaters still were not checking IDs, despite the theaters being educated on the requirement and reminders by letter to do so (OCPD minutes, 1979f, p. 1). Orem City Police Chief Peacock attended the September 1979 meeting and clarified that officers could only check IDs for probable cause. He suggested that officers watch suspected minors in the line and check if IDs are not requested (OCPD minutes, September 20, 1979g, p. 1).

According to the minutes, there was little further discussion at OCPD meetings until the February 21, 1980, session. The minutes cryptically stated, "More minors will be sent to "R" rated movies" (OCPD meeting minutes, 1980b, p. 1). A week later, an article in *The Daily Universe* reported that for several months, Stephen West had sent his underage sons to theaters

“to buy tickets to R-rated movies to see if they can get in without being asked for identification” (Pornography fought by Orem commission, 1980, p. 3). Despite the commission’s efforts, West’s sons had yet to be denied entrance into an R-rated film. It is unclear if theater managers were confronted or why officers were not present to address the lack of ID check enforcement. Similar to the limited police availability to monitor drive-in theaters in Orem in the early 1970s, however, restrictive police resources were likely the culprit. West in exasperation, said, “If we are going to make it harder economically for them to show these R-rated movies in this town, we have to keep those kids out!” (Pornography fought by Orem commission, 1980, p. 3). The slow year-long progress of the OCPD in addressing the issue of restricting youth attendance to R-rated films is just one example of the challenges mentioned in the minutes faced by commission members. Stephen West’s hope to instruct the theaters of their legal obligation to enforce age limits and educate the public concerning the lack of enforcement did little to address the issue. The effort to make lasting changes to theatrical film regulation in a post-*Miller* society was slow and frustrating as not everyone shared the same goals. Like the dozens of other concerns surrounding obscenity that the OCPD discussed each month, it was becoming increasingly difficult to fulfill their duties in a post-*Miller* society and make the lasting changes members of the OCPD desired to see in Orem.

Contrasting Changes in OCPD Regulation Procedures

When Orem’s Commission on Public Decency was first implemented in January 1973, the organization was similarly charged as the moral guardians of regulating the community’s movies and literature. They likewise reviewed films with scenes of explicit sexual conduct, issued letters of commendation or censure, conducted moral investigations, and made

recommendations for morals to city officials. None of the lay committee members had any formal training or education in regulation, such as a law degree, but they learned through experience how to fulfill their duties.

The OCPD made organizational changes in the late 1970s to address the challenge of reviewing films for more theaters in Orem which went from three screens in 1973 to eight screens by 1975. Members of the OCPD discovered how to streamline their screening procedures to improve efficiency, as reviewing films was time-consuming and emotionally and spiritually challenging for many members. These changes are contrasted with an earlier historical regulatory account to illustrate some of the lessons OCPD members learned in facing these challenges and the moral difficulties they faced.

Commissioner Les Campbell recalled that when he began as a member in 1973, any movie considered suspicious was previewed before its first public screening. Campbell described those early days, “I can remember when we used to go down the stairs in the library, and I would take a police officer with me. We would sit and watch the movies for language, violence, sex, and nudity, and I would say, ‘clip, clip, cut’” (Les Campbell Interview, 2021). He estimated that, on average, 5-10 minutes of footage was cut from most films. As only a committee member, Campbell stressed that he had no authority without a police officer



Figure 26 – OCPD members (circa 1977) including Les Campbell (far right) and Orem’s 35 mm projector

being present. Campbell continued, “The police officer took notes and tagged the suggestions of what needed to be cut.” A film that “stuck out” to Campbell as requiring “the largest amounts of

cuts” was a screening of *The Texas Chainsaw Massacre* (1974). Campbell said he knew that people above him could remove any of the suggestions that he had made. “After I had left that room, it was no longer my business. I had done what I was asked to do and never thought about it again. I never went to the movies to see if my edits had been made. It was not worth my time to fill my mind with that kind of stuff” (Les Campbell Interview, 2021).¹²⁸ Campbell’s comments about the struggle and sacrifice to view content they consider objectionable were similar among commission members. The lack of oversight in ensuring editing suggestions were used by theater managers was difficult. It was already difficult for many commission members to view content they considered objectionable during the reviewing process, let alone pay to see it again in the theaters to ensure cuts were made.

By 1979, many procedures were altered to be more efficient for OCPD members. For example, the make-shift review screening room in the library soon moved to the basement of the Orem City Center building after the city bought an old 35mm projector in 1976. Films had to be delivered at least six hours before the first public screening, where the films were projected on slapdash screens made out of sheets (West Interview, 2022). After purchasing a second projector, Timpview Drive-in’s Larry Healey was hired to set up the projectors so that committee members could be previewed. The films were exhibited reel by reel simultaneously using both projectors. Viewing the movie without sound with the reels sped up was general practice to reduce the time committee members spent reviewing content (West Interview, 2022). This indicates that by 1978, unlike Campbell’s reviewing experience, the screening process was wholly divorced from

¹²⁸ Examination of Utah County newspapers reveals that *The Texas Chainsaw Massacre* might not have played in Orem until 1981, after Campbell’s tenure as a commission member. This indicates that the film might have been pulled from the schedule due to the large number of cuts Les Campbell recalled suggesting while previewing the movie.

how viewing audiences see films. Furthermore, Orem City reviewers were now exclusively concerned about “obscene” images and not necessarily objectionable language, dialogue, or themes as they were earlier in the decade.

By August 1979, several issues with late deliveries of prints to and from City Center and instances of “damaged” films,” including *The Other Side of Midnight*, led theater owner Ed Plitt to call and complain to City Manager Al Haines. Based on these concerns, Plitt’s Salt Lake City-based distributor Charles Huggard proposed that future screenings occur at a designated theatrical venue using one of their professional projectionists (Letter to Edward Plitt, October 11, 1979). Arrangements were made to begin reviewing films at Plitt Theatre’s University Mall Twin Theater. The city paid \$50 per screening, which carried less risk overall but added to the organization’s expenditures and was quickly criticized (Movie Standards Discussed, 1980, p. 3).¹²⁹ Such costly expenses and administrative nuisances were making it difficult for Orem’s city leaders to justify continuing regulation.

Beyond cost, the new procedures also burdened committee members as it required them to now view all films one reel at a time in their standard linear form, with sound, and at normal speed. As a result, commission members frequently requested a “release” from their appointment, including two members in August 1979 and co-chair Linda Weldon, who resigned weeks afterward (OCPD, 1979f, p. 2; Linda Weldon resignation letter, 1979, p. 1). West said, “It is hard to keep members in the commission because generally, citizens who oppose illicit scenes

¹²⁹ Dr. Richard Jackson, a member of the Orem Commission on Public Decency, was also elected a member of the Orem City Council in November 1979. At a council meeting to discuss movie previewing requirements, Jackson complained about the inflated cost of the screening fees. He requested that members instead watch a film’s first screening to save the city taxpayers this fee. Instead, Jackson asked the theaters to pay part of the previewing costs using “amusement tax fees” that theaters pay. Several commission members refused to review R-rated films in theaters as they did not want to be “seen going to an R-rated movie” (Movie Standards Discussed, 1980, p. 3). This fear concerning public appearances is a notable element of BYU culture.

in films don't like to view them. The commission chairman or the city managers asks volunteers to serve for two years, but few last that long" (Pornography fought by Orem commission, 1980, p. 3). Many members left after learning the difficulties of reviewing content they considered pornographic. However, they also complained of the toil they felt being disparaged by vocal citizens and even by some theater managers.¹³⁰

OCPD Film Regulation Case Studies and Controversies

Challenges and learning experiences concerning the film review process were notably reflected in the OCPD's monthly meeting minutes, where members discussed the films they reviewed and any complications they encountered. Commission members previewed dozens of films throughout both 1979 and 1980, but only five are discussed here, including, *The Groove Tube* (1974), *The Life of Brian* (1979), *Heavy Traffic* (1973), *The Nine Lives of Fritz the Cat* (1974), and *Blue Lagoon* (1980). These minutes offer insights into the inner workings of the OCPD, providing details rarely discussed in the press concerning negotiations with theater managers and their continued role in educating the public about the dangers of obscenity.

The Groove Tube – “They once cut 60 minutes of a 90-minute show!”

The Groove Tube (1974) and co-hit *Summer Camp* (1979) opened at The Timp Drive-in on October 11, 1979. Stephen West reported at the commission meeting, one week later, that

¹³⁰ Despite those that felt disparaged attending screenings at the theater, Stephen West recalled, “The theaters were very nice to me when we came in and got set up to watch the movie.” At The Timp, [Larry Healey] was always accommodating and would show the films on a cardboard box so it would not project out to the screen” (Stephen West Interview, 2022). Although the Orem Commission on Public Decency was in operation for over half a decade by West's tenure, lack of training and a “seat of their pants” mentality continually made managing the organization a challenge. Despite Healey's cooperation, not all theatrical venues played as nicely.

both films were “really bad” and “heavily cut before being shown” (OCPD meeting minutes, 1979i, p. 2). The Timp’s screening was not the first time the commission combatted an Orem theater over *The Groove Tube*, so they were well prepared with editing requests to ensure the film met Orem’s community standards.

Directed by actor and comedian Ken Shapiro, *The Groove Tube* originally premiered through limited-release screenings in San Francisco and New York throughout 1974. Initially Rated X by the MPAA, the film was re-edited and assigned an R-rating before playing in U.S. drive-ins throughout the rest of the 1970s.

The film eventually made it to Orem and was set to open on Thursday, November 2, 1977, at Mann’s Carillion Square. Stephen West viewed the R-rated version of *The Groove Tube* the morning before the film’s first scheduled screening. West decisively contended the film violated Orem’s obscenity ordinance and informed City Manager Al Haines, who arranged for two Orem police officers to conduct a “routine pornography check” at the film’s first screening that night at 7:30 pm. The police officers estimated the patrons in attendance to be “in excess of 100 persons” and described the film’s content in a four full-page (legal-sized paper) report that was later provided to Stephen West (in redacted form).

The Groove Tube is widely considered one of the biggest influences on what eventually became *Saturday Night Live*. The film even stars *SNL* alum Chevy Chase and also Richard Belzer. The film is structured into twelve *SNL*-style comedy segments, with each section arguably more provocative than the last. Five of the more brazen descriptions provided in the officers’ report described the film as follows:

1. “Man chases women through a wooded area. Both remove all of their clothing. There are full frontal pictures of both of them in the nude, showing full male and female genitalia” (Groove Tube Police Report, p. 1).

2. "...A slightly-clad woman disrobes, showing female breasts and pubic area. Scene ends with man in bed speaking and woman under sheets simulating oral copulation, with her legs extended above male's head" (Groove Tube Police Report, p. 2).
3. "Shots of two hands in the position of fingers walking through the yellow pages. At the end, the one hand put the thumb between the two fingers and assumed the position of having sexual intercourse with the fingers of the other hand" (Groove Tube Police Report, p. 2).
4. "Television report of international love-making contest. Film depicts a man and woman described as the German team disrobing, showing female breasts and short glimpses of female pubic area. The film continually blues, and a written statement, "Please Stand By," is placed on the screen as the "commentators" describe the activities. The described activities include manual touching of female breasts, genitalia, and anal areas, as well as oral contact with breasts, cunnilingus, and intercourse. Film showing manual touching of woman's genital and anal area is shown, as well as the woman's shoulders and face, alleged to be in a state of sexual arousal. Extensive descriptive portrayal of sexual intercourse is followed by a commentator's statement that this is the greatest he has ever seen." (Groove Tube Police Report, p. 3)
5. "A Puppet discussing the problems of syphilis and other health problems. The puppet's head consists of a man's testicles and penis in inverse position, with two artificial eyes glued to the testicles" (Groove Tube Police Report, p. 4).

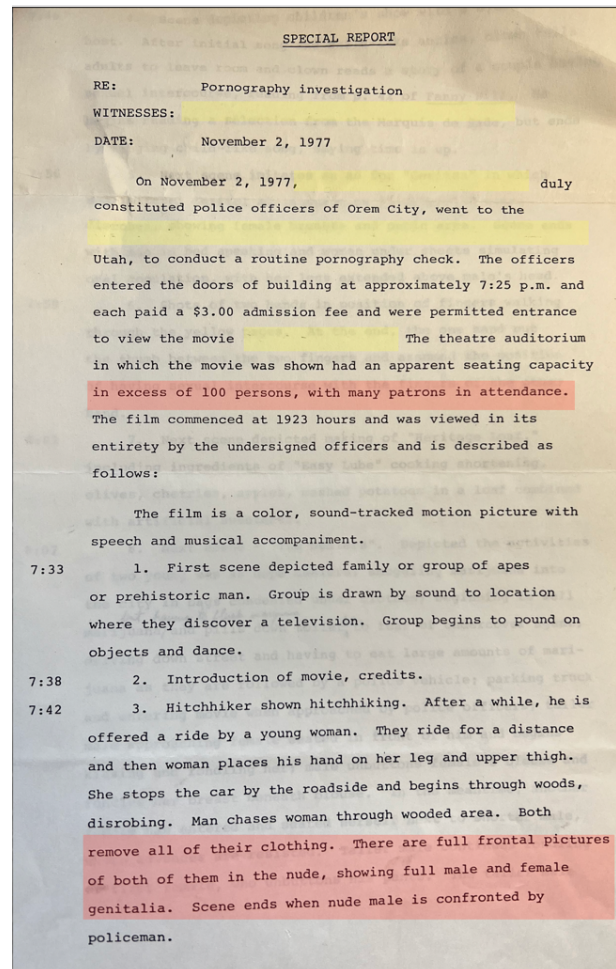


Figure 27 – *The Groove Tube* (Redacted Police Officer Obscenity Report)

After receiving the officer's report, Orem City Attorney Bryce McEuen persuaded Utah County Attorney General to file charges against Mann under Utah's state pornography law. With a search warrant issued, officials visited Carillion Square to seize the film print. When confronting the manager, he immediately agreed to pull *The Groove Tube* "in return for dropping the charges" (Croft, 1977, p. 3). The commission thought the experience had taught

Mann Theaters a lesson, but *Groove* was far from the last time the OCPD had disputes with the chain.

As mentioned, when *The Groove Tube* was again scheduled to play in Orem in October 1979, West and the commission were well prepared with comprehensive descriptions from the police report and offered Timp manager Larry Healey dozens of suggestions of what needed to be cut from the film. Minutes from the October commission meeting documented that Stephen West said that *The Groove Tube* and *Summer Camp* were “heavily cut before being shown at the Timp.” Still, the minutes were unclear exactly how much material was excised (OCPD meeting minutes, 1979i, p. 1). In a *Daily Universe* article devised to educate and bolster public reception of the organization for BYU Students, Stephen West revealed that the “Timpview Drive-In has been very cooperative.” Comparing The Timp to other lesser cooperative theaters in Provo, West continued, “They once cut 60 minutes of a 90-minute show,” starkly demonstrating just how much power and control the OCPD had over some venues. It is unclear which of the twelve segments were retained for the exhibition of *The Groove Tube*’s normally 75-minute length. Still, the film’s episodic nature made editing much more manageable than films with more linear narratives.

Monty Python’s The Life of Brian – A Letter Writing Campaign, Gone Right?

When Stephen West reported on *Monty Python’s The Life of Brian* (1979), the month after *Groove*, many commission members, even ones who had never seen the film, considered it blasphemous and obscene. They discussed that other states already had banned the film and that Orem should follow their example in taking a stand. Police officers and City Attorney Bryce McEuen viewed the film and determined it could not be removed from Mann’s Carillion Square. Despite the film reportedly containing offensive themes, simulated sex, and a “Christ” figure

with “explicit” full frontal nudity, the movie “did not violate the city’s ordinance” (OCPD meeting minutes, 1979j, p. 1). Member Cordell Chipman recommended that the public instead be made aware of the film’s disturbing content through a newspaper “letter-writing campaign.” No warning or editorial, however, was ever published to inform or educate citizens of Utah County regarding these concerns. As censorship history has shown, the lack of letters likely resulted in the film ending its run sooner than if the public had been informed.

Heavy Traffic & The Nine Lives of Fritz the Cat – A Lesson in Obedience

Committee members Cordell Chipman and Clyde Wilkinson previewed the animated films *Heavy Traffic* (1973) and *The Nine Lives of Fritz the Cat* (1974) before the movies’ scheduled screenings at The Timp Drive-in. A *Daily Universe* article further detailed that both films “were found to be very offensive, even after they had been cut by [Larry Healey]” (Pornography fought by Orem commission, 1980, p. 3). After the two Orem police officers viewed the edited versions, the article explained that if Healey decided to run the films, “they would arrest him and everyone at the establishment” (Pornography fought by Orem commission, 1980, p. 3). Conversely, the meeting minutes described Larry Healey as “very cooperative and removed the films early” (OCPD meeting minutes, 1980a, p. 1). Dr. Richard Jackson, a professor at BYU and a newly added commission member at the same meeting, applauded Chipman and Wilkinson for “the way they managed the removal of the two offensive films” (OCPD meeting minutes, 1980a, p. 1). Jackson also “felt that Larry Healey should be commended for his cooperation” and desired that he and the drive-in be venerated for keeping Orem safe from indecency and teaching residents the importance of obedience. The overreach officers that

threatened to arrest theater managers and patrons demonstrated a scary behind-the-scenes tactic that scared some theater managers into submission.

Blue Lagoon – The OCPD Losing Steam

Lastly, Stephen West reviewed *Blue Lagoon* (1980), starring teen stars Brooke Shields (age 14) and Chris Atkins (age 18), who frequently performed nude in the film. *Blue Lagoon* already played at Mann's Fox Theater in Provo but was removed from the venue before the end of the week for violating the city's ordinance concerning the exploitation of a minor. West also considered the film obscene and requested that Al Haines, the city manager, send an officer to view it (OCPD meeting minutes, 1980c, p. 1). Despite Orem having a similar ordinance as Provo in protecting minors, *Blue Lagoon* played at least one month at Mann's Carillion Square from August 26 to September 23, 1980 (Mann Theatrical Screening ad, 1980, p. 10). It is unclear why the film was removed from a Mann theater under Provo's ordinance but remained in a Mann theater in Orem. The lack of response from Orem City officials did not sit well with Stephen West, who grew disenchanted with the OCPD's waning authority over some theaters. The lack of enforcement encouraged West to increase the commission's efforts to educate citizens about which films contained obscene content.

Citizen Education Committee

On top of his demanding role as commission chairman, Stephen West also headed the Citizen Education committee. As part of these duties, West created surveys, conducted public relations interviews with the press, wrote letters informing individuals and organizations about the OCPD's efforts, and prepared public presentations to educate residents. Each is an example

of how culture can be shaped not through the regulation of films but through the regulation of the community itself in establishing cultural policies. The committee created and distributed several surveys to poll public opinion, including drive-in obscenity, potential OCPD budget increases, and interest in a weekly movie content guide. The surveys were frequently advertised in interviews with various forms of media, including LDS-owned news station KSL and newspaper *Deseret News*, as well as local papers like *The Daily Herald*, *Orem-Geneve Times*, and newsletters like Orem City Happenings.

Like Fred Podlesny, West was adept at utilizing free publicity by submitting editorials and participating in articles written and published by the newspaper. Unlike Podlesny, West's letter-writing strategies often focused on the positive aspects of media rather than always concentrating on the negative. For example, Orem Commission on Public Decency member Greta Bandle was assigned by West to write a letter to the editor in February 1979, focused on "how entertaining and wholesome the movie *North Avenue Irregulars*" was, currently playing at the SCERA. Each month, ideas were discussed on how to notify citizens about quality, moral media rather than just emphasizing films that families should avoid. West also wrote personal letters to Bishops and Stake Presidents in Orem, informing them of the commission's efforts and offering resources and assistance in educating members of their congregation. One letter began:

"Dear Bishop,

Many people are upset about the increasing violence, language, and pornography being shown on T.V. and in the movies, but don't know where to start to combat such evils. This letter is being written in the hope that we can help you and your Ward members effectively fight these problems" (Letter to Bishops, 1980, p. 1).

Each correspondence sent to ecclesiastical leaders provided information on the OCPD, the UCCBML, and other organizations willing to aid those interested in opposing media containing pornography. Letters also contained details like those examined in West's educational slide

lectures, providing residents with illustrations and specific points on what can be done in their homes and families.

One such lecture was presented in July 1980 and provided residents and anti-pornography organizations with information to assist them in fighting materials considered obscene in the community.¹³¹ Some of the highlights of West's lecture included speaking about the dangers of obscenity on society, praising The Timp Drive-in for "cutting out all pornographic scenes," while also criticizing Carillion Square and University Mall for not cutting their movies because they were supposedly, "not allowed to by the movie makers" (West, Presentation Outline notes, 1980, p. 1).¹³² Most of West's remarks offered suggestions of what citizens could do with the information they learned. West suggested, for example, that residents "write letters to the editor asking the paper not to advertise R-rated movies and to give a synopsis of the movie's content." They were advised to threaten to cancel their newspaper subscriptions if they did not comply. He also recommended writing letters to the theater managers and Orem City Council members, demanding that city obscenity ordinances be upheld. Boycotting, and in some cases, picketing theaters playing R-rated movies, common during the mid-1970s, was also proposed. Lastly, West plugged the Citizen Education committee's long-gestating public interest survey, which was currently available in the Orem City Happenings newsletter. The survey proposed the creation of a movie guide to educate viewers about a film's content.

¹³¹ Other presentations in West's lecture series included Dr. Victor Cline, a Psychology professor from the University of Utah. Dr. Cline's main points were: Sexual deviation is "learned," pornography is inherently anti-sexual; that society must distinguish between public and private morality; pornography is an attack on the family; and that pornography is hooking and addicting and escalates in desensitization and perversion. Clines argues that in the end, pornography results in potential rape and a man telling his wife, "if you won't participate in my perversions – I shall get a woman who will" (Cline, presentation notes, 1980, p. 1).

¹³² West also discussed cable television and his fear that "right in the home, you will see R-rated movies" on HBO and other premium stations.

As mentioned, by the early 1980s, the objectives of the Orem Commission on Public Decency were now defined as “to help the public, theater owners and operators, businessmen, and other parties understand the positive aspects of living in a community free from the characteristics of pornography and obscenity” (City of Orem Happenings, 1980, p. 2). These aims perfectly described West’s goals of educating the public, but regulation had also shifted from removing theatrical content against the city’s obscenity ordinance. Although West understood the value of educating society about the benefits of avoiding such content, many of the commission’s changes came out of inevitability, not necessarily out of choice. The commission, for West, was at its finest when concentrating on both regulation and education. West lamented the lack of city enforcement, recollecting, “Eventually, it felt like kind of a waste, but for a while, we felt like we were doing something of value” (West Interview, 2022).

For years, West volunteered for hours each month to ensure Orem theaters were free of obscene content. Although West admitted he “never went to watch the movies to see if they were taking out the content,” it had become apparent in the years following *Looking for Mr. Goodbar*, the city was weary of enforcing the efforts exerted by the commission. It inevitably made West and the commission to question, “Why do we have a committee if you’re not going to enforce it?” (West Interview, 2022). The commission spent hours reviewing films and making suggestions, but fewer theaters took these suggestions seriously as time passed. Adding salt to the wound, after trying for years, the city had also not agreed to fund West’s venture to publish a weekly educational guide in the newspaper, informing residents about the types of content found in the films they reviewed.

West recalled, “I became chairman mostly because I was the only one still standing.” He continued, “From when I started to when I left, all the original people were no longer on the

commission, and it was a whole new group of people with different plans.” In late 1980, West met with the mayor, the city manager, and the city attorney to address his concerns and a potential reappointment as chairman. With no fundamental changes in sight, Stephen West announced his plan to depart the Commission of Public Decency at the end of the year.

Maryland Falls - The Calm Before the Storm (1981)

In June 1981, Maryland ceased its regulatory operations ending 65 years of state-sponsored film regulation. The board was the longest-serving state regulatory body outlasting all other states by eight years. While much of the United States had slowly adapted to allow individuals the right to choose the films they view, rather than a committee on their behalf, cities in Utah County showed no signs of ending its procedures to enforce “obscenity” ordinances. While Provo and Orem regulators may have been more hesitant to prosecute theaters for exhibiting films containing obscenity in 1981, both cities still had active regulatory procedures. All R-rated movies were reviewed by police officers in Provo, and despite more cautious enforcement of national theater chains, the OCPD continued to review and provide editing suggestions for theaters to cut to comply with city ordinances.

Despite West and the commission’s efforts in educating citizens and students about the dangers of obscenity, *The Daily Universe* reported shortly after West’s tenure that “R-rated movies” were still “well-attended,” most especially by young people (Giunta, 1981, p. 8). Steve Harris, manager at Mann’s Central Square Theaters, revealed that the ratio of BYU students attending R-rated features was about the same as those attending PG movies (Giunta, 1981, p. 8). As West had feared, without educating the youth and enforcing theaters to check IDs and remove content considered obscene, R-rated films would continue to thrive in the county. Unfortunately,

Stephen West's wish to publicize the OCPD's content reviews to educate viewers about a film's content had also not yet been fulfilled. Little did anyone know that, within months, this was about to change. Like Orem, Provo encountered related challenges and learned valuable lessons regarding its regulatory approaches that consistently ended in legal disputes. Just like Orem, Provo faced comparable hurdles and learned invaluable lessons about their regulatory strategies that often led to legal disputes. By meticulously analyzing both public and private conflicts, crucial insights can be obtained regarding the final major legal dispute faced by cities in Utah County.

Getting Schooled by Porky's – Provo's Final Legal Lesson

Despite reluctance by cities in Utah County to strictly enforce their ordinances using public legal procedures, Provo City fought its ultimate public battle over theatrical obscenity regulation in the spring of 1982. While the legal fight involving *Looking for Mr. Goodbar* in 1978 was instigated by Provo City against Paramount Pictures and the Unita Theater, as described in the previous chapter, four years later, the pendulum reversed when a major Hollywood studio filed litigation against the City of Provo. The lawsuit resulted in studios and exhibitors being less intimidated into removing films considered obscene from theaters in Provo and Orem.

The skirmish that turned the tide on compulsory theatrical regulation in Utah County began with the March 2, 1982, release of the “raunchy comedy” *Private Lessons* (1981). The independently distributed film was scheduled for a one-week engagement at Mann's Academy Theater in Downtown Provo. *Private Lessons* follows Philly (Eric Brown), a naïve 15-year-old boy with a strong sex drive that develops a crush on Nicole, his father's French housekeeper.

Nicole, played by internationally renowned vixen Sylvia Kristel, seduces Philly to swindle him out of his trust fund—the film’s bawdy theme of underage sex with a minor deeply distressed Provo City regulators. At the request of the city attorney’s office, the film was pulled from circulation two days ahead of its scheduled end date. In its place, the operators of the Academy Theater replaced *Private Lessons* with a movie it had received early for a special Saturday, March 5th “sneak preview” screening of a low-budget new comedy called *Porky’s* (1982). While *Private Lessons* was distributed by Jensen Farley Pictures, a small, short-lived independent distributor mostly known for films with sex-driven plots and horror, *Porky’s* was backed by 20th Century Fox, one of the oldest and most powerful Hollywood studios.

Set in a small Florida town in the 1950s, *Porky’s* follows a group of high school boys seeking to lose their virginity. After several failed attempts, the boys visit a bar and unofficial brothel called Porky’s in a neighboring town. The bar’s owner, Porky, a merciless and violent fraudster, scams the boys out of their money and sex with the support of his sheriff brother. The boys seek revenge against Porky, and through a cunning plan, they ultimately win the day and, for some, lose their virginity.

Porky’s opened nationally on March 19, 1982, but as mentioned, in Utah County, the film opened at the Academy the weekend before with “sneak preview” screenings, used to fill the vacancy left after *Private Lessons* was pulled.¹³³ Domestically, *Porky’s* was number one at the box office for eight consecutive weeks and remained in the top ten for 14 straight weeks. Box office numbers often increased throughout its theatrical run rather than declined, as is often typical. Like the rest of the United States, the film was a smash hit in Provo, where despite the area’s supposed conservative values, the film maintained solid attendance. This was based on the

¹³³ Mann Theatres Inc. bought the Academy Theater in downtown Provo in August 1973.

controversy surrounding its release and strong word-of-mouth recommendations among college-age students. As with *Private Lessons*, it was only a matter of time before Provo regulators attempted to ban the film.

Like all R-rated movies exhibited in Provo, *Porky's* was reviewed by Provo's Special Investigation Services Unit members. Sergeant Jerry Markling was assigned to view the film, but not until the film's "official" March 19th opening night. After the screening, Markling resolutely advised that the film be immediately removed from the city for violating Provo's obscenity



Figure 28 – The Academy Theater in Winter

ordinance. After swift public backlash against the city and police for targeting the theater and film, the sergeant emphasized that "all R-rated movies shown in Provo theaters are checked by the department for possible violations of city codes" (20th Century Fox says keep 'Porky,' 1982, p. 2).

In another report, Markling revealed, "We view all R-rated movies for language, obscene sexual conduct, and nudity," in hopes of educating the public that they are not selective about which films are reviewed to show they did not single out *Porky's* or The Academy for review (Heylen, 1982, p. 3). Despite the public controversy, Markling's recommendation to ban the film was quickly approved by the chief of police and Provo's acting city attorney, Richard Dalebout.

Unlike with the release of *Private Lessons*, whose screenings were promptly stalled upon request, Academy Theater manager Mark Curry refused to immediately pull the film until after speaking with representatives of Mann Theaters. Although Mann's decision whether to pull

Porky's was never publicly announced, their choice of continuing to play the film, despite the city's request, was statement enough.

As Jan Fasselin had attested with the release of *Looking for Mr. Goodbar*, most mainstream theater managers in Provo and Orem obliged regulators by removing films considered obscene from theaters. However, this “courtesy” usually only occurred when movies were not making money.¹³⁴ When city officials received a request to remove or censor a film, the typical response was, “Okay, we will, but we need to order another film” (Fasselin interview). This process typically allowed the theater to play the film through its scheduled theatrical run. When Provo contacted representatives of The Academy, however, *Porky's* was attracting record numbers of patrons, making it a difficult decision whether to pull the film early. Mark Curry later openly divulged to a BYU reporter, “I don't want to pull it because it's making a lot of money” (20th Century Fox says keep 'Porky,' 1982, p. 2).

This success at the box office had nothing to do with local critical consensus on the film's quality. For example, *The Daily Herald* film critic Eric Fielding gave the film a D- maintaining that “*Porky's* has gotten more notoriety than it deserves. It is disturbing (and a little hard to believe!) that this two hours of bad taste and sexual titillation is the most successful film at the box. *Porky's* is not only a “bad” film, it's not even a “good” one. Please don't waste your time or money on this “pig” (*The Daily Herald*, April 9, 1982). A brief review in Brigham Young University's *The Daily Universe* simply mentioned the film's themes of “carnal experiences” and the prominence of obscenity. It ended by stressing that the film had been “charged as being

¹³⁴ This critical tactic sets Utah County apart from other regional censors. Most films removed by national movie theater chain managers were not large box-office draws. Even though city regulators exerted much effort to regulate this media, little was done to follow up with requests for edits, making regulatory efforts, for the most part, a waste of money for taxpayers and time for regulators.

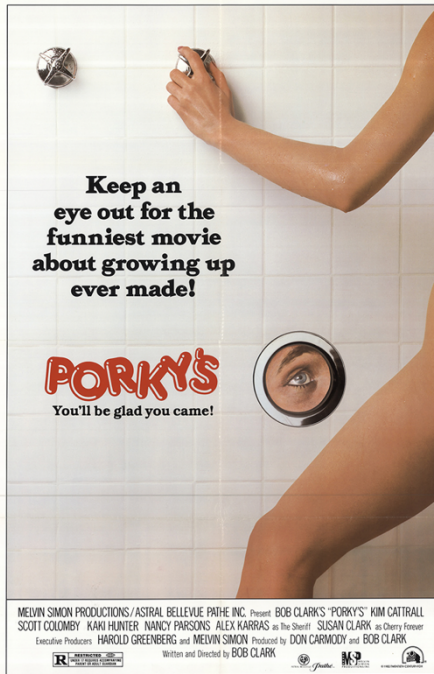


Figure 29 – *Porky's* (1982) – original poster

against Provo's obscenity law" (*Porky's Review*, 1982, p. 7). Neither review discouraged young college-age patrons from seeing the film. Instead, the publications likely added to *Porky's* success, which continued to play exclusively at the Academy throughout the county.

Besides the free publicity driven by such descriptive film reviews and news reports about the film, *Porky's* also continued to be heavily advertised in newspapers throughout the region. One of *Porky's*'s more notorious scenes includes three concupiscent male teenagers gawking through peepholes into the girl's high

school locker room showers. This lewd sequence was also greatly emphasized in the film's marketing campaign. The original theatrical poster comprehensively viewed a pristinely white tiled locker room shower wall, including two water faucet knobs. The far right of the poster features a young woman's extended bare arm, as well as her uncovered leg, knee, and entire thigh. The image barely avoids exposing her buttocks, torso, and breasts but does reveal a tiny sliver of her stomach near her groin. One of the main focal points, towards the middle of the poster, is a sizeable metal-rimmed hole displaying a young man's wide



Figure 30 - *Porky's* (1982) Daily Herald advertisement (variation 1) (Academy)

gaping eye, peering toward the female's genitalia. Under the lustfully colored red title *Porky's*, a subtitle reflexively reads, "You'll be glad you came!"

After the film's local success, the Academy ran promotional ads for the film practically every day in *The Daily Herald*. To avoid possibly offending readers and regulators, the advertisements heavily cropped the exposed skin seen and, from the very beginning, removed the boy's eye shamelessly gazing through the hole. The eye was instead replaced by various phrases, including the film's opening date, as well as pointed taglines such as "See It for Yourself," "Take a Look Yourself!" and "Wow!" (Porky's ads, 1982abcd, p. 36, 31, 23, & 22). The ad campaigns each remarkably kept the phrase "You'll be glad you came!" a double entendre (commonly used even in the 1970s) that was likely lost on many Utah County citizens. Each ad subliminally encourages viewers to "see" what they are missing, with the fear of missing out being a siren call for many in BYU culture. The ad's titillating features were soon to be challenged in court. The film was such an immediate hit in the area that, by the end of the first weekend, the Academy had increased its scheduled two screenings a day on Friday, March 19th, to five screenings two days later, on Sunday, March 21st (Porky's ad, 1982b, p. 31).

Unsurprisingly, Provo City regulators were not pleased with Mann's decision to continue playing a film that had already been determined to violate city Ordinance No. 396 and state Ordinance 76-10-1201. Provo's Assistant City Attorney Richard S. Dalebout felt compelled to pressure Academy manager Mark Curry and administrators at Mann by threatening to seize the film if they were not compliant. Dalebout warned Mann and the *Daily Herald* about potential prosecution for publishing multiple obscene *Porky's* promotional advertisements in the newspaper. Provo's Chief Administration Officer Chet Waggener was especially dismayed by the onslaught of obscene films playing at The Academy and other theaters in Provo. Concerning

the lack of response, Waggener, too, opined that he “hoped for the cooperation of the theater chain so that further action will not need to be taken” (Heylen, 1982, p. 3). Despite legal threats and social pressure, administrators from Mann Theaters did not budge, citing an obligation to play the film based on an existing contract with 20th Century Fox. As a result, Dalebout reportedly contacted representatives at 20th Century Fox several times to inform them about Provo’s obscenity ordinance and demanded that the company nullify Mann’s contract, remove *Porky’s* from The Academy, and avoid any further exhibition of the film in Provo theaters.

Following the city’s veiled threats, 20th Century Fox filed a suit in the Fourth District Court against Provo City on Wednesday, April 14, 1982. Summons were delivered directly to Provo City Mayor James Ferguson, City Attorney Glen Ellis, and chief prosecutor Dee Bradford. The studio cited the State of Utah’s sweeping anti-pornography law as problematic and sought a declaratory judgment holding that *Porky’s* did not violate the state’s pornography statutes. The overall complaint contended that *Porky’s* is not “exploitive to minors” as defined by law, is not “pornographic,” does not constitute “pandering,” and is not “harmful to minors.” Lastly, they argued that *Porky’s*, “when taken as a whole, has literary, artistic, political or scientific value” and thus is protected by the First Amendment. Fox’s suit further maintained that the state’s pornography statutes, in general, were unconstitutional for being “overly broad” in their restrictions (Twentieth-Century Fox v City of Provo, 1982a, p. 3; Wagner, 1982, p. 1).

For legal representation, 20th Century Fox secured the services of Salt Lake City-based firm Watkiss and Campbell, including Robert D. Maack, who had successfully defended each individual (and corporation) named in the *Goodbar* case earlier. Now as the attorney for the plaintiffs, rather than the defendants, Maack sought a permanent injunction barring Provo from criminally prosecuting his clients for exhibiting *Porky’s*. Perhaps more importantly, Maack was

also keen on continuing to set legal precedents, concerning obscenity regulation in the city and state, in favor of studios and theatrical exhibitors.

At the time, executives at the 20th Century Fox revealed that they felt compelled to defend themselves after Provo City officials, including City Attorney Glen Ellis and Dalebout, “warned and threatened” them at least four times, reasoning that the studio was liable for criminal prosecution if *Porky’s* continued to be exhibited within the city (Twentieth-Century Fox v City of Provo, 1982a, p. 2). The city’s threats, according to their claim, “imposed a clear and substantial ‘chilling effect’ on [Fox’s] exercise of expression and, if brought, would expose Fox and its employees to adverse, defamatory, and libelous publicity” (Studio Says Provo Threat Gives Film ‘Libelous Publicity,’ 1982, p. 4). Lastly, the company further charged that such prosecution branded Fox as a purveyor of obscenity and pornography and its employees as individuals who exploit minors and sexually pander to low and base instincts. Much was riding on Fox’s suit, not just in Provo but potentially across the state. A judgment favoring Fox might cease Provo’s and other cities’ regulatory power based on the state’s constricting pornography laws.

Concerning the lawsuit, Provo Mayor James E. Ferguson declared the studio was “pursuing the matter further than the city intended.” He stressed that they would leave the matter to the courts to decide. Ferguson believed the “issue was blown out of proportion” by the studio, hoping to “increase movie receipt sales” (20th Century Fox Challenges Provo, 1982, p. 5). Based on his past experiences with the release of *Looking for Mr. Goodbar*, Ferguson knowingly stated, “They say you can sell more books when it’s banned in Boston; this is their way of selling more tickets in Provo” (Wagner, 1982, p. 1). Rather than let the case linger for weeks in the courts, generating attention and additional free publicity, the mayor sought for the courts to promptly

declare whether the ordinance and statutes were unconstitutional and “place the burden of proof on them” without any outward city opposition (20th Century Fox Challenges Provo, 1982, p. 5). The city council also favored letting the courts decide the fate of *Porky’s* citing similar reasons as Ferguson.

Despite the mayor and council’s original desire for the matter to be quickly decided in court, the city attorney’s office elected to not only answer Fox’s complaint but also file a counterclaim. In their counterclaim, the city argued that *Porky’s* contained multiple scenes of obscenity that violated 76-10-1201, a 1953 ordinance in the State of Utah aimed at protecting minors from pornography. The specific areas listed in the counterclaim included *Porky’s* depictions of a) nude female breasts, buttocks, and pubic area; b) nude male pubic area; c) simulated sexual intercourse; and d) use of sexually explicit profanity (Twentieth-Century Fox v City of Provo, 1982b, p. 3). Perhaps the most noteworthy violation complaint was the city’s inclusion of the film’s “advertising and promotional material,” which Dalebout previously warned against publishing in local papers. The advertisements were argued to be in violation because they were consistent with the suggestive obscenity in the film (Twentieth-Century Fox v City of Provo, 1982b, p. 1).

In response to the city’s threats against their “obscene” promotional advertising, Mann and Fox released an updated newspaper promo on April 16, 1982, two days after Fox’s court filing and four days before Provo City’s counterclaim was filed. The new ad eliminated all suggestions of sex and nudity and instead concentrated on the over-thirty crowd that might never consider viewing such a film. At the top of the ad, in large font, prominently revealed the phrase, “You don’t have to be under 30 to love *Porky’s*” (*Porky’s* ad, 1982e, p. 19). Below the tagline

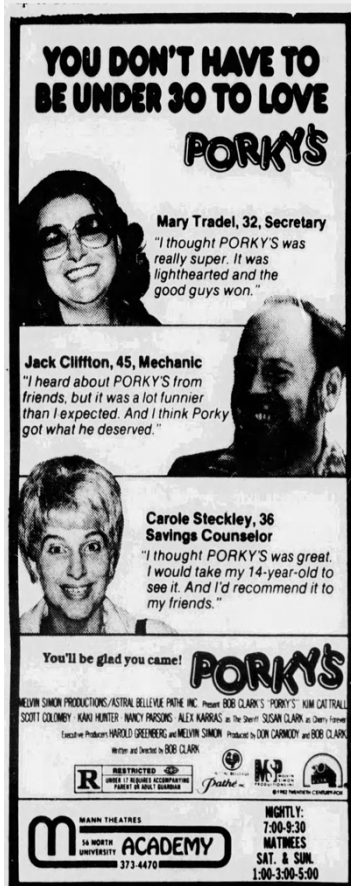


Figure 31 – *Porky's* (1982) *Daily Herald* advertisement (variation 2) (Academy)

were three photographs and quotes from real viewers (ages 32-45) praising the film.¹³⁵ The supporters included Mary Tradel, a 32-year-old secretary who stated, “I thought *Porky’s* was really super. It was lighthearted and the good guys won.” Jack Clifton, a 45-year-old mechanic, followed this, saying, “I heard about *Porky’s* from friends, but it was a lot funnier than I expected. And I think *Porky* got what he deserved.” Lastly, 36-year-old savings counselor Carole Steckley contended, “I thought *Porky’s* was great. I would take my 14-year-old to see it. And I’d recommend it to my friends.” The statements seemed to emblematically emphasize the “good guys” (film/theater/studio) as being misunderstood and the underdogs, where “*Porky*” (city regulators) were the villain and getting “what they deserve.” The quotes also highlighted the film’s lighthearted and unexpected humor that is recommended for others

to see. Perhaps the most noteworthy addition was Steckley’s assertion that she “would take [her] 14-year-old” to see it, which prosecutors might argue as continuing to pander sex to minors.¹³⁶

After the filing, Ferguson clarified his position that “even though it might not be found to be pornographic in the eyes of the court, we ought to stand our ground and let them know that

¹³⁵ Like in Utah County, the risqué *Porky’s* ads created controversy in other parts of the country, such as Colorado and Idaho. To placate publishers and citizens in these areas, 20th Century Fox devised an ad that eliminated the nudity and marketed to those in older demographics. The quotes were provided by actual over-30 audience members from Colorado Springs, Colorado. These ads were so successful that they were later used throughout the country beginning in May 1982 (Siskel, 1982, p. B7).

¹³⁶ A month later, on May 16, 1982, Mary’s husband, Lyle Tradel, replaced her statement for future ads. Lyle stated, “I thought it was great from start to finish. I laughed all the way through it” (*Porky’s* ad, 1982f, p. 27). The reason for the change might have been to eliminate Mary’s spoiler of the film’s ending, or perhaps to further emphasize male appeal for the film.)

it's offensive to the general populace" (Provo City to Let Courts Decide 'Porky's' Issue, 1982, p. 20). The city administrators, like Stephen West, wanted to educate the film industry, local exhibitors, and popular media concerning what Utah County stands for and will defend, despite changing attitudes on film content. Ferguson also reported his belief that the controversy and lawsuit resulted after the city requested a meeting with local theater managers shortly following the release of *Porky's* to discuss a "gentleman's agreement" concerning pulling movies the city considered indecent.

The mayor finally had his meeting when convening with the regional manager and legal representatives from Mann Theaters and 20th Century Fox on Monday, April 19, 1982. Ferguson wanted to deliberate and educate the groups concerning Provo's regulatory process, hoping that a compromise might be established in working together in the future. As City Attorney Glen Ellis persistently argued, when the UCCBML called for an Orem-like commission, much of Provo's regulation occurred quietly and out of the press. Thus, citizens were often unaware of the city's efforts in regulating content, and Ferguson hoped to arrange for it to stay that way. Concerning the gathering, Ferguson said, "I thought it was a good meeting. But we still recognize that we might have areas where we differ." He reiterated that it might be necessary to let the courts decide the fate of *Porky's* and regulation of movies considered obscene moving forward (Provo City to Let Courts Decide, 1982, p. 20).

The next day, the case was assigned to Fourth District Judge J. Robert Bullock, who had also overseen the *Looking for Mr. Goodbar* trial four years prior in 1978, and a trial date set for April 26, 1982. Unlike with *Goodbar*, the hearing for *Twentieth-Century Fox vs. City of Provo* was a quick and relatively standard procedure.¹³⁷ In the morning, the Court and counsel viewed

¹³⁷ The hearing was apparently so low-key that the press never follow-up on any of the court's decisions.

Porky's together. After the screening, the legal teams for both sides “informally discussed legal matters with counsel in chambers. (Twentieth-Century Fox vs. City of Provo, 1982c, p. 1).

Robert Maack articulated the studio’s grievances outlined in their suit. Maack also furnished multiple documents relative to the State of Utah’s and Provo City’s obscenity laws, comparing their ordinances as countering precedents set in courts throughout the United States.

While the battle ensued in the courtroom, *Porky's* continued to play to sold-out crowds of students and other Utah Valley citizens. For weeks, Provo City administrators had wrestled with deciding how best to move forward. Moral priorities in Provo in the 1980s, like the rest of the country, were in flux, moving towards more pressing forms of media, such as obscene content, available to minors in the home on cable television. Theatrical film regulation of mainstream film had already all but dissolved throughout the rest of the country. In Utah County, whenever attempts were made to “stand their ground” and regulate films, the result usually only resulted in free marketing opportunities for studios, distributors, and exhibitors. With local regulators losing ground, Mayor James Ferguson desired more quiet backroom negotiations, not public courtroom conflicts and decisions.

Partly due to these realities, Richard Dalebout announced, in an unexpected and stark reversal at the April 26th hearing, that Provo City was dropping their countersuit and all plans to remove *Porky's* from The Academy or any other Provo theater. This left the court no reason to grant Fox their request for judicial relief. The week following the hearing, and closed-door discussion, The Academy proudly publicized in the *Daily Herald* that the film was “Held Over !! – Eighth Hit Week,” a longer streak than any theater in the state and most in the country (*Porky's* ad, 1982f, p. 25). Riding high, there appeared to be no foreseeable end for *Porky's* in Provo. As history has repeatedly demonstrated, however, just as the controversy over *Porky's* died in the

courtroom, so did interest in the film in theaters. By the time Judge Bullock officially ruled that because “no justiciable controversy now exists,” Fox’s request was “dismissed without prejudice,” the seats at *Porky’s* screenings at The Academy were practically empty (Twentieth-Century Fox vs. City of Provo, 1982c, p. 1). *Porky’s* was advertised one final time on May 16, 1982, but after the abrupt and unexpected decline in the box office, the film was soon replaced by second-run movies like *Airplane!* (1980) and *Fiddler on the Roof* (1969) while Mann and The Academy waited to secure a contract for a new first-run movie, which they did not secure until mid-June (Porky’s ad, 1982g, p. 27).

Almost as uneventful as *Porky’s* judgment was (the ruling was never even published by local print media), film regulation in Utah County also appeared to end almost as uneventfully and without fanfare. As there were no significant legal controversies surrounding film regulation in Utah County after 1982, it may historically appear that county regulators had lost the battle on obscenity and the war.¹³⁸ The judge’s declaratory verdict on *Porky’s* did not wholly stop Utah County regulators and citizens from controlling content in cinemas.¹³⁹

The *Porky’s* trial was a learning lesson for all involved, including city officials, city attorneys, content regulators, theater operators, and even local residents. Each became educated in various ways concerning the future of theatrical regulation in the region and the importance of

¹³⁸ Judy Bell, a future commission member, stated in 1994, concerning the possibility of the commission recommending litigation against another film, said, “I don’t know if we’d do it again.” Bell described the “city’s reluctance to press charges ever since ‘the Porky’s Incident’ as fear due to the city “los[ing] on all counts,” which is fully not true. Los Angeles Times reporter James G. Wright concluded, “The bruising national attention [surrounding *Porky’s*] left many in town wondering why they’d bothered.” This may be true, but it did not stop media reviewing for another 20 years (Wright, James G. “Movies Get a Real Screening in Utah: Media Review Commission meets monthly to evaluate content. The descriptions are printed in local newspapers,” *Los Angeles Times*, January 19, 1994: F26).

¹³⁹ The focus of efforts of regulation also moved away from theaters and towards video rentals/sales and cable television, that afforded obscene and R-rated content to be viewed right within citizens’ homes. The fear of children stumbling onto and viewing such content was now at the forefront of regulation efforts.

autonomy and cooperation. One lesson learned by the city attorneys was the necessity to rethink their aggressive threats of litigation for noncompliance. Mayors Russell Grange, James Ferguson, and others had called for and desired to soften regulation strategies for years. Another lesson city officials, especially Ferguson, learned was that the cities were always at their most powerful when working behind the scenes, out of the papers, and certainly out of the courts.

For content regulators, it was clear that attempting to ban content or entire films outside of smaller locally owned venues like The Timp and Pioneer Drive-ins was now rarely possible. Stephen West's ambition to educate the public about the dangers of obscenity and inform citizens about the types of content exhibited in theatrical films had become even more enticing. Such information offers more Autonomy to all citizens as they can choose to view movies based on content descriptions rather than relying on nebulous MPAA film ratings. Above all, when considering cultural policies and education – what appeared to be learned at the time is that people, organizations, and communities resist any semblance of coercion regardless of societal expectations. Individuals and organizations often do the opposite of those expectations when compelled. Entreating theater managers' cooperation without legal intimidation and finding mutually beneficial solutions was critical to the continued success of films with content considered obscene in county theaters.

Rethinking Regulation – Reviewing the Media Review Commission

“Evil happens when Good Men do Nothing.”
(Utah Citizens for Decency - March 15, 1980)

Following Provo's latest legal battle with *Porky's*, Orem's mayoral office and city council were even more hesitant to enforce the city's obscenity ordinance without significant

cause. However, the city administrator's caution did not diminish the commission's efforts to review theatrical films for obscenity in the city. After the exodus of almost all OCPD members, including chairman Stephen West, at the end of 1980, a new group of appointees was called at the beginning of 1981. On January 22, Thomas Proctor was elected to chair the commission for one year (Public Decency Holds Meetings, 1981, p. 5). With so few members continuing from the previous year, the group, unaware of the last commission's hurdles, was eager to develop and push forward initiatives already proposed by West and others.

One of the central ambitions Stephen West aspired for during his tenure as chairman of the OCPD was to develop improved methods of informing and educating the public concerning the dangers of obscene content and how to avoid encountering such materials. As part of this mission, the committee had long fought to publicize the types of content in the films already reviewed by the commission each week. These ideas included posting film descriptions at local theater box offices and publishing them in local newspapers. Requiring such descriptions of a film's content at a theater's box office was argued as vital as it provides audiences with the information needed to make an informed decision before purchasing a ticket. Such information could aid viewers in selecting films based on the content rather than solely relying on the film's MPAA rating. Implementing what eventually became the "Friday Movie Guide" was a long and complex process that finally fulfilled West's mission to educate Utah County citizens about the types of content in theatrical films.

Friday Movie Guide

The idea for a weekly movie guide originated even before Stephen West's initial interest. Orem resident Rick Soulier first proposed the concept of a published media content guide in a *Daily Herald* editorial in November 1976. Soulier based his suggestions on a review guide he observed in a newspaper while visiting Vancouver, British Columbia, Canada. Soulier praised the guide for holding "no value judgments," instead focusing on simply informing potential audiences of a film's content (Opposes Ban on "R" Film; Suggests Plan, 1976, p. 21). This editorial caught the eye of commission members, and Soulier was invited to present the potential benefits such a guide might have on a community at a February 1977 commission meeting. In attendance was a newly called commission member Stephen West, who became excited about the educational possibilities of such a resource for himself and others within the community.

Action on such a movie guide laid dormant for nearly three years, primarily due to debates over budgetary concerns, to the chagrin of West. Beginning in January 1979, however, Orem City Councilman H. Earl Farnsworth rejuvenated the issue when he proposed to the commission a cheaper alternative that he had witnessed while visiting family over the holidays in Phoenix, Arizona. Farnsworth shared that the box office of the movie theater he attended posted descriptions of the types of content the films contained. Farnsworth recommended that the city add an ordinance requiring Orem movie theaters to better inform viewers by posting descriptive content warnings for all R-Rated movies.

After a review by City Attorney Bryce McEuan with Maricopa County, Arizona officials, it was discovered that "All notices and warnings of this type have been voluntarily initiated on the part of the establishment owners." Such postings did not favor educating ticket buyers but instead preempting potential obscenity litigation (Reinsch, 1979, p. 2). In the letter to McEuan,

Maricopa's Deputy County Attorney, Lyle O. Reinsch, further revealed that theaters "use these notices in support of the claim that no individual ever sees any film or performance, or buys any films, magazines, or other materials, unless it is clearly the intent of the individual to do so before they enter the establishment" (Reinsch, 1979, p. 1). Reinsch did not discourage Orem from attempting to pass an ordinance requiring such postings but made it clear that such instances in their county were strictly voluntary and without legal precedent. As the head of Citizen Education, Stephen West was not interested in Farnsworth's plan as he had other ideas concerning how best to inform citizens about a film's content.

At the monthly commission meeting in March 1979, Stephen West was elected to fill the position of chairman after Dave Hansen hastily resigned. As chairman and head of the Citizen Education committee, West argued against relying on movie theaters to provide information on content for citizens. West again suggested that a movie guide be printed weekly in a newspaper, similar to what Soulier had encountered in Canada and had been proposed to the committee two years earlier. West valued enlightening citizens concerning the dangers of obscenity and providing citizens with easy access to specifics about a film's content. He believed that doing so allowed citizens more autonomy in making more informed decisions about what movies to see and which to avoid.

Talks of requiring theaters to post descriptions of film content ceased at once. For the rest of the year, commission meetings instead focused on conducting public interest surveys and approaching the *Daily Herald* and others about publishing a weekly movie content guide (OCPD meeting minutes, 1979cdj, p. 1, 1, 2). After months of discussion, the *Daily Herald*, in November 1979, decided against publishing a weekly guide as a public service, citing financial reasons and not wanting to emphasize "rating review information" that might harm advertising

revenue from theaters. However, the Deseret News, a Salt Lake City-based and LDS-owned newspaper, agreed to publish their review findings at no cost. In early 1980, West again met with the publisher of the *Daily Herald*. In this meeting, West attempted to convince him “not to advertise any more R-rated movies in his paper.” West claimed the publisher “flatly refused to consider that proposal but said he might consider publishing a short synopsis of the movie, telling why movies are rated what they are” (Pornography fought by Orem commission, 1980, p. 3). Again, the *Daily Herald* did not follow through with this and demanded the city pay for the advertising space.

Slow progress in making lasting regulatory changes and lack of enforcement of the commission’s efforts by city officials eventually resulted in Stephen West leaving the Decency Commission when his reappointment ended in December 1980. Despite his unceremonious departure, West’s leadership impacted citizen education and made lasting strides in organizing a system for film content review that would last over two decades.

In early 1981, new Commission chair Thomas Proctor revived interest in shifting their focus from media regulation to media education. Rather than reviewing films to enforce Orem’s Obscenity Code and make editing suggestions for theater operators, the commission’s focus became reviewing movies to inform and forewarn viewers of potential obscene content. By July 1981, the commission began this transition by identifying its members as a “review” board rather than a “public decency” board (Committees and Board Offer Opportunities for Service, 1981, p. 2). The following month, the Orem City Council finally met to present a public report on the guide’s goals and vote on whether to fund it. The cost of the guide using tax-payer funds was always contentious, but with *The Daily Herald* refusing to publish the guide as a service, tax

dollars were necessary. The council agreed upon a yearly budget of \$4,000, 80% of which was used to pay for the guide's publication.¹⁴⁰

After years of discussion starts and stops, the first Friday Movie Guide was finally published in the *Daily Herald* on November 6, 1981. The top of the relatively square spreadsheet-style resource read, Friday Movie Guide, in bold black lettering. A description below the titles stated, "The following movie descriptions, provided by the Orem Commission on Public Decency, are offered to aid movie patrons in their selection of movie entertainment. An attempt will be made to review all R-rated movies and as many PG movies as possible."

The initial guide included five films, four of which were R-rated, including *Comin' at Ya* (1981), *French Lieutenant's Woman* (1981), *The Confessions* (1981), and *Halloween* (1978). Moving forward, the movie guides contained eight "reviews" each week. Titles reviewed continually had descriptions of the film's type (genre) followed by details on each film's content broken down by *language* (i.e., some profanity), *nudity* (yes/no), *sex* (i.e., explicit/implicit), and *violence* (i.e., several comedic murders). When Billy Wilder's *Buddy, Buddy* (1981) was reviewed later in 1981, for example, the movie guide revealed – Buddy, Buddy (R) – Type = Crime/Comedy; Language = Sexual Profanity; Nudity = Yes; Sex = Discussion only; Violence = Several comedic murders; Comments = A "klutz" forces his friend slip on a "hit" man whose job is hampered by the interference (Friday Movie Guide, 1981, p. 26). The guide was supposed to be information-driven without commentary on the quality of the films. Yet, some reviews,

¹⁴⁰ The new budget was 1,000 times larger than the previous budget of \$400.

especially those containing “homosexual” themes such as *Making Love* (1982), clearly had judgmental language in the comment descriptions (Friday Movie Guide, 1982, p. 12).¹⁴¹

The movie guide caused a stir in April 1982 when the descriptions of *Porky’s* were argued to be generating more interest in the film rather than fulfilling its supposed purpose of

FRIDAY MOVIE GUIDE						
The following descriptions, provided by the Orem Commission on Public decency, are offered as an aid to movie patrons in their selection of movie entertainment. An attempt will be made to review all R-rated movies and as many PG movies as possible. Send comments or suggestions to: Decency Commission c/o Orem City, 56 No. State, Orem, Utah 84057 or phone 224-7035. THIS PUBLIC SERVICE PAID FOR BY CITIZENS OF OREM						
MOVIE TITLE	TYPE	PROFANITY	NUDITY	SEX	VIOLENCE	COMMENTS
A MID-SUMMER NIGHTS SEX COMEDY (PG)	Comedy	Vary Little	None	Some Implied	None	Six people who are together before one of the couple's wedding and the events of that evening
THE NEXT LITTLE SHOREHOUSE IN TEXAS (R)	Musical/Comedy	Moderate Profanity	Moderate Male and Female	Implied/Sex Play	None	A house of ill repute that has become an institution is closed down by a TV zealot's pressure tactics.
THE WORLD ACCORDING TO GARP (R)	Drama	Moderate-Sexual	Male & Female	Some Implied	Some Shooting	Life story of woman and her illegitimate son -- from obscurity to fame & influence
YOUNG DOCTORS IN LOVE (R)	Melodrama	Abundant	abundant Female	Implied	None	Farce about Doctors and Nurses and their sexual proclivity.
TRON (PG)	Sci. fiction Adventure	None	None	None	Disintegration-Not bloody Moderate amt	A man's journey inside a computer. His attempt to escape & to get man back in control of the computer.
SIX PACK (PG)	Comedy/Human Int.	Abundant Profanity	None	Implied	Some (fisticuffs)	Six orphan children help an auto racer return to racing.
DINER (R)	Humorous Drama	Some Sexual Profanity	None	None	Vary little	The turning point in the lives of lifetime buddies as they go from boys to men-girls, wives, careers, etc.
AUTHOR, AUTHOR (PG)	Drama/Comedy	Some Profanity	None	Implied	None	Playwrite trying to hold family together while involved with his first Broadway play.

Figure 32 – Friday Movie Guide (Circa 1982)

informing citizens and cautioning audiences to avoid obscene content. [*Porky’s* (R) – Type = Comedy/Drama; Language = Sexual Profanity; Nudity = Extreme Amount; Sex = Implied; Violence = Fisticuffs; Comments = Boys and their sexual fantasies – get even with an “entertainment center” that ripped them off.] The descriptions were toned down, but after April 2nd,

Porky’s was removed entirely from the guide after continued public backlash. The major criticism was that the city was seen as “offering free advertising to Hollywood perverts” (*Porky’s Snooted Again*, 1982, p. 10). At this point, the guide had also never made clear who paid for the content descriptions published. After the uproar, the phrase “Paid for by the citizens of the City of Orem” was added to the end of the introductory description the following week, on April 9, 1982.

¹⁴¹ The comment for *Making Love* (1982) read, “Breaking up of marriage due to homosexual activity of husband” (Friday Movie Guide, 1982, p. 12). Such wording is based on BYU culture, and it encourages readers to judge the characters based on Divinity principles, which are not free from “critique.”

After *Porky's* significant legal setback to film regulation in Utah County, Orem City administrators and the commission knew the difficulties it faced in enforcing their censorship suggestions to theaters. The Timp had always been incredibly supportive of their editing recommendations due to owner Warren Bunting's supposed desire to "never show an R-rated film." Still, cooperation from other corporate theater chains had always been contentious (Thayne, 1993, p. 5). Managers at Plitt's University Mall were delighted to accept the \$50 the city was now paying for commission members to review all R-rated and most PG-rated films. Still, little was done in consenting to any suggested edits. The commission's oversight ensured that films with more "hard-core" content were not scheduled. For example, movies like *Hard-Core* (1979) and *Flesh Gordon* (1980) were scheduled, but after review and cooperative negotiations, they were never exhibited because of their blatant violations of the city's obscenity ordinances.

Despite some accomplishments in circumventing more "hard-core" films, some commission members felt their efforts were not resulting in enough regulatory action in theaters, especially considering the time spent in meetings, attending screenings, and creating movie guides. Thus, after the *Porky's* ruling, 1982's new commission chairman Verl Morgan was determined to overhaul and rebrand the OCPD's labors. The commission was always at its strongest when its chairpersons were publicly present and not hesitant to clarify the group's expectations and goals. Morgan was adept at fulfilling both and became the ever-present face and voice of the commission for half a decade, longer than any other individual in the commission's history.

As part of this rebrand, Morgan announced publicly in July 1982 that "the Commission does not support censorship" but instead sustained autonomy for the community by providing

content transparency for all citizens. Morgan stated, “We simply want people to know what the movie contains so they can make their own decisions. The movie rating system doesn’t do that” (Tracy, 1982, p. 24). Despite Morgan’s supposed neutral tone concerning censorship, he continued, “For better or worse, that is the price paid by a free society. We feel an obligation to the moral integrity of our community” (Tracy, 1982, p. 24). The commission’s move towards autonomy and choice is more closely aligned with LDS teachings on moral agency. It also established a precedent for citizens to expect their own agency in viewing edited films at their own institutional venues, such as BYU.

After the commission’s public redirection away from censorship, Verl Morgan also shepherded another of the most significant changes to Orem’s “Commission on Public Decency” since its formation. Based on a recommendation by Morgan, the Orem City Council unanimously agreed to change the organization’s longstanding name to the “Media Review Commission” (Council Approves “Media Review” Commission Change, 1982, p. 1).¹⁴² The name was prompted by a feeling among commission members that the term “decency” carried too aggressive a connotation that alienated some community members. In line with the shift begun by Stephen West, Morgan also agreed that the “purpose of the commission is to educate and inform the public on matters which concern residents, especially movies and entertainment” that should not “attempt to judge its content (City Commission Changes Name to Media Review, 1982, p. 3). In an editorial published at the time, impressed by these changes, the author stated, “The attitude of educating, rather than forcing standards upon members of the community, is an

¹⁴² The council unanimously agreed to the name change, and it was passed and approved on October 5, 1982, by Mayor DeLance W. Squire & City Recorder Phillip C. Goodrich

admirable goal. The desire of the commission to objectively communicate their observations can only improve the quality of our social environment” (City Commission Changes, 1982, p. 3). This sentiment and movement towards autonomy had already been felt as regulation protocols began to loosen around the country, which Utah County regulators were also beginning to appreciate.

Legal notice of the newly updated Ordinance No. 460, published on October 14, 1982, reiterated that the “primary purpose of Public Decency is to educate and inform the public” (Legal Notice, 1982d, p. 16). The following day, the new official name “Media Review Commission” was proudly displayed in the Friday Movie Guide, signaling the promise of “change.” A change not only for citizens’ agency to view films that before were considered obscene in theaters but conversely freedom for those desiring the choice to view films based on content and not rating. Such autonomy eventually led to the popularity of sanitized mainstream films at theatrical venues at Brigham Young University, such as the Varsity Theater.

The name adjustment did not come without criticism. Orem City Councilman Blain Willis, for example, called for the old name to be retained as he feared that the public perception of the new name signified that the commission was “backing away from an intent to restore public decency.” (Orem Council Approves Clinic, 1982, p. 21). Councilwoman Stella Welsh disagreed, arguing that the new name ensured citizens and others that the commission had “no powers of enforcement.” In the press, Welsh reemphasized this by stating, “The commission simply reviews movies so people can make intelligent choices themselves,” a seismic shift from

how the commission had operated even just a year prior (Orem Council Approves Clinic, 1982, p. 21).¹⁴³

Despite these public sentiments, the commission was still the eyes and ears of public decency in the city and kept the city attorneys apprised of the types of content being exhibited, thus keeping theater managers accountable when scheduling films within the cities. Like in Provo, careful negotiations between the mayor's office and city attorneys with theater operators still resulted in regulating the films scheduled and exhibited in the city. Regardless of the appearance that film regulation had ceased in the region, in favor of simply reviewing to educate the public, the commission was still, by and large, a regulatory organization that survived longer than other oversight committees across the country.

The Media Review Commission now had a cheaper, more streamlined method of watching and reviewing films. The organization also had found a new purpose towards edification and cooperation rather than coercion. Films considered violating the Orem's obscenity ordinances were sometimes requested to be removed from theaters, but not through intimidation, but instead negotiation.

¹⁴³ The Orem Commission on Public Decency was not the only organization experiencing changes. With the OCPD's transformation from regulation to education, the Utah County Council for Better Movies and Literature too made some changes. Karleen Barker, who was appointed chairwoman in 1979, also changed the organization's name after the group's 15th anniversary. The UCCBML was rebranded as the "Utah County Decency Council" in the fall of 1982 (Karleen Barker candidate for State Board, 1982, p. 12). Barker remained chairwoman until joining forces with "Citizens for Decency" shortly thereafter, but the organization never came close to reaching prominence when collaborating with the OCPD and Provo's regulators in battling "obscenity" on the big screen.

Conclusion

On the surface, not much had changed in the two years following the release of *Porky's*. Speaking about this, Ferguson felt the conciliation between theaters and regulators was a result of citizens and city administrators “creat[ing] an atmosphere” of collaboration where each group just needed to “walk softly” (Barker, 1984, p. 3). Verl Morgan felt that the newfound support from theaters was more about “mutual respect.” believing that “there’s an intelligence about the whole thing and we’ll stay ahead if it doesn’t get emotional and become a public debate” (Ibid). The lesson learned from the history of regulation is that controversial media tends to gain more attention when organizations try to fight or hide it. Additionally, using intimidation and coercion rarely leads to a positive long-term outcome for all parties involved.

Although the agreement between the cities and theaters did not keep all R-rated films out of the county, the community began to regulate itself. Cultural policies continued to affect the region’s interest in media that reflected their own community. Addressing these cultural policies, Orem Assistant City Attorney Paul Johnson stated that “the community standard and not the legal standard keeps an area under control” (Reese, 1984, p. 4). Similarly, Provo City Attorney Glen Ellis succinctly reiterated this, contending, “If a community is united, it can do more through community involvement than through the legal system.” This was proven repeatedly over the decades of prolonged battles over theatrical film obscenity in Utah County and for decades to come. Ellis believed that “The community has a lot of control over material like that. The best thing that people can do if they are offended by a movie is to tell the management about it.” Ellis continued, “The battle here in Provo has been fought long enough to where there’s really no new issues” because concerned citizens make their voices heard. Suppliers or distributors of indecent material have little choice but to comply (Reese, 1984, p. 4).

It was a reaction of right versus wrong, Community/Divinity versus citizen Autonomy that had long driven the legal battles and misunderstandings in Utah County. Even though theatrical film regulation appeared to end by the mid-1980s, it was really only the beginning of film sanitization in Utah County. The Media Review Commission not only educated citizens about the content of films but also about the importance of avoiding obscenity themselves or as a community. Utah County citizens had been trained through years of conflicts and experiences to not view film content as entirely “indecent” or thoroughly “clean” but as adaptable. Those influenced by BYU culture came to believe that avoiding films is unnecessary if they can be modified into versions suitable to their values and the community's standards. Thus, the fight to view mainstream movies customized to the community and religious standards was the new fight for Autonomy. Not in public theatrical venues throughout the cities, standard beginning in the 1960s, but instead in private institutional venues, such as at BYU or within viewers’ homes.

Chapter 6

CONCLUSION: THE END OF AN ERA USHERS IN THE DAWN OF A FILTERING INDUSTRY

(1984-Today)

This dissertation has provided a history of theatrical film regulation in Utah County from the 1960s through the 1980s. This project is ultimately a pre-history of the region's current sanitization practices and filtering technologies that provided individuals influenced by BYU culture more Autonomy to view edited films in their homes. Filtering technologies such as ClearPlay and VidAngel allow individuals to customize film content based on their tastes and morals, which may differ from those in their own Community. Based on notions of "filtering morality," I maintain that Utah County acts historically and contemporarily as a sieve when regulating media. This chapter briefly summarizes the historical events, technologies, and cultural policies that influenced both the U.S. Film Industry and the third-party film sanitization industry prominent in Utah County today. Regulators spent countless hours over decades attempting to eliminate films with content considered obscene. After intense social, legal, and political conflicts, it became clear that the goals of many in Utah County were not to abolish films with objectionable content altogether. They instead desired to customize content not only to the "standards of the community" but, more importantly, personalized to their own moral standards and values. As part of this analysis, I also evaluate instances of filtering and sanitizing within the U.S. Film Industry where films are adapted for specific demographics for ideological

or economic gain. Such instances demonstrate that despite the MPAA rating system, the industry is often analogous to Utah County's goal of fashioning films based on particular social values.

I contend that implementing the MPAA rating system changed how Hollywood made movies and how religious and conservative spectators encountered particular themes and content. With few accessible options to view films free from objectionable content, many spectators began to seek alternative options to view sanitized popular movies. I argue that the battles over "obscenity" in Utah County at the end of the OCPD theatrical film regulation era shifted to fight for their own Autonomy, to choose to view sanitized and filtered media based on their strong principles of Divinity and Community. I claim that cultural policies within Utah County were instrumental in shaping theatrical regulation in the county and the rise of filtering technologies, and the federal legislation that protects consumer Autonomy to access sanitized films. Based on BYU culture, these policies have become so formidable and lucrative that they have motivated interest in media sanitization on a national, industrial, and potentially global scale, which will be analyzed in more detail below.

The End of the Media Review Commission

Even though regulators in Orem, involved with the Media Review Commission (MRC), implemented a new strategy towards education and autonomy to all citizens by 1982, Provo City regulators were not quite ready to entirely forfeit their authority. On opening night, Provo City police officers still previewed every R-rated film exhibited within the city until at least 1984. Mayor Jim Ferguson, however, insisted that disputes over film content be negotiated with theater operators behind the scenes, out of the papers, and nowhere near the courtroom. Regulatory procedures in Provo were primarily unreported by the local media until the end of 1983 when

Provo Police Chief Swen Nielsen confirmed his department still screened X-rated materials at their station. Nielsen revealed that his officers were still trained to “recognize sexually-oriented materials” that bordered the city’s standards on obscenity (Council Views Pornography, 1983, p. 10). Nielsen argued that “There is no objective standard on pornography,” and because of this, when “you get five people in a room, you get five different definitions” (Council Views Pornography, 1983, p. 10). The debates over what is considered “obscene” had long been a matter of contention as almost every member of society might view morality differently based on their moral development. Such disparity made regulation problematic and created friction among regulators (Koppelman, 2005, p. 1635). To educate his officers, Nielsen screened films he described as “pornographic,” including excerpts from *Private Lessons* (1982), *Porky’s* (1982), *Fast Times at Ridgemont High* (1983), *My Tutor* (1983), and a series of X-rated films to assist them in interpreting Provo’s obscenity restrictions. The irony of paying city employees to view movies that other venues were firmly restricted from exhibiting for fear of prosecution is clear. However, the unnecessary overlap in reviewing efforts between Orem and Provo had also become apparent.

A couple of months after Nielson’s report, in February 1984, Verl Morgan, chairman of Orem’s Commission on Public Decency, expressed that the Media Review Commission was “eager” to have Provo City join its ranks to “expand its protective blanket valley-wide” (Barker, 1984, p. 3). Concerning the condition of media reviewing in the county, Morgan imparted his optimism that the region is fortunate because they do not “get the kind of trash that other places do.” He continued, “I think a lot has to do with the subtle defenses going on here” (Barker, 1984, p. 3). Many of these defenses more quietly transpired behind the scenes through the

commission's efforts, Mayor Ferguson's initiatives, and a more amenable mindset among anti-pornography groups and residents.

Despite already having police review protocols, Provo City was interested in merging with Orem due to a recent amendment in their media ordinances to include standards for cable television and videotapes. With Orem's successful review board for theatrical film screenings already in place, combining efforts offered a more streamlined review process from theaters to other popular ancillary markets like cable and the rental/sale market for videocassettes. After months of negotiations, Mayor Jim Ferguson announced in May 1984 that \$5,000 had been allocated in the city's yearly budget to co-fund the Media Review Commission's operations. Like before, the budget covered the cost of reviewers' movie tickets and advertising in local newspapers, with the vast majority paying for the marketing. The city mayors each appointed six members to the commission, and with the added participants, all R-rated, and most PG-rated films playing countywide were reviewed.¹⁴⁴ For years, the UCCBML had fought to combine and centralize regulation efforts throughout the county, and after almost 20 years, it was finally becoming a reality. No X-rated film had played theatrically in Utah County since 1970, which was believed to be a direct result of Orem, Provo, and other cities' separate regulatory efforts. However, this new alliance maximized these efforts and strengthened results to continue to keep X-rated (NC-17) and sexually graphic R-rated content out of the county.¹⁴⁵

News of the alliance triggered almost immediate results. In the late 1970s and early 1980s, Plitt and Mann theater chains, which now operated most theatrical venues throughout the

¹⁴⁴ It was estimated that roughly 60% of the films reviewed by the commission were R-rated.

¹⁴⁵ The Media Review Commission still worked closely with local video stores to inform consumers about films with content considered "obscene" and report on any "hardcore" discovered.

valley, had consistently pushed the boundaries of exhibited film content. By the mid-1980s, both theater chains agreed with Mayor James Ferguson to refrain from scheduling films that blatantly violated city ordinances. Ferguson revealed that attorneys from Plitt and Mann had “indicated they are aware that some types of films are unacceptable to Provo.” After much deliberation, he announced that the national chain owners agreed they would no longer “bother to route certain films this way” (Group to Review Provo Movies? 1984, p. 3). After years of cat-and-mouse using public and private intimidation and legal wrangling, each side compromised in a mutually beneficial way. Despite the occasional unexpected R-rated hit, films containing graphic sexual content were never big draws in Utah Valley. Due to years of past controversies, the business lost by residents that avoided certain theaters, such as the Unita and the Academy, was also a consideration (McConnell, 1978, p. 17).¹⁴⁶ Growing popularity among students and audiences across the state, and even the country, of Brigham Young University’s theatrical venues, like the Varsity Theater, that provided edited versions of PG, PG-13, and R-rated films on campus may also have influenced this decision.¹⁴⁷ The wars fought over theatrical film “obscenity” that had been battled for decades were entering their twilight years.

Both Orem and Provo notably stopped stringently enforcing the cities’ theatrical “obscenity” ordinances by the end of the 1980s, despite them remaining on the books. The Utah Council for Better Movies and Literature and the Media Review Commission kept theaters and

¹⁴⁶ Although the Unita Theater had a brief resurgence in business after *Looking for Mr. Goodbar* (1977), the increase lasted only a short time. The theater struggled in the early 1980s before closing permanently in 1986.

¹⁴⁷ Former Varsity Theater film projectionists Dan Gallagher and Brendan Merrick recall LDS church members flying or driving from as far as Idaho and California to view edited versions of popular films such as *The Firm* (1993), *The Rock* (1996), and *Jerry Maguire* (1998).

film content in check.¹⁴⁸ Except for a few exceptions, such as the release of *Basic Instinct* (1992) in Provo, police officers screening R-rated films was a rarity (Wright, 1994, F26). Instances like this were negotiated behind the scenes and out of the courtroom long after Mayor Jim Ferguson was defeated for reelection at the end of 1985 (Wilks, 1986, p. 1)

In 1994, a *Los Angeles Times* article on the Media Review Commission reported that when *My Own Private Idaho* (1991), about two young gay men, played in Provo, one commission member considered immediately reporting the incident to the city attorney. After the lessons learned from years of regulatory trial and error, the member did not pick up the phone, quickly realizing that the resulting publicity might “draw more people into the theater to see what the fuss was about.” *My Own Private Idaho* closed quietly after a quick four-day run (Wright, 1994, F26). Film regulators in Utah County finally joined the rest of the country in tolerating personal agency in film watching and offering Autonomy to citizens desiring to view movies containing materials that some viewers might find objectionable. However, the Community’s new fight soon shifted to demand the Autonomy to view sanitized versions of mainstream films at venues like the Varsity Theater or in their homes using filter technologies.

After reviewing thousands of deaths, including murders, executions, and decapitations, the Media Review Commission met its own demise after 25 years when Provo’s budgets were announced on May 27, 2002 (Budget Woes cut Provo’s Movie Screeners, 2002, p. A3).¹⁴⁹ For

¹⁴⁸ As chairwoman of the UCCBML Karleen Barker changed the name to “Utah County Decency Council” (UCDC) in fall of 1982. The UCDC joined forces with the state-based organization “Citizens for Decency” shortly after. The group organized anti-pornography meetings and conferences, but the organization never reached the prominence it did in collaboration with the OCPD and Provo’s regulators in battling “obscenity” on the big screen.

¹⁴⁹ Orem City, which started the Commission on Public Decency (i.e., Media Review Commission) in 1973, divested its participation in the commission at the end of 1995. Issues arose when one overzealous member began renting and “reviewing” X-rated videocassettes which caused friction between the cities. Orem’s Mayor, Stella Walsh, said the commission “just wasn’t accomplishing what they hoped it would,” especially considering the earlier days of regulation and what the commission had achieved (Eddington, 2000, p A1 & A9).

many years, the MRC's content reviews were shown on open access cable and published in the *Daily Herald* and the *Deseret News* (Eddington, 2000, p A1 & A9). Other family-watch groups online and in conservative newspapers around the country also published the commission's findings. During its prime, www.familystyle.com, which still holds over 5,000 content reviews, was visited about 65,000 times a month (Pugmire, 2014). When the MRC began reviewing films shortly after the release of *Looking for Mr. Goodbar* in 1977, they were the first and only organization in the country to review and publish details on film content. With the rise of the Internet, there were concerns about duplications of service and funding a government entity that fulfills a job a parent should do (Stewart, 2002, p. A10). The shuttering of the Media Review Commission in 2002 was an unceremonious climax to the last remnant of a regional theatrical censorship board in the United States. Its finale, however, coincided with the dawn of a new era in sanitization and filtering.

The Influence of Filtered Morality in Utah County & Beyond

BYU culture both deterred and tempted LDS members from attending specific mainstream beginning in the 1960s. While Mormon culture prompted them to resist viewing certain movies based on film ratings or “immoral” content, the strong influence of Utah culture also encouraged some members to view certain films with objectionable content regardless. In response to a rise in BYU students attending popular R-rated movies in the region, the university began sanitizing R-rated films and exhibiting them in theatrical venues like the Varsity Theater and International Cinema in the early 1980s.¹⁵⁰ This satisfied the desires of some individuals influenced by BYU culture to justify watching sanitized versions of mainstream movies while

¹⁵⁰ Movies carrying a PG-rating began being edited in the late 1960s so that the films did not violate the university's honor code (Davidson, 1977, p. 8)

also adhering to expectations of viewing clean media based on principles of Divinity. Despite film content being screened by a BYU review committee and the content deemed inappropriate

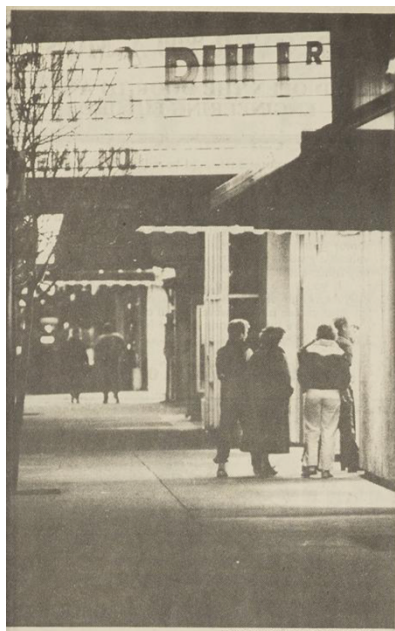


Figure 33 – BYU students in front of R-rated Raging Bull (1980) marquee

painstakingly being filtered by a Varsity projectionist, some BYU students still found the films offensive and in violation of the university’s honor code (Gardner, 1984, p. 12; Broekhuijsen, 1987, p. 4; Varsity Theater accepts violence, not sex in films, 1993, p. 4). Even those in the same Community and members of the same religion perceive “obscenity” differently, especially when a “fixed copy” of a film is created, even when edited by a committee. Similar to versions of movies produced during the Production Code, it is difficult to please everyone with variances in cultural backgrounds and moral developments (Gilligan,

1971, p. 141; Lickona, 1994, p. 3; Maes, 2012, p. 17).

Although Utah County’s “filtering” of content was ardent and enduring due to its cultural policies, it was not unique in its desire to regulate and filter media after the Production Code’s eradication.¹⁵¹ The U.S Film Industry has continually acted as a filter, despite the MPAA rating system offering more Autonomy. The MPAA implicitly regulates films as studios and filmmakers adapt content to secure the rating classification to attract their desired audience and

¹⁵¹ As analyzed above, Orem’s Media Review Commission, supported by tax-payer funds and the results published weekly in the *Daily Herald*, allowed residents to evaluate a film’s content before deciding whether to attend a movie. A description in the Friday Movie Guide for the PG-rated *Best Friends* (1982), for example, showed that the film contained “some” profanity, “some male-female” nudity, and “some implied sex play” (Friday Movie Guide, 1982b, p. 10). Those deeply influenced by BYU culture were more likely to select a film like *Tex* (1982) which was reported to only have “moderate” language and an “implied shooting” for violence (Friday Movie Guide, 1982a, p. 14). Being educated about content by these guides encouraged members of the Community to self-filter content for their family’s theatrical entertainment. Such resources endorsed customization of the content one is exposed to, eventually inspiring several Utah-based filtering technologies. Each provided advanced tools to sanitize mainstream films by filtering content fashioned to one’s tastes and moral values.

demographics (Bates, 1969, p. 618; Septimus, 1996, p. 69). Throughout the early 1970s, the industry also fought to restrict “hard-core” films from mainstream theaters in hopes of controlling the theatrical film market (Lewis, 2000, p. 8-9). The industry filters film content for foreign markets, not just in recutting films after completion for particular regions (Brett, 2017, p. 247; Martin et al., 2016, p. 23), but also during a film’s pre-production phase to better attract global audiences or appease governments (Kokas, 2017, p. 7; Geltzer, 2015, p. 123; Han, 2022, p. 2). Due to FCC regulations, studios and artists filter and sanitize content for network television and basic cable (Scott, 2018, p. 44; Leverette, 2009, p. 36, 43 & 146). Since the 1960s, airlines have commissioned sanitized versions of films for captive audiences on airplanes (Cornick, 2009, p. 174). Theaters, particularly independent chains with fewer screens, only schedule movies with content they assume the local demographic will pay to see (Litman & Kohl, 1989, p. 35). In more conservative areas, this often results in more graphic or adult films not playing through selective filtering (Houchin, 2003, p. 18; Cooper & Pease, 2009, p. 134). More recently, streaming services, like Disney+, remove or filter content, most notably due to progressive pressure to maintain a corporate brand (Mittermeier, 2022, p. 76). Although not always based on the influences of morals or culture, filtering media content is often a considerable part of attracting and finding an audience both in and outside the U.S. Film Industry.

Picking Up the Pieces - From BYU to Filters

Obscenity filtering began in Utah County in 1965 and continued despite a perceived collapse of mainstream theatrical regulation in the mid-1980s. The filter only became more expansive, prevalent, and durable in offering Autonomy to those desiring to view sanitized films. As mentioned, Brigham Young University’s Varsity Theater continued to review and sanitize

almost every PG, PG-13, and R-rated film exhibited in the theater that began in the late 1960s (Smith, 1969, p. 1). The venue was admired by students and members of the Community wanting to view sanitized films they otherwise might not consider viewing. Despite several controversies, most notably with Steven Spielberg refusing to allow the theater to sanitize *Schindler's List* (1993), the Varsity, and other venues on campus, continued to screen hundreds of edited films a year until July 1998 (Robinson, 1994, p. 1; Snider, 1998a, p. 1). After almost two months of exhibiting edited films distributed by Sony Pictures, including *Jerry Maguire* (1996), *Men and Black* (1997), *My Best Friend's Wedding* (1997), and *Air Force One* (1997), Sony sent a letter requesting that BYU venues no longer alter their films. This letter resulted in a sequence of events that led BYU's Board of Directors to end the thirty-year tradition and practice of sanitizing films campus-wide (Snider, 1998b, p. 3). Sanitization was no longer permitted in classrooms or other campus theatrical venues, including International Cinema, which had edited 4-5 movies per week since 1969.¹⁵² BYU culture was fanatical about sanitization, and even though BYU's filter had clogged, that did not stop others from quickly picking up the pieces.¹⁵³

¹⁵² In 2004, BYU began sanitizing films again in classrooms and "educational" screenings. International Cinema, for example, began to sanitize its films again using ClearPlay technology. Under the Family Entertainment and Copyright Act 2005, filtered versions of films are allowed in the home and for noncommercial educational purposes. International Cinema now exhibits "customized" versions that are not "fixed copies," as they contain educational components, such screenings are permissible under the Act.

¹⁵³ After exhibiting non-edited films for only three years, the Varsity Theater eventually closed its doors after 37 years of operation in September 2001. As Seth Lewis, a member of my dissertation committee, reported in *The Daily Universe* – "For all its nostalgia, mystique and long lines snaking through the Wilkinson Student Center, the theater will stop showing movies," contending that "students voted on the Varsity Theater's fate with the wallets" (Lewis, 2001). Although Carri Jenkins, BYU's Assistant to the President over University Communications, insisted money was "not the driving force" behind the decision, the university had always expected the theater to "pay for itself," yet had failed to turn a profit after editing ceased (Lewis, 2001). The days of students waiting in line for over three hours to buy tickets to *Jerry Maguire* or *Air Force One* were over on BYU's campus. Still, patrons interested in edited Hollywood movies quickly discovered new avenues to satisfy their cravings for filtered media.

The SCERA Theater (a depression-era family theater in Orem) was the first to announce their plans to screen official “airline versions” of edited R-rated films beginning in October 1998.¹⁵⁴ Norm Nielson, the former CEO of the theater, had attempted for ten years to get permission to exhibit official sanitized versions from Hollywood (Lin, 1999, p. 1). Utah Valley University (Orem), whose student body heavily compares with BYU’s, also began screening edited films in their Ragan Theater due to student interest and community demand (Carr, 1998, p. 3; Haney, 1998). Other theatrical venues

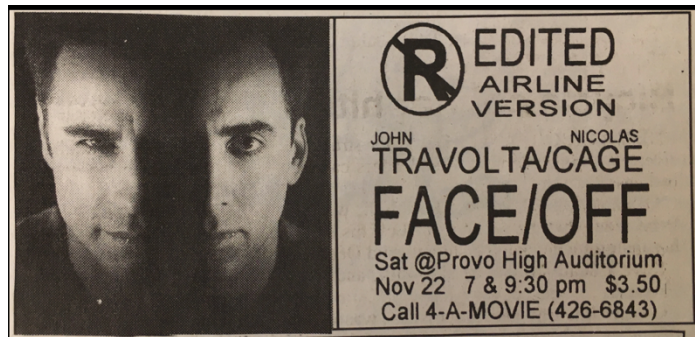


Figure 34 – Edited “Airline Version” *Face/Off* (1997) *Daily Universe* advertisement

included “film festivals” that exclusively showed edited R-rated movies at Provo High School, and others made special arrangements to screen “airline” versions of films such as *Ransom* (1996) and *Face/Off* (1997) as fundraisers (Pfunder, 1997, p. 5; Movies – Edited R-rated Films, 1997, p. 6). Towne Cinemas (American Fork) made national news when they, without permission, began removing nudity from films such as *Jerry Maguire* (1996), *Titanic* (1997), and *As Good as It Gets* (1997) and violence and language from *Air Force One* (1997) (Daly, 1998, p. 1). This newfound freedom to view sanitized films theatrically had grown so widespread that the market could not keep up. Distribution access to edited “airline” versions from studios was quite limited, leaving an open door for home video to take over. Access to edited “airline” versions of movies from studios was also quite limited, stirring a demand, but with few options.

¹⁵⁴ Originally funded and operated by the LDS church, the theater has large movie screen and indoor and outdoor theatrical stages. The SCERA rarely exhibits any film over a PG-rating and even refuses to play theatrical trailers for films administrators find offensive.

Like the adult film industry, theatrical film exhibitions dramatically changed with the development of home video (Alilunas, 2016, p. 21; Robertson, 1980, p.78; Roth, 2000, p. 9).

Theatrical venues had long required patrons to actively pursue attending a film containing “obscene” content, which often discouraged many from attending due to fear of retribution or judgment from others in the community (Shryock, 2017, p. 1180).

With the rise of VHS players and cable television, regulatory priorities in the county shifted from public theatrical venues to the home. In BYU culture, a home is considered sacred, as described in the prominent LDS hymn “Home Can Be a Heaven on Earth” (Hamilton, 1985, p. 298). LDS church members were warned to



Figure 35 – Mayor Joyce Johnson (Orem) holding the OCPD Video Guide Book

keep “obscene” media out of the home (Paulos, 2014, p. 339; Sumerau, 2015, p. 58). The home video rental market’s rapid rise throughout the 1980s also aligned with the Utah County decency commissions focusing on regulating cable TV and video rental stores rather than in theaters in hopes of (Police raid video stores, 1981, p. 2; Whitney, 1983, p. 1; Pierce, 1984, p. 7). To encourage consumers to preserve “heaven” in their homes, the OCPD released a “Video Guide Book” in 1986. Sold in stores and made available at local video rental stores, the book educated residents about the content in the films available on VHS in an attempt to preserve the home from “iniquitous” content (Media Commission Develops Useful Video Guide Book, 1986, p. 1)

Similar to MRC’s reviews for theatrical content, being educated about a film’s content eventually was not enough to satisfy the viewing desires of many individuals influenced by BYU culture. Many wanted to view sanitized versions of films in their homes. In late 1998, Sunrise Family Video satisfied this demand by offering to edit consumers’ copies of *Titanic* (1997).

Carol and Don Biesinger spliced two scenes in *Titanic* containing nudity and sex from thousands of VHS tapes (for a \$5 fee) (Christiansen, 1998, p. 1). Soon the Biesingers, and other video retailers, began editing other films, eventually offering films as rentals. By 2000, the theatrical exhibition of sanitized films had all but ceased, as there was much more interest and money in viewing sanitized movies at home (Farrell, 2003, p. 1041). Video rental businesses, most prominently, CleanFlicks (Pleasant Grove), quickly overtook the editing market. Dozens of other edited rental stores appeared across Utah County and eventually throughout the western United States. However, each of these companies only offered “fixed copies” of films — such a format left the viewer with little Autonomy concerning what content was excised. The battle over filtered and sanitized home video, and the freedom of choice, was only beginning.

Movie Mask was one of the first patented “filtering” innovations devised, which afforded viewers the option to select the types of content to “mask” (cover) or remove from films (Bethards, 2003, p. 1; Lewis, 2003, p. 28). The technology was PC-based, however, and not widely adopted, but its technology sparked interest in digital filtering. Out of this interest arose ClearPlay, which employed a DVD player to filter content using an official studio disc (Bush, 2004, p. 6). The device allowed viewers to select and customize filters using specific content categories (i.e., violence, nudity, language), including levels of severity from kissing to sex, hitting to murder, tobacco to marijuana, Lord’s name in vain to the f-word, etc. ClearPlay presented consumers with more agency in what specific content offended them.

With the development of streaming, filtering technologies adapted again with Provo-based VidAngel, allowing nationwide viewers to stream filtered movies cheaply (Feller & Ventimiglia, 2020, 8). VidAngel provided even more specific customized features, beyond morality, such as removing Jar Jar Binks from *Star Wars: Episode 1: The Phantom Menace*

(1999) (Lichtman & Nyblade, 2018, p. 227). Each form of filtering, whether self-filtering or through technology, significantly reflects the cultural policies established in the region, which over time were adapted to include guidelines on sanitization rather than altogether forbidding films that violated obscenity ordinances.

Individuals influenced by BYU culture, after the OCPD's Friday Movie Guide and the rise of sanitization at BYU's Varsity Theater, sought the Autonomy to view films customized to the Community's tastes and principles of Divinity. It is argued that BYU culture affected each of the events and technologies surrounding film sanitization established by the county's cultural policies. This influence resulted in a system and industry that filtered morality not only to residents of Utah County extending beyond its borders, impacting individuals and families on a national and even global scale.

Impact of BYU Culture on Utah County's Cultural Policies

This dissertation has argued that Utah (*Community*) Mormon (*Divinity*) and BYU (*Community & Divinity*) cultures are often counterproductive in their approaches to regulating obscene materials within Utah County because the lines between those cultures are at times dissimilar or not clearly defined. Individuals and groups in Utah County acted as a filter to restrict theatrical film content considered obscene. Still, differing goals between organizations such as LDS church leaders, LDS church members, decency organizations, and city officials added to the difficulty in regulating media based on cultural policies established over decades of social and religious customs. The lack of *Autonomy* for citizens and organizations outside of the Community often results in resistance, adding additional social and legal disputes.

The struggles by Utah County regulators to prohibit, censor, control, standardize, and conceal obscene materials frequently produced the opposite result, drawing more interest in “obscene” and “immoral” materials (especially those within the Community than without regulation (Jacobs, 1997, p. 20; Grieveson, 2004, p. 200). As explored in this dissertation, the fight for Autonomy became complicated for Utah County residents when individuals who once fought for banning films eventually demanded their own moral and legal independence to continue to view filtered movies in self-sanitized form, at specific theatrical venues (BYU’s Varsity Theater, SCERA Theater), and in their homes (CleanFlicks, ClearPlay, and VidAngel), due to the influence of BYU culture.

The Motion Picture Association of America’s rating system, implemented in 1968, has recurrently been viewed as a relatively straightforward regulation system. Evidence in this dissertation complicates this notion by arguing that the MPAA rating system has, in reality, very much problematized the way conservative and religious groups approach popular entertainment. Not just in regulators creating standardized versions of movies free of content considered “obscene,” like during the Production Code era, but also in developing tools to customize movies to each individual or family’s cultural or religious values. Despite the legal and ethical dilemmas sanitization produces, cultural policies in Utah County have filtered morality in movies on a local, national, and global scale for over half a century, with no signs of halting due to the enduring influence of BYU culture on media.

The history of theatrical film sanitization in Utah County, Utah, which began in the 1960s, may appear insignificant in the history of regional censorship in the United States, especially considering the limited scholarly research written on the subject. Decency advocates in Provo and Orem in 1965 likely never imagined the power and influenced their efforts might

have in eventually spawning a film sanitization industry. While dozens of the individuals I spoke with for this project felt like the war over “obscenity” was lost, the war never actually ended and has been raging on, despite the unceremonious end of theatrical film regulation. Despite Hollywood studios continued legal challenges to companies like ClearPlay and VidAngel, sanitization thrives in Utah County and nationwide, with opportunities to move globally (Hodgson, 2019, p. 153; Garcia, 2019, p. 1)

In 2004 the Director’s Guild of America and many Hollywood studios filed a lawsuit against several editing companies to end the practice of editing and filtering on a federal level.¹⁵⁵ The result was the exact opposite of what the studios had initially anticipated. During the litigation, *The Family Entertainment and Copyright Act of 2005* was signed into law by President George W. Bush in April of 2005. Introduced legislatively by Senator Orrin Hatch (R-UT), the law was passed as a direct response to these lawsuits. Based on Thurgood Marshall’s adage, “What a man does in his own home is his own business,” the Act allowed companies, such as ClearPlay, the Autonomy, to provide consumers customizable filters to select the content they find objectionable [Stanley v. Georgia: 394 U.S. 557 (1969)]. Whether living in Utah County or not, viewers could legally watch sanitized versions of films within their homes using filters, despite the studio’s or DGA’s objections. The policy allowed viewers, especially parents, to act as their own film regulators in enacting filters to remove content they consider objectionable.

The implications of this power are complicated as the ethical, moral, and economic objectives rarely find an entirely equitable solution. While theatrical film regulation in Utah

¹⁵⁵ Directors included: Steven Soderberg, Steven Spielberg, Robert Altman, Robert Redford, Martin Scorsese, Curtis Hanson, Norman Jewison, Sydney Pollack, Taylor Hackford, Michael Apted, John Landis, and Michael Mann... Studios included: Disney Enterprises, DreamWorks, MGM, Sony Pictures, Time Warner, and Universal.

County originally diminished Autonomy for those outside of the Community, filtering technologies provided an avenue that reduced regulation and provided those in the Community with the Autonomy to view films on their own terms.¹⁵⁶ Regulation and censorship of media have long been seen as impeding viewers' Autonomy, and the MPAA rating system as providing more independence. I contend that sanitization technologies potentially offer more Autonomy as it further emphasizes freedom of choice, contradicting censorship and regulation's original function. Just as U.S. Supreme Court Justice Potter Stewart found in 1964 when attempting to describe his threshold for "obscenity," individuals know what they consider obscene "when they see it" (*Jacobellis v. State of Ohio*, 1964). Film regulation within Community, Divinity, then, is ultimately ancillary to that of personal Autonomy. Territorial leader, LDS Prophet, and BYU namesake Brigham Young eagerly cautioned that "The men and women, who desire to obtain seats in [heaven], will find that they must battle every day." (*Teachings of Presidents of the Church: Brigham Young*, 1997, p. 294). The men and women of Utah County proved to battle content *they* considered obscene "every day" and assuredly will continue. As industrial technology changes, so will the sanitization efforts from those influenced by cultural policies and BYU culture, as demonstrated for over half a century.

¹⁵⁶ With the ending of organized film regulation, members of the Community more fully abided by the principle of "agency" to allow God's children the opportunity to make choices for themselves. LDS members believe wholly in the principle of opposition in all things but that everyone also has the agency to choose right from wrong (Ratting, 1979, p. 106).

APPENDIX

List of Interviewees

1	Abbott, Elaine	June 29, 2023	Participant that picketed an adult book/video store
2	Alger, Sybel	August 25, 2022	<i>Daily Universe</i> writer surrounding the trials concerning <i>Goodbar</i>
3	Alligood, Lannis	March 7, 2022	Manager of BYU's Varsity Theater
4	Baker, Sherry	March 20, 2019	Emeritus BYU Prof. of Comm - co-founder of the LDS Media Symposium
5	Bathey, Robert (Bob)	August 10, 2022	Manager of the Unita Theater in 1977 during the exhibition of <i>Goodbar</i>
6	Baum, Floyd	September 2, 2020	Former missionary companion of Frederick Podlesny
7	Bell, David	September 1, 2020	Former missionary companion of Frederick Podlesny
8	Berlin, April	August 12, 2021	Long-time employee and manager of Orem's SCERA Theater
9	Besinger, Carol	September 2, 2022	Owner of Sunrise Family Video that edited Titanic on VHS
10	Blackner, Mikelle	September 28, 2018	UVSC student body president - arranged edited R-rated movies
11	Bringhurst, Paul	March 14, 2022	BYU Administrator over the Varsity Theater
12	Campbell, Les	August 12, 2021	Member of the Orem Commission on Public Decency (1970s-1980s)
13	Campbell, Linda	August 12, 2021	Member of the Media Review Commission (1980s-1990s)
14	Clegg-Hyer, Maren	April 10, 2022	BYU student and academic - <i>Daily Universe</i> editorial contributor
15	Cowley, Tammy	May 14, 2023	Mother of the author with strong opinions on film content
16	Cox, Dave	March 21, 2022	Son of Marvin Cox, the owner and manager of the Pioneer Drive-in
17	Czerney, Pete	July 30, 2019	Editor at BYU Motion Picture Studio & BYU film librarian specialist
18	Fasselin, Jan	August 9, 2022	Manager of the University Mall & Academy Theater
19	Ferguson, Jim	March 8, 2022	BYU Student and Mayor of Provo 1978-1986
20	Gallagher, Dan	February 28, 2022	Varsity Theater projectionist and <i>Daily Universe</i> writer in the mid-1990s
21	Hollinghaus, Wade	March 2, 2022	Former BYU student and employee
22	Horne, Jenny	April 8, 2022	Member of the National Film Preservation Board
23	Jarman, Matt	February 21, 2022	Founder of ClearPlay and BYU student
24	Johnston, Aaron	March 14, 2022	Author and BYU student whose reporting led to the Varsity Theater's closure
25	Lavenstein, Hollie	September 20, 2020	BYU student and International Cinema student employee
26	Lewis, Crismon	February 26, 2022	Writer for the <i>Daily Universe</i> in 1967 and editor of the <i>Latter-Day Sentinel</i>
27	Marshall, Jean	September 2, 2022	Wife of International Cinema programmer Don Marshall
28	Merrick, Brendan	March 9, 2022	Varsity Theater projectionist from 1993-1995
29	Molen, Gerald	March 23, 2022	Producer of <i>Schindler's List</i> , BYU guest lecturer, and LDS Church member
30	Moody, Rick	August 14, 2021	UVU professor and BYU Ph.D. student. Film contributor for the <i>Universe</i>
31	Moss, Bradley	February 24, 2022	BYU student and International Cinema patron
32	Moss, Shawnda	February 24, 2022	BYU student and former BYU faculty in the Theater department
33	Murphy, Sharon	June 9, 2022	Provo resident and participant in LDS anti-obscenity campaign
34	Nabhan, Marty	December 17, 2019	BYU student and member of the BYU Film Society
35	Nielsen, Norm	August 11, 2021	Former CEO of the SCERA Theater and BYU's Program Bureau
36	Nelson, Linda	March 29, 2022	Manager of BYU's Varsity Theater from the 1980s until its closure in 2001
37	Nimer, Corey	12/22/18 9/4/20	Archivist at the L. Tom Perry Special Collections Library
38	Parkin, Jeff	March 1, 2022	BYU professor and LDS film scholar in the TMA department
39	Pitcher, Dan	March 15, 2022	Projectionist at the Varsity Theater that sanitized films before screenings
40	Poste, Paul	March 5, 2020	Co-founder of Captive Entertainment that sanitizes Hollywood movies
41	Richards, Paul	March 8, 2022	Head of BYU's Public Relations department during the <i>Goodbar</i> trial
42	Riddle, Tara	August 12, 2021	Member of the Media Review Commission and Provo City employee
43	Robinson, Jill	May 21, 2021	BYU master's student, screenwriter, and UVU instructor

44	Rutkowski, Nadja	March 19, 2020	Associate at Terry Steiner International that sanitizes Hollywood media
45	Skousen, Paul	February 7, 2022	Son of writer & historian Cleon Skousen, the author of BYU's history
46	Snider, Eric	February 8, 2022	Blogger, Film Critic, and former entertainment writer for the <i>Daily Universe</i>
47	Summers, Jaron	March 3, 2022	Author, satirist, and <i>Daily Universe</i> writing staff in 1965-1966
48	Swenson, Sharon	March 1, 2022	Emeritus BYU Professor specializing in film
49	Trotta, Cathie	March 10, 2020	Associate at Penny Black Media that sanitizes Hollywood media
50	Van Wagenen, Sterling	3/16/21 6/12/22	BYU instructor and co-founder of the Sundance Film Festival
51	Wade, Alton	May 2, 2022	Pres. of Dixie College & BYU-Hawaii. BYU Vice Pres. of Student Affairs
52	Watson, Ron	August 14, 2021	Projectionist at the SCERA Theater that sanitized films for the theater
53	West, Stephen	9/3/21 9/2/22	Member/Chairman Orem's Commission on Public Decency from 1976-1980
54	Wilcox, Reed	March 14, 2022	<i>Daily Universe</i> writing staff in the 1960s. President of S. Virginia University
55	Wilcox, Win	February 7, 2022	Provo Resident and Vice-Chair of UCCBML in 1977
56	Wilde, Cameron	April 6, 2021	BYU Student in 1998 - attended <i>Jerry Maguire</i> waiting in line for three hours
57	Williams, Kirk	March 11, 2022	Projectionist at the Varsity Theater. His wife worked at BYU's Candy Jar
58	Winters, Charlene	March 7, 2022	Former BYU employee in the communications office. Orem City Historian

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