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Gung-ho on gay rights; Activists say Rudy Giuliani has done more for their cause than any '08 Democratic rival

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WASHINGTON - Twenty-five years ago, long before Rudy Giuliani became mayor of New York City, he made a decision that advanced the cause of gay rights nationally.

As the Justice Department's number three official in 1982, Giuliani authorized the hiring of the first openly gay lawyer for a prosecutor post requiring a security clearance, according to records and interviews.

That precedent-setting but little-known action, combined with his successful push as mayor for domestic partnership and hate crime laws in New York, make Giuliani an anomaly: a front-runner for the GOP nomination who is a top champion of gay rights.

Like the other Republicans in the race, Giuliani will not be taking part in tonight's presidential debate on gay issues. But he still has done more to advance gay rights than just about any of the Democrats who will participate, gay activists said.

"Rudy Giuliani is near the top of the list," said Matt Foreman, head of the National Gay and Lesbian Task Force, who was an activist in New York when Giuliani was mayor.

"The challenge for those of us in the gay rights movement is to look at two things: an elected official's accomplishment while in office and whether they affirm the humanity of gay people," said Foreman.

"On that score, Mayor Giuliani has a good record," he said, citing the city domestic partnership law, state hate crimes law, public support and appointments of gay judges.

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Unlike many politicians, Giuliani is comfortable around gays, Foreman added, recalling how the mayor marched in gay pride parades and shared an apartment with a gay couple.

Rivaling him among presidential hopefuls as a proponent of gay rights is Democratic New Mexico Gov. Bill Richardson, who won passage of non-discrimination and hate crime laws in his state, Foreman said.

Giuliani is a favorite of the gay group Log Cabin Republicans. Democrats are all talk and no action on gay rights, said Log Cabin president Patrick Sammon. "His record speaks for itself."

Giuliani is not rated as highly by the liberal Human Rights Campaign, sponsor of tonight's debate, or the Task Force because he is so conservative. His personality and hardball politics as mayor also play into it. "Everything with Rudy Giuliani comes with this double-edged sword, including his vindictiveness and his terrible relations with people of color," Foreman said.

Giuliani knows his support for gays is awkward for conservatives in his party and rarely brings it up while campaigning.

He says marriage is only between a man and woman, but he also backs domestic partnerships and opposes a constitutional amendment barring gay marriage. He wouldn't change the military's "don't ask, don't tell" policy.

Asked this week about the 1982 hire, Giuliani said he didn't recall it but said he authorized it if the person was hired. He declined to answer further questions. His spokeswoman, Katie Levinson, yesterday issued a statement: "The mayor held the exact same belief 20 years ago as he does today - a person's ability to do their job should be the sole criteria for whether or not they are hired."

Attorney Gregory Baldwin, now in private practice in Miami, remembers it well.

Being openly gay lost him his job on the Senate Intelligence Committee in the 1980s, he said. Its chairman and the CIA said he was a security risk, under post-World War II policy, because he could be blackmailed.

A colleague helped him land a temporary job as an assistant U.S. attorney in Miami, Baldwin said, but when the U.S. attorney there learned about his sexual orientation, he moved Baldwin from narcotics to money-laundering cases.

Baldwin wanted the job to be permanent and needed a security clearance. The FBI vetted him. He flew to Washington for a grilling.

"It finally dawned on me, I was the first one," he said. "I wasn't trying to prove a political point or further the cause. I was just looking for a job."

A 1982 memo alerted associate attorney general Giuliani about the Vietnam War vet, a divorced father of two, top attorney and "admitted homosexual." He asked Justice Department legal counsel Theodore Olson for an opinion.

Olson sent back a memo citing 1960s lawsuits, a 1975 federal personnel code and a new policy on security clearances. He said Baldwin could not be denied a job, unless being gay affected his ability to do the job, and that Baldwin likely could win a lawsuit if he were not hired.

Olson gave Giuliani an out: Hiring a practicing homosexual would indicate a disrespect for Florida's anti-sodomy law, putting the Justice Department in an awkward spot.

But Baldwin got the job.

Olson, now a senior Giuliani campaign aide, called it the "right thing to do" and a "big step."

"Once we wrote that opinion, it was binding on the executive branch and it set a precedent," Olson said.

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Marty Steinberg, the lawyer who helped Baldwin get the job, praises Giuliani and Olson.

"They did the right thing," he said, "and that was not an easy thing to do in that era."

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GRAPHIC: 1) AP photo, 1982 - Rudy Giuliani as a top official in the Justice Department. 2) Newsday photo, 2001 / Jiro Ose - Then-mayor Rudy Giuliani and candidate Michael Bloomberg at the June 24, 2001, Gay Pride Parade in Manhattan.

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