



June 6, 2002

*Telling “the Rest of the Story”*

## **Committee’s Own Best Examples Reveal Problems With “Hate Crimes” Bill**

The Senate will soon turn to S. 625, the “hate-crimes” bill. That bill will make it a Federal crime to cause bodily injury to another “because of the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of any person.” The majority of the Senate Judiciary Committee believes this bill is necessary because of gaps in current Federal law. Part 7 of the Committee’s report summarizes 17 “examples of violent hate crimes not covered by existing law.” Those 17 crimes are the sorts of crimes that the Committee wants to cover – and that S. 625 will cover. It is, of course, the premise of “hate-crimes” laws that “hate crimes” are more terrible and destructive than other crimes.

Some of the 17 crimes in the Committee’s report are truly terrible; some are, frankly, mundane. Few crimes are mundane to their victims, of course, but the Committee’s list of crimes runs from rape, torture, and multiple murders (in Yosemite, California) to an assault where a single punch was thrown (in Athens, Georgia). The Committee also includes at least one incident in which there was no crime at all, and another involving a justifiable homicide. Yet the report gathers together the horrible crimes, the mundane crimes, and the phantom crimes and presents them all as evidence that a new Federal “hate-crimes” law is needed.

The Committee’s list includes seven incidents involving homicide and 10 incidents involving assault (both aggravated and simple). The first crime in the Committee’s list was committed in 1993. Unfortunately, the Committee does not give a context for these crimes. A reader of the Committee’s report would not know, for example, that from 1993 through mid-year 2002, *more than 175,000 Americans were murdered, and more than 9 million aggravated assaults were reported to the police.*

Presumably, the report lists the most compelling cases that could be found. We have taken a closer look at the most serious incidents (those seven where there was a homicide), and *we have found distinctions between crimes and victims of crimes that are inexplicable and indefensible.* On the pages that follow, we have reprinted the report’s own text in the left-hand column, and then we tell “the rest of the story” in the second column.

This paper was prepared by Lincoln Oliphant of the Policy Committee staff. Questions as to sources or analysis may be directed to him at 224-2946.

## Verbatim From Committee Report

*December 1993, Humboldt, NE*

*On Christmas Day in 1993, Brandon Teena, 21, was raped and beaten by two male “friends” who discovered that Brandon, who had been living as a male, was anatomically female. Teena, born Teena Brandon, was anticipating undergoing gender reassignment surgery. The men threatened to kill Teena if he went to the authorities to report the rape. Despite these threats, Teena reported the crime to the police. Even so, the county sheriff, who referred to Teena as “it,” did not allow his deputies to arrest the two men. Five days later the two men sought out Teena and shot and stabbed him to death. His mother later filed a civil suit against the county in which the court found that the county was partially responsible for Teena’s death because the two men were not arrested after the report of the rape. The court characterized the sheriff’s behavior as “extreme and outrageous.”*

## The Story the Committee Doesn’t Tell

The Committee starts by reaching back to a murder that was made into the award-winning movie, “Boys Don’t Cry.” The movie was especially fashionable among those elites and gender warriors who think that humans are divided into more (or possibly less) than two sexes.

In focusing on the titillating aspects of the one murder, **the report fails to mention that two others were murdered with Teena Brandon.**

Miss Brandon’s mother was furious with the movie. She said the movie exploited and lied about her daughter’s life. She was especially upset that actress Hilary Swank referred to Miss Brandon as a man when giving her acceptance speech at the Academy Awards. (The report also uses male pronouns when referring to Miss Brandon.) The mother last spoke to her daughter on the day before the murder, and she said that she was clearly speaking to a woman. “I know who she was,” the mother said. “She said she had to get her head back together. She wanted to come back to her old life, and her old life was Teena Brandon.” (*Omaha World-Herald*, Mar. 29, 2000.)

The report gives special attention to Teena Brandon because of her gender identity disorder. No such special attention is given to Lisa Lambert, a young mother who was shot *in front of* her own young son. Ms. Lambert’s face was shot away by the impact of the bullets put into her head. Also murdered that day was Philip DeVine, a young black man who was visiting for Christmas. (See, 586 N.W.2d 591.)

If the word “hate” is reserved for Teena Brandon’s murder, **what word can we use to describe the cold-blooded murder of a young mother in front of her own child?**

## The Story the Committee Doesn't Tell

### Verbatim From Committee Report

*February 15, 1999,  
Yosemite National Park, CA*

*A man bound, gagged, and eventually killed a woman, her daughter, and a young woman friend in the women's hotel room just outside Yosemite National Park in Northern California. The bodies of the mother and the young friend were found a month later in the trunk of their car, so badly burned that the cause of death was difficult to establish. The daughter's body was found nearby, her throat slashed so deeply she was nearly decapitated. According to the murderer, he sexually assaulted her for hours before killing her. A few months later the same man struck in Yosemite again, attacking a young woman in her home. After an intense struggle the man decapitated the young woman and dumped her body in a stream behind the home. He has since confessed to all the murders, explaining that he has fantasized about killing women for the last 30 years. He did not know any of his victims; he admittedly targeted them simply because they were women.*

These crimes were unspeakably brutal. The Committee's version of events is adequate.

The Committee's **bill includes "gender"** in its list of protected categories. Absolutely no one knows what that is supposed to mean. There are some 100,000 reported rapes in the United States every year, and millions of domestic disputes. Are these gender-based hate crimes? The report says "no" (on page 8), but gives no help in understanding just what *is* a gender-based crime.

The report concludes its description of this crime by saying, the murderer "did not know any of his victims; he admittedly targeted them simply because they were women." So? Does a gender-motivated crime require that a criminal rape or murder strangers? Does it require that all his victims be of one gender? What if this murderer had also killed male children of the women? Would that have made him less biased and less blameworthy? Suppose he had killed the four females *plus* two males. Would his murdering six have been *less* despicable because he wasn't biased?

These questions are only a part of the problem illustrated by these crimes: The fourth woman was murdered on Federal land, and the Feds prosecuted the case. A.G. Janet Reno gave permission to seek the **death penalty** because the crime was especially vicious and depraved. The Feds took that capital threat and leveraged it to get the defendant to plead guilty to life in prison without parole. (The State is still seeking capital penalties for the other three murders.)

But . . . **this hate-crimes bill abolishes the death penalty for hate crimes!** *A murderer convicted under the provisions of this bill cannot be sentenced to death.* The Committee describes

the Yosemite crimes and then seeks to reduce the penalties! What is the goal?

### **The Story the Committee Doesn't Tell**

#### **Verbatim From Committee Report**

*June 2000, New York, NY*

*Amanda Milan, a 27-year-old transgender woman died after her throat was slashed with a knife outside of the Port Authority in New York City. Witnesses say that a group of cab drivers cheered, applauded and shouted transgenderphobic remarks as the crime was committed. One of the perpetrators allegedly shouted phrases like "You're a man!" and "I know that's a dick between your legs."*

The report does not cite the source of its information, but it does treat us to some street language coupled with the word "transgender-phobic." We assume this combination signals to the in-crowd that the report is thoroughly "pc."

Perhaps the source for the Committee's account of the crime is the *Village Voice* of July 18, 2000 (although that source says nothing about cab drivers). In that article, the account of the crime from Milan's friends (who were present when Milan was stabbed) is given by a third party, a spokesman for the Gay and Lesbian Anti-Violence Project. The friends talked to the spokesman, and then he talked to the writer. This sort of participation by third parties is not unusual in the reporting of "hate crimes," particularly crimes against "sexual minorities."

The police said that existing evidence does not point to a hate crime. The spokesman said the police were "aware [that the accused] used the reference 'faggot' during the dispute," but said the word "was only incidental" – "like if you have a confrontation with someone who's overweight, you might say 'Hey, fatso!'" Arrests were made within 24 hours of the crime. The police spokesman said the accused was dealing drugs and Milan got in the way of his business.

Milan "work[ed] in the sex industry," and Milan's friends were offended that the police department and the *New York Times* described Milan as "a man dressed in women's clothes" rather than as a "transgender woman." **As with so many of the Committee's examples, this crime is counted because an epithet was used.**

**There has been a debate about including “the transgender community” within the term “sexual orientation.”** Now we know what the decision was: Include them in the report but keep silence in the bill.

### **The Story the Committee Doesn’t Tell**

#### **Verbatim From Committee Report**

*June 9, 2001, Washington, DC*

*Alexander Gray, 22, was reportedly jumped and beaten by a group of men who called him “faggot” hours before he was fatally shot by a DC police officer. Police are calling the beating a probable hate crime and have identified several suspects. Emergency medical technicians (EMT) and police reportedly found Gray laying on the sidewalk, crying in southeast Washington in response to a call. Gray told them about the attack. Gray, who had a cut over his eye and a gash on his head, refused medical treatment and an offer to be taken to the hospital for observation. Gray was reportedly handcuffed and placed in a police car after he began cursing officers and threatened to assault several bystanders. Police drove him home, but Gray stopped by a neighbor’s house after being dropped off. The neighbor called 911 after Gray began spitting up blood. EMT’s responded and again examined him; again, he refused treatment and said that “all he wanted to do was to go home and lie down.” He reportedly started walking home but was soon being followed by two police officers, who told him he was not dressed appropriately, as his pants were torn, possibly due to the assault, and his*

The *Washington Blade*, D.C.’s source for gay and lesbian news, has carried several stories about the death of Alexander Gray. As the Committee says, Mr. Gray was assaulted by several persons and then, some time later, he was fatally **shot by a police officer**. As both the *Blade* and *The Washington Post* have pointed out, the investigations were being conducted by gay police officers of the Gay and Lesbian Liaison Unit of the D.C. police.

Shortly after the shooting, Police Chief Charles Ramsey wrote to Mayor Anthony Williams to explain the circumstances of Mr. Gray’s death. The letter said that Gray refused medical treatment and got out of the ambulance and started walking away. Police officers asked him to stop, but he refused and “removed a four-inch blade knife from a hidden location beneath his clothing.” The officers told Gray to drop the knife, but he refused and swung it toward a bystander. An officer shot Gray once and he died an hour later. “A four-inch blade knife was recovered” at the scene. (*Washington Post*, July 24, 2001.) We are informed by the police that the investigation into the shooting has been closed and **no police wrongdoing was found**.

*The Washington Post* first reported the name of Alexander Gray on June 11, 2001. That news item appeared in a round-up of area news. Included in that round-up were a report of a 20-year-old woman who was shot in the neck and killed near Dunbar High School; a report of a 25-year-old woman who was shot by her boyfriend, who then

*underwear was exposed. He began to jog; the officers chased him and later shot him because they said he was wielding a knife at some people who were playing dice. Witnesses say they never saw a knife. Police have launched an investigation into the shooting, and the U.S. Attorney's office has convened a grand jury to look at the shooting. (Washington Blade, June 29, July 6, Dec. 21, 2001.)*

### **Verbatim From Committee Report**

*August 26, 2001, Leawood, KS*

*Gary D. Raynal, an openly-gay, 44-year-old man, was found dead under an apartment deck after being tortured and severely beaten by at least two people, according to police. Raynal had been sexually tortured with a metal rod, according to his sister, Sandra Sheppard, and officials familiar with the investigation. His ears had also been burned, and he might have been strangled. His sister thinks he was killed because he was gay. Police have said they have suspects in the case and are investigating the possibility that antigay bias may have played a role in the crime. (Kansas City Star, Aug. 30 and Sept. 1, 2001; interview with Police Sergeant Scott Hansen, Sept. 6, 2001.)*

killed himself; a report of a double homicide in Prince George's County off Livingston Road; and a report of a man who was shot and killed in his home in Upper Marlboro. **The bill and the report ignore those murders, of course. A "hate-crimes" bill discriminates against the great majority of crime victims.**

### **The Story the Committee Doesn't Tell**

The Committee's version of this terrible crime is accurate – at least as it was reported by the *Kansas City Star* last fall. Mr. Raynal's sister "thinks he was killed because he was gay." The newspaper doesn't give the basis for that opinion.

Mr. Raynal was murdered after leaving a bar in the Waldo area of Kansas City. He had had a couple of beers, and then at closing time he stood outside the bar's door while most of the others who had been in the bar departed. He was last seen getting into a pickup truck. "He talked to someone inside and then climbed in. . . . People who knew Raynal told police that he became very friendly when he was drinking."

In March of this year, the *Star* reported that DNA evidence taken from a pickup truck had failed to advance the case. "We didn't get what we were hoping for right there," a police spokesman said. "We don't have enough to file charges."

The newspaper article recounts the frustration and anxiety of a family that is waiting for justice. Mr. Raynal was one of about 15,000 persons who were murdered in 2001. Table 25 of the *Uniform Crime Reports, 2000* (the latest available) shows that during that year only about 63 percent of all murder cases were cleared by the police making an arrest. The frustration and anxiety felt by Mr. Raynal's family is **shared by thousands of other families every year – irrespective of the**

**motives of the murderers. All victims of crime and all families of victims are entitled to justice.** Sadly, though, thousands of victims and families will never in this life see that justice to which they are entitled.

### **Verbatim From Committee Report**

*September 2001, San Antonio, TX*

*Al Everton, 74, was attacked by a man yelling antigay epithets and hit in the head with a baseball bat as he walked his dog at 3 a.m. Everton, along with his partner, Al Thurk, reported the incident to police the next day, describing the attacker and what he was wearing in great detail and informing police that they thought it might be one of their neighbors. The neighbor had been questioning the couple about their relationship in the weeks before the attack and making antigay comments. Everton was treated and released at a local hospital. Sore and bruised from the attack and already in frail health, Everton was bedridden afterwards. His condition declined rapidly, and he died a few weeks later. According to a news report, no charges have been made; no searches done for the possible weapon; and no description of the alleged perpetrator can be found in the police report despite it being given to them. (San Antonio*

### **The Story the Committee Doesn't Tell**

The *San Antonio Current* bills itself as San Antonio's "alternative newspaper," and the article which the Committee cites is the *only* report we can find on the assault on Al Everton.

**"Hate crimes" are said to be especially frightening and tragic, but this crime – like most "hate crimes" – received virtually no press coverage.** The lone 3,400-word human-interest piece which the Committee cites appeared several months after the crime.

The article paints a sympathetic portrait of Mr. Everton and his homosexual partner of many years. It describes an unprovoked attack with a baseball bat on a 74-year-old man who was walking his dog. The article says the medical examiner "didn't link the attack to Everton's death, and instead attributed it to natural causes: diabetes, pneumonia, and vascular disease."

The attack occurred in **State that has a "hate-crimes" law**, but, says the article, the "law can't punish Everton's attacker, as the San Antonio Police Department has never apprehended, nor tried in earnest, to find him." We suppose that the police department would dispute that characterization. To judge from the Committee's description of the 17 crimes, **there is a feeling in some communities**

Current, Feb. 14, 2002.)

**that failure to catch and prosecute a criminal is a sign of bias or incompetence, and not just a normal – and unfortunately typical – part of the criminal justice system.**

Why is Mr. Everton’s “sexual orientation” so important to the Committee and his age so irrelevant? **The Committee’s bill does *not* include age as a specially protected category. Why is it “hate” if Everton’s attacker yelled something about homosexuals, but just an ordinary street crime if he yelled something about the elderly?**

### **The Story the Committee Doesn’t Tell**

#### **Verbatim From Committee Report**

*November 2, 2001, Cedaredge, CO*

*Local authorities opened the files into the investigation of the October 2000 shooting death of a gay man, Steve Ruck, 31, in response to legal pressure from a local newspaper. Authorities ruled the death as a suicide, but hazy details and unanswered questions about the incident have led local gay-rights groups to say that it might have been a hate crime. Ruck died of a gunshot wound to the head and was in the bedroom of a neighbor, Bobby Wells, when the shooting occurred. Ruck and Wells had spent the day golfing and drinking and both were intoxicated at the time of his death. Wells gave authorities numerous accounts of what happened before the shooting. Initially, he said he was not in the trailer when Ruck died. Later, he said he and Ruck were lying on the bed in the dark, and he did*

Steve Ruck committed suicide – at least that is the measured conclusion of the police and prosecutors. Apparently Mr. Ruck’s homosexual partner disagrees with that conclusion. The Committee’s source is the *Denver Post* of Nov. 2, 2001. Here’s more from that same article:

“Cedaredge Police Chief Tom Early counters that the complicated investigation was handled properly. ‘I am as comfortable as can be with the determination, given the odd set of circumstances,’ Early said. ‘We can say we are 99 percent sure because of what the evidence shows us it was a suicide. Can we say Bobby Wells absolutely didn’t have his hand on the gun? No, I can’t say that.’

“Ruck, 31, died late on Oct. 6 after he and Wells, 62, had spent a day golfing and drinking together. Ruck’s blood-alcohol level, determined in a post-mortem test, was 0.660 percent, a near-lethal level of alcohol. Wells’ blood-alcohol level was 0.294 percent, which is considered intoxicated. . . .

““There is not the remotest possibility of filing murder or homicide charges because of the

*not see Ruck shoot himself. He also said they were sitting in the bedroom when the shot occurred. He also that Ruck had at one point placed a loaded pistol to his head. Ruck's blood was splattered on Well's clothing and feet showing that he was 4 to 6 feet away from the victim at the time of the shooting. Wells said he is not gay and has no animosity toward gays. He said in one interview that he had no idea that Ruck was gay. In another he said he might have heard he was. (Denver Post, Nov. 2, 2001.)*

confusing nature of the evidence and questions of credibility of sources,' District Attorney Wyatt Angelo said. . . ."

The Committee excluded such information, which was in the very article they cited.

The *Denver Post* of Nov. 18, 2000, noted that Ruck's death was the first under suspicious circumstance in Cedaredge "since the 1970s when a high school student disappeared." That case was never solved. **Why isn't the mysterious disappearance of a minor a hate crime? Is there any other crime that so frightens a community? The Committee doesn't think so.**