



Briefing on LGBT Hate Crimes: International and U.S. Perspectives

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2–3PM

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Remarks from Laurie Young, Ph.D., acting director of Public Policy & Government Affairs for the National Gay and Lesbian Task Force

On behalf of the National Gay and Lesbian Task Force, I want to thank you for holding today's important briefing. The Task Force was the first national lesbian, gay, bisexual and transgender (LGBT) rights organization and remains the community's uncompromising, progressive voice. We fight for LGBT equality and justice, and believe our vision will be realized by building grassroots political power through training, advocacy, organizing and cutting-edge research. We work in the states and on Capitol Hill to challenge not only the status quo in mainstream America, but politics as usual within the LGBT community.

I would like to thank Congresswoman Tammy Baldwin and other members of the LGBT caucus for sponsoring and attending today's important briefing. I would like to focus my remarks on two specific areas. I want to highlight crimes against transgender people, which may or may not be recognized as hate crimes due to wide variation between states on the definition of who is covered under state laws on hate crimes.

I'd like to begin this afternoon, addressing trends in transgender violence during the last 10 years.

- Definition of transgender: This is an umbrella term for people, whose gender identity, expression or behavior is different from those typically associated with their assigned sex at birth, including people who change their gender as well as people who are gender non-conforming, such as masculine women and feminine men.
- Part of the difficulty in presenting complete numbers is a serious lack of data. Crimes against transgender people are:

- Often not recognized as hate crimes
- Confused with sexual orientation bias motivated
- Victims are scared to report out of fear of further discrimination or prosecution in the case of victims involved in unrelated criminal activity (sex work/drug abuse)
- No federal mechanism for data collection
 - Solutions
 - We are working in coalition to amend the existing Hate Crimes Statistics Act to include gender and gender identity. The Task Force led the effort for original passage of the act in 1990. The hate crimes bill has passed several times, but a version that adds these categories has not been sent to the president yet. While for the reasons already discussed the FBI statistics would not fully reflect the extent of the violence, data collection would be extremely helpful in prevention and education.
 - The Task Force and the National Center on Transgender Equality (NCTE) have recently launched a survey to explore issues faced by transgender individuals. Within just five days of the survey's launch we have already collected the largest data sample ever of transgender individuals.
- The data that does exist, shows alarming rates of anti-trans murders. According to statistics gathered by the International Transgender Day of Remembrance, between 1998 and 2008 there were:
 - 55 deaths in California
 - 35 deaths in New York
 - In the last 10 years there have been murders in 38 states, in 138 cities, close to 300 murders.
- While for the reasons already discussed there is no official data, anecdotal evidence suggests a recent increase in anti-transgender violence I would like to share some of these stories:
 - Three recent incidents in the Memphis area. Ebony Whitaker was shot and killed just outside a Memphis daycare center. Duanna Johnson was brutally beaten by Memphis police. The murder of 21-

year-old Tiffany Berry, gunned down outside of her apartment in 2006, like many of these crimes is still unsolved.

- Shaneshia Stewart, 25, who was stabbed to death by her own partner in the Bronx, N.Y.
- Angie Zapata, 17, who was recently murdered in Greeley, Colo.

State Laws

- State laws vary a great deal.
 - 45 states have some hate crimes statute
 - 19 states have statutes that do not include sexual orientation
 - 39 states do not include gender identity
- Even in states with laws, local law enforcement often lack the necessary training and resources, and are either unable or unwilling to enforce the laws.
- That is why we are working in coalition toward the passage of comprehensive federal hate crimes legislation, so that all Americans will be protected from hate violence.

Overview of State Laws

11 states plus D.C. have trans-inclusive hate crimes laws:

California, Colorado, Connecticut, District of Columbia, Hawaii, Maryland, Minnesota, Missouri, New Jersey, New Mexico, Oregon and Vermont

Another 19 or 20, depending on how you count Michigan, have sexual orientation inclusive hate crimes laws:

Arizona, Delaware, Florida, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan*, Nebraska, Nevada, New Hampshire, New York, Rhode Island, Tennessee, Texas, Washington and Wisconsin

(Michigan is only statistics gathering at this point)

In summary, **31 states plus D.C.** have some LGB or LGBT provisions.

Key Features of State Laws

To give you a sense of what these laws do, here are key features:

Penalty enhancement — this is what most people think of when it comes to hate crimes laws, and almost all of the state hate crimes law have this, or they treat bias crimes as a separate offense that has higher penalties.

Sentencing alternatives — we like to see these and they are really important. For example, sentencing someone to a program to teach tolerance or to do community service.

Training for law enforcement — this is a critical thing, and makes a real difference on whether hate crimes are recognized as hate crimes. More importantly, teaches law enforcement how to interact respectfully with LGBT people. This is required by law in about seven of the 31 states plus D.C. that currently have hate crimes laws.

Gathering statistics — of the 31 states plus D.C. that currently have hate crimes laws, 19 have data collection provisions.

Civil action for victims — in about 13 of the 31 states plus D.C. that currently have hate crimes laws, the law specifically allows victims to sue for compensation for the harm caused by the hate crime .

Recent developments on the state level

Pennsylvania Hate Crimes Law Struck Down

The Pennsylvania hate crimes law was struck down by the Pennsylvania Supreme Court on July 25, 2008. Very importantly, it wasn't struck down because of its content, but instead because it didn't follow the procedures laid out in the constitution related to passing bills. The hate crimes language had been added into an agricultural bill, and the agricultural content was deleted entirely, and this was a violation of the Pennsylvania's constitutional rule that the subject of the bill can't change. Anyway, at this time, no replacement bill has been introduced in the Pennsylvania General Assembly.

New Jersey Hate Crimes Bill, passed improvements in January this year

The New Jersey Hate Crimes Bill (S2975/A4591) passed the Senate on Jan. 3, 2008, and the Assembly on Jan. 7, 2008. The bill was signed into law on Jan. 13, 2008. The following changes were made to improve the hate crimes law already in effect:

- “Gender identity or expression” was added as a protected class to the hate crimes law.
- Requires two hours of hate crimes sensitivity training for all new police officers.
- Specifies suggested sentencing options, such as anti-hate sensitivity training.
- Improved the safe schools law that protects LGBT youth in a couple of different ways:
 - Creates a study entitled “Commission on Bullying in Schools” to investigate bullying and make recommendations to the governor and the legislature.
 - Requires schools to post anti-bullying policies on their Web sites and to distribute their anti-bullying policies within 120 days following enactment of the law.

Rhode Island almost amends law this year

This year Rhode Island passed a transgender hate crimes bill this year but it was vetoed by the *very LGBT unfriendly* governor this summer.

Bills that we may see in the states in the next couple of years

Looking to 2009, the most viable LGBT bill is in Michigan.

- The Michigan Hate Crimes Bill (SB 0610) was introduced by state Senator Hansen Clarke in 2007. The bill adds sexual orientation and gender identity or expression to the current hate crimes statute, which makes it a felony to intimidate or harass an individual based on any of the enumerated categories. The Michigan legislative session runs for two years; therefore, this is the current hate crimes bill although it was introduced in 2007. (Michigan currently has a sexual orientation data collection law only.)

Also, there are two trans bills that have a good chance in 2009, both of these are adding transgender coverage to the hate crimes and nondiscrimination statutes at the same time (in Massachusetts and New York).

Of course there were other bills that saw little movement this year, but I don’t think we have a lot of hope for them in the next year: Alabama, Alaska, Indiana, Oklahoma, South Carolina and West Virginia.

OPINIONS

Most states haven't prioritized this type of legislation lately, I think in part because we have come so close to enactment of the federal law, and because much of the work on the state level has focused on relationship recognition and nondiscrimination. To give you a sense of when these state laws were passed, by the end of 1998, 25 of the 31 states had passed laws — we have only added six new states in the last 10 years.

Also, since 2001 none of these bills has passed with sexual orientation only. Those that have passed since have either been LGBT or trans-specific (adding gender identity or expression protections to an older law).

I also think that safe schools laws are critical to our efforts to combat hate crimes because it is in school that folks learn harassment and bullying which then later escalate into hate crimes. If we can reduce these types of biased behaviors when people are younger, I think we will see a reduction in hate crimes. This of course was the reasoning behind New Jersey's bill, where the two were paired together.

Most of the places we need hate crimes laws don't have them. Ironically, in the worst places, there are no protections, yet Connecticut and Hawaii have great, comprehensive protections. This is why we need a federal law!

Thank you.