

Madam Speaker, in honor of National Donate Life Month, I urge my colleagues, my constituents and my fellow Americans to register as organ and tissue donors.

ALEXANDRA LOGAN

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 29, 2009

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Alexandra Logan who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Alexandra Logan is a senior at Wheat Ridge High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Alexandra Logan is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Alexandra Logan for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication she has shown in her academic career to her future accomplishments.

LOCAL LAW ENFORCEMENT HATE CRIMES PREVENTION ACT OF 2009

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 29, 2009

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H.R. 1913, the Local Law Enforcement Hate Crimes Prevention Act of 2009. I would like to thank Chairman CONYERS of the House Judiciary Committee for his leadership in bringing this timely legislation to the floor. H.R. 1913 will provide assistance to state and local law enforcement and amend federal law to streamline the investigation and prosecution of hate crimes. The key element of the bill is its expansion of federal jurisdiction to cover crimes motivated by bias against a victim's perceived sexual orientation, gender, gender identity or disability. This legislation would make tremendous strides in garnering the civil and human rights of all Americans. Its passage would secure the equal protection of all Americans under the law. It is a landmark and long overdue piece of legislation.

This is an important bill and I have introduced similar legislation in this and prior Congresses. While I support this bill and urge my colleagues to support this bill I am disappointed that the bill did not include my amendment which I offered last Congress.

MY AMENDMENT LANGUAGE IN H.R. 1592

Last Congress, I offered an amendment to H.R. 1592, the legislation that was introduced last term. My amendment was accepted by unanimous consent by the members of the Judiciary Committee. Specifically, my amend-

ment required "the United States Sentencing Commission shall study the issue of adult recruitment of juveniles to commit hate crimes and shall report such findings back to the Congress within 180 days." If this language was included in the present bill, it would only serve to strengthen it and make it better. The amendment language was intended to gather information on adults that solicit and use youth in the commission of hate crimes. This issue arises with respect to hate groups such as the Skinheads, Neo-Nazis, KKK, and other similar type groups.

H.R. 1913 is legislation aimed at combating hate crimes. Because the bill addresses hate crimes, it is necessary to define the criminal actions that constitute a hate crime in the first instance. The definition is straightforward. Hate crimes involve the purposeful selection of victims for violence and intimidation based upon their perceived attributes. Such targeting for violence removes these actions from the protected area of free expression of belief and speech as enshrined in the First Amendment to the United States Constitution. The crimes are investigated and prosecuted at both the Federal and State and local level, depending upon the facts of the case and the needs of the investigation.

For those individuals that will ask why this law is necessary, let me remind of a few incidents that have occurred in recent memory that demonstrate that this bill is indeed necessary.

Texas' violent history dates to the late 19th century when it was among the South's most lynch-prone states. At least 355 people, most of them blacks, died in Texas mob violence between 1889 and 1918.

Laws outlawing mob and less lethal hate crimes have since been passed, but incidents with possible racial components have continued to occur—even in Jasper, a city with a black mayor and a population that is 45 percent African-American.

In Texas, Austin came in fourth among cities in the number of hate crimes reported in 2006, according to a FBI compilation that canvassed agencies representing 85 percent of the nation's population. Documented are 7,722 criminal incidents involving 9,080 offenses resulting from bias against race, religion, sexual orientation, ethnicity/national origin, or physical or mental disability. Of 5,449 "crimes against persons", intimidation accounted for 46 percent of hate crimes, simple assault 32 percent, and aggravated assault 21.6 percent. Three murders and six rapes were reported. The report lists offenders as 58.6 percent white, 20.6 percent black, 12.9 percent race unknown, and the rest as other races.

JAMES BYRD

Let me remind you of James Byrd. On June 7, 1998, Byrd, 49, accepted a ride from three men named Shawn Allen Berry, Lawrence Russell Brewer, and John William King. He had already known one of them. Instead of taking him home, the three men beat Byrd behind a convenience store, chained him by the ankles to their pickup truck, stripped the man naked, and dragged him for three miles. Although Lawrence Russell Brewer said that Byrd's throat had been slashed before he was dragged, forensic evidence suggests that Byrd had been attempting to keep his head up, and an autopsy suggested that Byrd was alive for much of the dragging and died after his right arm and head were severed when his body hit

a culvert. His body had caught a sewage drain on the side of the road resulting in Byrd's decapitation.

King, Berry, and Brewer dumped their victim's mutilated remains in the town's black cemetery, and then went to a barbecue. A wrench inscribed with "Berry" was found within the area along with a lighter that had "Possum" written on it, which was King's prison nickname.

The next morning, Byrd's limbs were scattered across a very little-used road. The police found 75 places littered with Byrd's remains. State law enforcement officials along with Jasper's District Attorney Guy James Gray and Assistant Pat Hardy determined that since King and Brewer were well-known white supremacists, the murder was a hate crime, and decided to bring in the FBI less than 24 hours after the discovery of Byrd's remains. One of Byrd's murderers, John King, had a tattoo depicting a black man hanging from a tree, and other tattoos such as Nazi symbols, the words "Aryan Pride," and the patch for the Confederate Knights of America, a gang of white supremacist inmates. In a jailhouse letter to Brewer which was intercepted by jail officials, King expressed pride in the crime and said he realized he might have to die for committing it. "Regardless of the outcome of this, we have made history. Death before dishonor. Sieg Heil!", King wrote.

An officer investigating the case also testified that witnesses said King referenced The Turner Diaries after beating Byrd.

Brewer and King were sentenced to death. Berry received life in prison.

THE PERPETRATORS

John King—accused of beating Byrd with a bat and then dragging him behind a truck until he died. King had previously claimed to have been gang-raped in prison by black prisoners and, although he had no previous record of racism, had joined a white-supremacist prison gang, allegedly for self-protection. The testimony phase of his trial started in Jasper, Texas on February 16, 1999. He was found guilty of kidnapping and murder on February 23 and was sentenced to death on February 25.

Lawrence Russell Brewer—another white supremacist convicted of murdering Byrd. Prior to the Byrd murder, Brewer had served a prison sentence for drug possession and burglary, and he was paroled in 1991. After violating the parole in 1994, he was sent back to prison. According to his court testimony, he joined a white supremacist gang with King in order to safeguard himself from other prisoners. A state psychiatrist testified that Brewer did not appear repentant for his crimes. In the end, Brewer was also sentenced to death.

Shawn Allen Berry—The driver of the truck, Berry was the most difficult to convict of the three defendants because there was a lack of evidence to suggest that he himself was a racist. He had also claimed that his two companions were entirely responsible for the crime. Brewer testified that it was Berry who cut Byrd's throat before he was tied to the truck, but the jury decided that there was little evidence to indicate this. As a result, Berry was spared the death penalty and given a life sentence in prison.

MATTHEW SHEPARD

Matthew Wayne Shepard was a student at the University of Wyoming who was tortured and subsequently murdered near Laramie,

Wyoming. He was attacked on the night of October 6–October 7, 1998 and died at Poudre Valley Hospital in Colorado, on October 12, from severe head injuries.

During the trial, witnesses stated that Shepard was targeted because he was gay. His murder brought national as well as international attention to the issue of hate crime legislation at the state and federal levels.

Russell Arthur Henderson pleaded guilty to felony murder and kidnapping, allowing him to avoid the death penalty. Aaron James McKinney was convicted of felony murder and kidnapping. Henderson is currently serving two consecutive life sentences and McKinney is serving the same but without the possibility of parole.

Matthew Shepard, oldest son of Dennis Shepard and Judy Shepard, was born in Casper, Wyoming, on December 1, 1976. Shortly after midnight on October 7, 1998, 21-year-old Shepard met McKinney and Henderson in a bar. McKinney and Henderson offered Shepard a ride in their car. Subsequently, Shepard was robbed, pistol whipped, tortured, tied to a fence in a remote, rural area, and left to die. McKinney and Henderson also found out his address and intended to rob his home. Still tied to the fence, Shepard was discovered eighteen hours later by Aaron Kreifels, who at first thought that Shepard was a scarecrow. At the time of discovery, Shepard was still alive, but in a coma.

Shepard suffered a fracture from the back of his head to the front of his right ear. He had severe brain stem damage, which affected his body's ability to regulate heart rate, body temperature and other vital signs. There were also about a dozen small lacerations around his head, face and neck. His injuries were deemed too severe for doctors to operate. Shepard never regained consciousness and remained on full life support. As he lay in intensive care, candlelight vigils were held by the people of Laramie.

He was pronounced dead at 12:53 A.M. on October 12, 1998 at Poudre Valley Hospital in Fort Collins. Police arrested McKinney and Henderson shortly thereafter, finding the bloody gun as well as the victim's shoes and wallet in their truck.

The two men had attempted to get their girlfriends to provide alibis. In court the defendants used varying rationales to defend their actions. They attempted to use the "gay panic defense", arguing that they were driven to temporary insanity by alleged sexual advances by Shepard. At another point they stated that they had only wanted to rob Shepard and never intended to kill him.

The prosecutor in the case charged that McKinney and Henderson pretended to be gay in order to gain Shepard's trust to rob him. During the trial, Chastity Pasley and Kristen Price (the pair's then-girlfriends) testified under oath that Henderson and McKinney both plotted beforehand to rob a gay man. McKinney and Henderson then went to the Fireside Lounge and selected Shepard as their target. McKinney alleged that Shepard asked them for a ride home. After befriend him, they took him to a remote area of Laramie where they robbed him, beat him severely (media reports often contained the graphic account of the pistol whipping and his smashed skull), and tied him to a fence with a rope from McKinney's truck. Shepard begged for his life. Both girlfriends also testified that neither

McKinney nor Henderson was under the influence of drugs at the time. The beating was so severe that the only areas on Shepard's face that were not covered in blood were those where his tears had washed the blood stains away.

Henderson pleaded guilty on April 5, 1999, and agreed to testify against McKinney to avoid the death penalty; he received two consecutive life sentences. The jury in McKinney's trial found him guilty of felony murder. As it began to deliberate on the death penalty, Shepard's parents brokered a deal, resulting in McKinney receiving two consecutive life terms without the possibility of parole.

Henderson and McKinney were incarcerated in the Wyoming State Penitentiary in Rawlins but were transferred to other prisons due to overcrowding.

Wyoming did not have State hate crimes legislation.

LOYAL GARNER

On Christmas Day 1987, Loyal Garner, a Florien, LA., father of six, was arrested for drunken driving. Garner protested that he was sober, and asked for field sobriety and breathalyzer tests, but police took him to the county jail in Hemphill.

Garner asked to be allowed to telephone his wife. Instead, he was taken to the jail detox room and bludgeoned.

In 1990, Hemphill Police Chief Thomas Ladner and two county deputies, Billy Ray Horton and James M. Hyden, were convicted on state murder charges and sentenced to prison. Horton's conviction was later overturned.

KENNETH SIMPSON

In spring 1988, Kenneth Simpson, a 30-year-old black man arrested for the theft of a fountain pen, died in his Cleveland jail cell after being beaten.

Half the city police force was suspended as a result, but later returned to their jobs after being acquitted. However, Police Chief Harley Lovings remained under public pressure and resigned the following year.

The pen later was found atop a soft drink machine in the police station lobby.

TROY LEE STARLING

In August 1987, Troy Lee Starling, 24, of Mount Enterprise was fatally shot in the neck by a state highway trooper after a highspeed chase in Rusk County.

Though the trooper was cleared by a grand jury, Starling's family filed a civil rights lawsuit against the officer.

Not all incidents involved bloodshed, but still revealed a sordid side of East Texas culture. Illustrative was the hostility faced by three black families who moved into an all-white public housing project in Vidor in 1994.

The families were part of the third effort to integrate the project. They moved in only after then-Housing and Urban Development Secretary Henry Cisneros allocated \$3 million to upgrade security.

But residents were soon frightened by death threats and the obvious patrols of Ku Klux Klan members through the projects displaying high-powered weapons.

The FBI later investigated alleged Klan death plots against William Hale, director of the Texas Commission on Human Rights, and Attorney General Dan Morales. Hale's group had sued the Klan, accusing it of making threats against those trying to integrate the housing project.

Still, Joe Roy, head of the intelligence project of the Southern Poverty Law Center in Montgomery, Ala., suggested such crimes, though stereotypical of the South, no longer are limited to one region.

"I think this is a stark reminder, this case in Texas, of what can happen in this country," he said. "Education is not the sole answer, but it's one of the cornerstones of correcting it."

The tension between the races is fueled by competition between economically marginal groups, Roy said.

"This episode is a horrendous example of the rage that is out there."

OTHER HIGH PROFILE TEXAS CASES

Vidor, 1994: Civil rights groups sue the Ku Klux Klan, accusing the group of making threats to stop the integration of an all-white housing project.

Cleveland, 1988: Kenneth Simpson, a black man arrested for stealing an ink pen, dies in his jail cell after struggling with white officers, who are eventually cleared in the death. The police chief resigns under pressure the next year.

Hemphill, 1987: Loyal Garner, a black Louisiana truck driver, is beaten to death in the Sabine County jail. Hemphill's police chief and two county deputies are eventually convicted of murder, although one deputy's conviction is overturned.

Mount Enterprise, 1987: Troy Lee Starling, a 24-year-old black man, is fatally shot in the neck by a state trooper after a high-speed chase in Rusk County. The trooper is cleared but Starling's family files a civil rights suit.

In December 2005, Chris McKee was beaten by two men. McKee, who is gay, said his assailants had followed him after seeing him kiss another man, and anti-gay slurs were audible on a 911 call he made. His assailants were prosecuted under the State hate crimes legislation but they were acquitted.

In May 2006, Joshua Aaron Abbot, now 23, was acquitted in the 2005 death of 40-year-old David Wayne Morrison, a gay Denton resident who was HIV-positive. Abbott stabbed Morrison more than 20 times in the face, neck and chest with a pocketknife.

Abbott, who is straight, had gone to Morrison's residence for unknown reasons, and the pair ended up alone in Morrison's bedroom. At trial, Abbott claimed Morrison tried to rape him, and the jury ruled the defendant acted in self-defense. The prosecutors failed to prosecute the case as a hate crime because it was not clear that Morrison's sexual orientation was the sole motivating factor. However, the prosecutor admitted that Morrison's sexual orientation and HIV-positive status was key.

Since Texas State hate crimes legislation was passed in 2001, there have been few convictions. In 2007, there were only eight convictions.

These cases provide stark evidence that this bill is needed to federalize hate crimes. These crimes are still perpetrated.

Opponents will argue that this bill abrogates constitutional rights of Freedom of Speech or other First Amendment guarantees under the Constitution. These arguments have no merit. First, all speech is not protected speech. For example, one does not have the right to scream "Fire!" in a crowded movie theatre.

Second, nothing in this bill prevents a person from exercising their fundamental rights or their First Amendment right to free speech. The actionable crime here is crimes that cause bodily injury.

Third, the bill clarifies that neither this Act, nor the amendments made by it may be construed to prohibit any expressive conduct protected from legal prohibition, or any activities protected by the free speech or free exercise clauses of, the First Amendment of the United States Constitution. The legislation does not punish, nor prohibit in any way, name-calling, verbal abuse, or even expressions of hatred toward any group, even if such statements amount to hate speech. Because it covers only violent actions that result in death or bodily injury nothing in this legislation prohibits lawful expression of deeply held religious beliefs. Thus, clergy and other religious persons are not prohibited from decrying any acts, lifestyles, or characteristics that they deem repugnant or contrary to their beliefs. This speech is not actionable under this bill and is in no way proscribed.

The bill specifically provides at Section 8, in its Rule of Construction, that "Nothing in this Act, or the amendments made by this Act, shall be construed to prohibit any expressive conduct protected from legal prohibition by, or any activities protected by the Constitution." Thus, the plain language of the bill makes clear that clergy or others exercising their First Amendment right to speech or expression will not be penalized by this law. Words or conduct that does not result in bodily injury is not actionable under this bill.

This legislation is needed because hate crimes have been seriously underreported. FBI statistics have only documented more than 118,000 hate crimes since 1991. In 2007, statistics demonstrated 7,624 bias-motivated criminal incidents, and police agencies identified 9,535 victims arising from 9,006 separate criminal offenses. Racially-motivated bias accounted for approximately half (50.8 percent) of all incidents; religious bias accounted for 1,400 incidents (18.4 percent); sexual orientation bias accounted for 1,265 incidents (16.6 percent); and ethnicity/national origin accounted for 1,007 incidents (13.2 percent).

H.R. 1913 will address two serious deficiencies in the Federal civil rights crimes, in which a limited set of hate crimes committed on the basis of race, color, religion, or national origin are prohibited. The principal federal hate crimes statutes are 18 U.S.C. sec. 245 and 42 U.S.C. sec. 3631, this bill expands the application of hate crimes legislation.

In the last forty years, limitations in section 245 have become apparent and needed to be addressed. For example, the existing statute requires the government not only to prove that the defendant committed an offense because of the victim's race, color, religion, or national origin, but also because of the victim's participation in one of sex narrowly defined protected activities. These activities related to enrolling/attending schools, participating in or enjoying a service, program, facility, or activity administered or provided by a state or local government, applying for or enjoying employment, serving in a state court as a juror, travelling in or using a facility of interstate commerce, and enjoying the goods or services of certain places of public accommodation. This bill extends the application of hate crimes beyond these narrow and limited situations.

The present bill extends hate crimes in another important manner. The existing statute provides no coverage for violent hate crimes committed because of the victim's perceived sexual orientation, gender, gender identity or disability. H.R. 1913 covers these statuses.

When federal jurisdiction has existed in the limited hate crime contexts authorized under 18 U.S.C. sec. 245(b), the federal government's resources, forensic expertise, and experience in the identification and proof of hate-based motivations has provided an invaluable investigative complement to the familiarity of investigators with the local community, people and customs. The limitations of section 245 have limited the opportunity for such collaboration in many incidents of violence.

As I mentioned out the outset, I understand the urgency and importance of passing this bill. I would however like to bring up two issues that I would like considered, and that I would like to work with leadership to ensure is included, in conference.

First, the bill adds a certification requirement that is not currently found in section. Specifically, it requires a written certification from the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General that the person has reason to believe that a hate crime has occurred and the person has consulted with local and state law enforcement.

This imposes yet another burden upon the Department of Justice and might infringe upon its right to bring and try hate crimes. I do not see any compelling reason for changing the existing law and adding this additional burden.

Similarly, with respect to the Rule of Evidence in section 7(d) of this legislation, it provides the following:

"In a prosecution for an offense under this section, evidence of expression or associations of the defendant may not be introduced as substantive evidence at trial, unless the evidence specifically relates to that offense. However, nothing in this section affects the rules of evidence governing impeachment of a witness."

Thus, this new rule of evidence alters the relevance standard that already exists under the Federal Rules of Evidence. It would seem appropriate to use evidence, albeit circumstantial insofar as it is relevant. For example, consider the following hypothetical that a hate crime is perpetrated but under the current construction of section 7(d), it would be inadmissible to proffer evidence that the defendant collected racist magazine or paraphernalia unless such paraphernalia was directly used in the crime or is entered for purposes of impeachment. It defies reason that the existence of such paraphernalia is relevant and should be admissible to prove that a crime was racially motivated. Therefore, I would excise the language in section 7(d). It adds restrictions to the rules of evidence that have no place in the inquiry.

Hate crimes are real. The bodily injury, loss of life, and havoc that their perpetration wreaks on an individual, a family, community, and the country is wholly unacceptable. I urge my colleagues to support an end to such hate crimes and support this bill. Its passage would make America a fuller, freer and more equal society that all accorded equal protection under the laws of the United States.

ALEX LESKO

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 29, 2009

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Alex Lesko who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Alex Lesko is an 8th grader at Drake Middle School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Alex Lesko is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential that students at all levels strive to make the most of their education and develop a work ethic that will guide them for the rest of their lives.

I extend my deepest congratulations once again to Alex Lesko for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication he has shown in his academic career to his future accomplishments.

**PROVIDING FOR CONSIDERATION
OF H.R. 1913, LOCAL LAW EN-
FORCEMENT HATE CRIMES PRE-
VENTION ACT OF 2009**

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 29, 2009

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H. Res. _____ the Rule on H.R. 1913, the Local Law Enforcement Hate Crimes Prevention Act of 2009. I urge my colleagues to support this rule.

The rule will provide assistance to state and local law enforcement and amend federal law to streamline the investigation and prosecution of hate crimes. The key element of the rule is its expansion of federal jurisdiction to cover crimes motivated by bias against a victim's perceived sexual orientation, gender, gender identity or disability. This legislation would make tremendous strides in garnering the civil and human rights of all Americans. Its passage would secure the equal protection of all Americans under the law. It is a landmark and long overdue piece of legislation.

This is an important legislation and I have introduced similar legislation in this and prior Congresses. While I support this legislation and urge my colleagues to support it, I am disappointed that the rule did not include my amendment which I offered last Congress.

MY AMENDMENT LANGUAGE IN H.R. 1592

Last Congress, I offered an amendment to H.R. 1592, the legislation that was introduced last term. My amendment was accepted by unanimous consent by the members of the Judiciary Committee. Specifically, my amendment required "the United States Sentencing Commission shall study the issue of adult recruitment of juveniles to commit hate crimes and shall report such findings back to the Congress within 180 days." If this language was included in the present bill, it would only