

# The Journal of Intergroup Relations

---

Volume XXXI

No. 4

Winter, 2004/2005

Message from the Editor: GLBT Human Rights	1
From Hawaii to Massachusetts: A Comprehensive Account of Anti-Same-Sex Marriage Arguments, 1993-2004 <i>Kevin A. Johnson</i>	3
Political Suicide: GLBT Politics, Human Rights (to Life), and the Politicization of Queer Youth Suicide <i>Rob Cover</i>	25
Daily Newspaper Framing of the <i>Boy Scouts of America v. Dale</i> Supreme Court Decision <i>Michaela D. E. Meyer</i>	45
Moving Toward the Center: The Human Rights Campaign's Elizabeth Birch <i>Collier Patton</i>	59
A Cartography of Silence: Bias Crimes and Public Speechlessness <i>Lester C. Olson</i>	76
Promising Practices Engaging Heterosexual Privilege: The Evolution Process for LGBT Allies <i>Wanda L. E. Viento</i>	103
Call for Applications: Editor of The Journal of Intergroup Relations	115
National Association of Human Rights Workers Resolutions (2004)	116

---

**The National Association of Human Rights Workers**

# A Cartography of Silence: Bias Crimes and Public Speechlessness

---

LESTER C. OLSON<sup>1</sup>

Silence can be a plan  
rigorously executed

the blueprint to a life

It is a presence  
it has a history a form

Do not confuse it  
with any kind of absence

Adrienne Rich, *Cartographies of Silence*

Adrienne Rich's (1978) poem admonishes that we should never confuse "silence" with "absence." Although her poem does not specify the underlying reasons for the "presence" of "silence," one could infer from her other writings that, to her, silence may result from deeply entrenched systemic, institutionalized factors, which are embedded in law, politics, religion, education, the media, health care, and even the family. "Silence," Rich reminds us, "is a presence," which "has a history," and "a form." Silence can be "a plan rigorously executed" to attain an illusion of survival in hostile environments. In this connection, silence can be the "blueprint to a life." Sometimes silence is simply a survival strategy. In these respects, Rich's (1978) poem, "Cartographies of Silence," inspired the title for this essay concerning the non-reporting of anti-gay and anti-lesbian bias crimes ranging from harassment and menacing behavior to violence and homicide.

As Rich certainly understood, hostile environments were one factor contributing to silence as a symbolic response to anti-gay and anti-lesbian bias crimes. Hostile environments may be exemplified by

---

<sup>1</sup> *Lester C. Olson, Ph.D., is associate professor of communication and women's studies, and Chancellor's Distinguished Teacher, in the Department of Communication at the University of Pittsburgh.*

cultures such as ours here in the United States, where there is now an on-going history of anti-gay and anti-lesbian violence, racism, and violence against women. "Domestic terrorism" is the language that Donna Shalala used in a 1994 public speech to depict what she also named as "violence against women" (Shalala, 1994, pp. 450-54). "Terrorism within our borders" is the terminology that Kevin Berrill used in a public speech during 1986 to depict what he also named as "anti-gay violence" ("Anti-Gay Violence," 1987, pp. 3-4).<sup>1</sup> Both speakers were advocating changes in U. S. public policy through practical rhetoric in public speeches. Both employed language for demographic categories to organize perceptions of the problem: "violence against women" to Shalala, "anti-gay violence" to Berrill. As the public record of Congressional legislation exemplifies dominant culture tends to separate practices along simplistic, demographic categories, like "anti-gay." This occurs despite the fact that the practices actually recur across demographic categories in disciplining members of subordinated communities, such as women, gays and lesbians, and people of color, and even though members of some vulnerable communities act out of bias against others.

How might rhetorical critics analyze and interpret rhetorical texts consisting of systemic silence, or what legal experts sometimes refer to as "non-reporting" of bias crimes? How might rhetorical critics study muted moments when there could have been speech, but we encounter reticence among people who refuse to use language to name their own experiences, even after serious physical harms? In critical practice, how do we study moments when speech might have made a meaningful difference, but there are only voids, gaps, or chasms, where words might have been uttered? In this essay, I explore some answers to such questions concerning the public speechlessness of gay men and lesbians who have been the targets of criminal offenses. This is done, not merely as an academic exercise, but rather because answers to such questions have practical ramifications for ongoing debates in public policy discourse concerning bias crimes, debates which need to be informed by the history concerning these issues in the U.S.

The systemic conditions silencing public speech by gay men and lesbians may be ascertained through careful attention to reflexive public remarks about them, the rare moments when silence is "broken" or "ruptured" to bring an ever-widening array of silencing factors into view. Such was the case on October 9, 1986, during the public testimonies on *Anti-gay Violence* in a formal hearing before the

Subcommittee on Criminal Justice of the Committee on the Judiciary for the House of Representatives. In 1986, for the first time in U.S. history, a Congressional subcommittee devoted sustained attention to what today are popularly known as hate crimes against gay men and lesbians. The most important outcome of the 1986 hearings was the inclusion of gay men and lesbians in the Hate Crimes Statistics Act passed four years later in 1990. Urvashi Vaid underscored, "It was the first measure to put the federal government on the record as opposing violence against gay men and lesbians in any way" (Vaid, 1995, 11).

A rhetorical interpretation of testimonials during the hearings suggests that the most fundamental explanation for the silence by gay men and lesbians is systemic, not merely individual. To map this silence, I will begin by describing the composition of the hearings and then commenting on definitions, examples, and statistics concerning bias crimes against gay men and lesbians. Next, based on the hearings, I will chart only specific legal factors which actively silence gay men and lesbians. In the interest of concision, I will pass over several, additional systemic factors in politics, religion, education, health care, the family, and media which contribute actively to the voicelessness of gay men and lesbians, even though these too surface in the testimonies and they interact with the legal system in a cumulative way. Along the way, I survey some personal factors which gay men and lesbians have articulated for non-reporting, because these are rooted in deeper, systemic sources in the criminal justice system.

### **The Composition of the Anti-Gay Violence Hearings**

The 1986 hearings represent the primary texts for my rhetorical analysis concerning public speechlessness of gay men and lesbians who have been seriously harmed. The hearings consisted of three panels comprised of expert witnesses from groups working with people whose lives have been altered because of "anti-gay violence," an expression which, at the time, also encompassed violence against lesbians. The first and longest panel during the hearings consisted of speeches and written statements by four experts on anti-gay violence, each of whom represented a major organization. These experts were Kevin T. Berrill, who represented the National Gay and Lesbian Task Force's Anti-Violence Project based in Washington D.C. (henceforth, NGLTF); Diana Christensen, who was the executive director of Community United Against Violence based in San Francisco (CUAV); David Wertheimer, who was the executive director of the New York City Gay

and Lesbian Anti-Violence Project, and Dr. Gregory M. Herek, who represented the American Psychological Association (APA). The speeches and written reports from these four experts constituted almost half of the entire published report. None of these speakers identified themselves as having personally experienced being the target of anti-gay or anti-lesbian bias crimes, but rather were identified as expert specialists.

The second panel consisted of law enforcement professionals from New York and one expert on the concerns of gay and lesbian youths. These testimonies were by Jacqueline Shafer, who was a liaison to the gay and lesbian community for the district attorney for the county of New York; Chief Robert J. Johnston, Jr., who represented the New York City Police Department; and Joyce Hunter, director of social work services at the Institute for the Protection of Gay and Lesbian Youth located in New York City. The first two of these testimonies concentrated on specific mechanisms for improving the responsiveness of the criminal justice system to victims of anti-gay and anti-lesbian crimes. The last of these three panelists provided the only sustained attention to the concerns of gay and lesbian youths, who are among the most at risk for suicide of any category of youths in the United States because of the hatred that they experience during vulnerable years in their lives.

The last and briefest panel, comprising as it did less than ten percent of the pages in the published report, featured the voices of gay men and lesbian crime victims. These survivors of violent attacks were Kathleen Sarris of Indianapolis, Indiana, Robert Gravel of Lewiston, Maine, and William Edward Hassell of Washington D.C. and Fairfax, Virginia. These three survivors' stories were subsequently reprinted in 1992 with an additional survivor's story by Claudia Brenner in Gregory M. Herek and Kevin T. Berrill's (1992) book entitled *Hate Crimes: Confronting Violence Against Lesbians and Gay Men*. The relative brevity of these elements of the reports may imply the extent to which classical considerations of ethos from lived experience may undergo an inversion in public perceptions of the value of bias crime victims' testimony. Alternatively, it might suggest wishing to spare survivors of such ordeals remembering and reliving experiences in public.

A series of eleven appendices for the published hearings included additional written statements, formal letters, and one newspaper article. The resulting report consisted of 223 pages of text, excluding the front matter consisting of the title page, another page listing the

composition of the committee, and the table of contents. Although these hearings are now almost twenty years old, the systemic situation in federal and state law has not changed much. Discrimination against gay men and lesbians in the workplace is still legal under federal EEO law and bias crime legislation still excludes these minorities at the federal level. The two most noteworthy changes systemically since then are at the state level in that more states have anti-discrimination laws (currently 16 states) and at the federal level concerning a very recent change in sodomy law enforcement as a consequence of a Supreme Court ruling. So the hearings provide an historical point of reference for indexing glacial change during two decades.

### **Naming "Bias Crimes": Definitions, Examples, and Statistics**

#### *Definitions and Examples*

Even though anti-gay and anti-lesbian violence is generally known today as "hate crimes," it is more appropriate to name them "bias crimes," since calculating opportunism and showing off for peers may be more commonplace than *animus* in the motivations actuating these deeds (Wang, 1999, 1997). It may be a combination of these motivations, too, which characterizes a specific bias crime. For example, in the high profile murder of Matthew Shepard, his killers claimed that robbery was their motive. But Shepard was vulnerable to the theft by calculating opportunists in distinctive ways, precisely because some people despise homosexuals as easy targets for robbery. There is a stereotype that gay men are weak and a belief that they cannot turn to the legal system for meaningful help. "Bias crime" is a better naming than "hate crime" for two reasons. First, the former naming encompasses the broader range and mixture of motivations. Second, the change may eliminate a commonplace legal defense which features the calculated opportunity, such as robbery, to suggest that *animus* was not germane or sufficiently salient to account for the bias crimes. The naming of such crimes imposes a burden of proof in public argumentation that a specific crime came into being primarily as a consequence of bias in one or more of its dimensions.

During the hearings in 1986, several experts testified about the variety and extent of bias crimes affecting gay men and lesbians. The evidence mobilized during the hearings generally consisted of statistical surveys, examples or anecdotes compiled by local, state, and national organizations, and personal testimonies from some people who had survived attacks.<sup>ii</sup> In his testimony as the first panelist,

Berrill generalized, "We define [anti-gay violence] as any violence directed against persons because they are gay or lesbian or perceived to be so. It is motivated by hatred and by the perception that gay people are 'easy targets'" (p. 3). Based on his professional experience in New York, Wertheimer enumerated six types of anti-gay and anti-lesbian violence:

The first form of anti-gay and anti-lesbian violence is harassment, verbal harassment. . . . The second form is menacing, threatening behavior, whereby someone may be almost side-swiped by a car, or followed by someone carrying a baseball bat, or threatened with guns, knives, and other menacing behavior. The third form is homophobic assault, usually verbal harassment and menacing that escalates into physical contact between an assailant and a victim. The fourth form of anti-gay and anti-lesbian violence is . . . AIDS-related violence . . . . The fifth form of anti-gay anti-lesbian violence is sexual assault, rape. Rape of lesbians by straight men who want to "fix them," "cure them," "make them straight," and also surprisingly, or perhaps not so, rape of gay men by straight men . . . . The sixth and final form of anti-gay and anti-lesbian violence is homicide. (pp. 9-10)

Wertheimer's testimony suggested that the types of bias crimes against gay men and lesbians vary, many of which can be deadly. Wertheimer omitted from this listing some noteworthy patterns of anti-gay and anti-lesbian violence, presumably to feature identifiable criminal behaviors in the Congressional forum for constructing legal policy.

Elsewhere in his testimony, Wertheimer did mention some other types of violence, however, as did his peers on the panel. For instance, the list of six types omitted self mutilation, attempted suicide, and suicide, which is especially high among gay and lesbian youths, who have absorbed into themselves more acts of hatred and loathing than they could bear. Joyce Hunter, who was the director of social work services at the Institute for the Protection of Gay and Lesbian Youth, mentioned that "29 percent of our clients attempted suicide before they came to us" (p. 115). In the listing of six types, Wertheimer also omitted significant relational variations in the vio-

lence, such as same sex partner violence as well as family violence by parents and siblings of gay and lesbian youths. Statistics compiled by the NGLTF suggested that about a third of gay and lesbian youths were verbally abused by their parents or siblings and about 10 percent were physically attacked by someone in their own family after learning of the youths' sexuality. According to Joyce Hunter, who commented on the Institute's population, "Thirty-five percent of the violence came from family members, especially parents or step-parents, but sometimes brothers or sisters" (p. 114).

In addition, some noteworthy variations of anti-gay and anti-lesbian violence may have been obscured in Wertheimer's general language. For example, presumably "menacing" would have included shooting out church windows or church arson targeting gay and lesbian congregations, deeds which are also called institutional vandalism. Berrill mentioned that "18 Metropolitan Community Churches – MCC is a Christian denomination oriented to the gay community – have been set ablaze in the last 15 years or so" (p. 20). Another example of general language was Wertheimer's reference to gay "rape" survivors, because legal definitions of rape usually feature vaginal penetration. It may not be clear to the uninitiated how straight men can rape gay men. Perhaps by "rape" he meant to include not only forced anal intercourse, but also cases such as the man in Seattle who, during July 1983, survived having a crowbar shoved up his rectum. But the language alluding to "rape" was not specific or clear.

Formal testimony before the U.S. government also considered the distinctive harms from "bias crimes" because such crimes typically come into being primarily because of what the targeted individual(s) represent to their attackers. Consequently, such crimes often become symbolic messages to targeted communities, even if the deeds were expressive. Bias crimes committed against gay men and lesbians harm not only the individual, but also the community whom the individual represents, because the assailants ordinarily use the targeted individual's body as the medium for an expressive message that may inculcate fear in gay and lesbian communities. Berrill affirmed in his formal testimony that "hate crimes are unique in that they are a violation not only of the victim but the entire community that he or she represents. They are intended to violate and isolate that whole community and create a climate of hatred that opens the way to further violence" (p. 28). Berrill added with reference to specific civil rights harms,

I also believe that such crimes are a real abridgement of our civil rights because they are an attempt to deprive us our freedom of association, and our right to free speech. Such evidence is an attempt, to make us step backward into the closet and to pretend that we are something that we are not. (p. 28)

Because of the layers of harm to both the attacked individual and the target community, one commonplace legal approach to bias crimes legislation is to refer to “parallel crimes” in which the bias crimes are punished in terms of the type of crime that it is against the harmed individual(s). Subsequently, the penalty is enhanced in the parallel bias crime to take into account the additional harms to the broader community represented by the harmed individual(s) (Lawrence, 1999). Social conservatives have tended to misrepresent this aspect of bias crime law by suggesting falsely that such law makes the individual victim’s suffering more consequential than another individual’s and therefore unequal to others. However, the literature is explicit about additional harms to be considered beyond the individual.

The symbolic significance of bias crimes lends them to serious study by rhetoric scholars. “Bias crimes” blur doing a deed (such as violence) with symbolic meaning (such as hatred toward gay men) in ways that make scholarship on the concepts of enactment and the performative germane to theorizing the silence (Austin, 1962/1975; Bourdieu, 1991; Campbell & Jamieson, 1978; Langton, 1993). In addition, the symbolic uses of gay men and lesbians’ bodies as the medium for the message makes symbolic embodiment essential and, often, may reflect the symbolic process of employing scapegoats (Burke, 1955/1969). The factor of the scapegoat process specifically in connection with anti-gay violence may explain why ordinarily there are several attackers. Christensen’s formal testimony mentioned that, in San Francisco, “The majority of incidents involve more than one assailant with an average assailant-to-victim ratio of 3 to 1” (p. 7). Above all, the attackers ordinarily bond with each other by their annihilation of a scapegoat, who embodies an aspect of themselves that they wish to kill in an other – sometimes symbolically, sometimes literally. The factor of the scapegoat may explain “an intense rage on the part of the attackers” which Herek mentioned (p. 12).<sup>iii</sup> Although bias crimes by definition target an individual or group because of what he or she represents, expresses, or symbolizes to the attacker, literature evoking the First Amendment is strangely silent concerning this factor.

Despite well-known difficulties in establishing cause-effect relationships, perpetrators' uses of gay men and lesbians' bodies as media for symbolic messages appear to have been extremely effective, to judge from statistics featured in the 1986 hearings. The outcomes of a survey by the NGLTF were dramatic in suggesting the effectiveness of bias crimes in inculcating fear: "More than four in five respondents believed they might be victimized at some time in the future because of their sexual orientation" (p. 46). The survey concluded that "Nearly two-thirds said anti-gay violence was so pervasive that they feared for their safety" (p. 46). The survey found that "Nearly half said they modified their behavior to reduce the risk of being a victim of anti-gay violence" (p. 46). A study conducted in Wisconsin found that "more than two-thirds of the respondents were afraid for their safety and almost nine out of ten expected to be assaulted or harassed in the future" (p. 184).

One pattern of modified behavior is the public speechlessness of gay men and lesbians, because publically protesting "bias crimes" makes the advocates visible in taking a public stand and, as one consequence, may place these speakers at increased risk of becoming the targets of bias crimes. Examples of this concern were documented during the hearings, including the entire testimony by Kathleen Sarris, who was the President of Justice, Inc., a state gay advocacy organization in Indiana. Although poignant and dramatic, Sarris's testimony had the usual limitations of a single example in that skeptical audience members may have questioned the representativeness of her experiences. But hers was not an isolated case documented in the hearings. After serving on the Governor of Wisconsin's "Council of Lesbian and Gay Issues," Cindi Lampman of Racine, Wisconsin, for instance, was raped at knife point "in the basement of her church" while being denounced as "the Governor's dyke" (p. 184). Yet other instances in the hearings were Sue Burke and Darla Kashian, who were physically attacked by a man after having served on the same state council (p. 184). In the words of the NGLTF's written testimony, "as gay and lesbian people have become more visible, they have in some respects become more vulnerable to those who hate and want to harm them" (p. 43).

### *Statistics*

Under the circumstances, silence has been the most common response to bias crimes against gay men and lesbians in the United States. One

layer of silence has recurred in the under-reporting of bias crimes against gay men and lesbians. The available evidence about not reporting anti-gay violence underscores that it was much more pervasive than the available statistics on police reports suggest. According to the introductory remarks of Representative John Conyers, Jr., of Michigan, who chaired the hearings, "A 1982 survey of victims of violent crimes in San Francisco showed that 82 percent of anti-gay attacks were not reported to the police. A 1985 survey of anti-gay violence in Philadelphia revealed that 76 percent of the victims never notified authorities" (p. 1). Such data suggests that actual police reports of anti-gay and anti-lesbian violence could be multiplied by a factor of 4 or 5 to estimate the problem's magnitude during the mid-1980s.

Despite the communicative silence, we know that anti-gay and anti-lesbian violence was and remains commonplace in the United States. In the introductory remarks for the hearings, Conyers reported that "The National Gay and Lesbian Task Force, in an 8 city study of anti-gay violence concluded that 1 in 5 gay men and 1 in 10 lesbians had been physically assaulted because of their sexual orientation" (p. 1). Berrill also mentioned this statistic in his formal testimony – though he emphasized that it was "more than" 1 in 5 gay men – and added other statistical evidence: "More than 40 percent had been threatened with violence. Over all, more than 90 percent had experienced some type of victimization" (p. 3). Wertheimer affirmed, "It is our estimate that 80 percent of the lesbians and gay men who are attacked never report the crime to anyone" (p. 10), a figure that Herek also affirmed during his testimony (p. 13; see also Vaid, 1995).

Likewise, Herek documented statistics on anti-gay and anti-lesbian violence: "the violence is surprisingly common across the United States. Statewide and community surveys from all parts of the country indicate that a significant minority of lesbian and gay respondents – between 15 and 25 percent – have been punched, kicked, or beaten because of their sexual orientation. Most attacks seem to be perpetrated by groups of young males, often armed, who do not know their victims personally" (p. 12). He was alluding to "Statewide surveys in New Jersey, New York, Maine, and Wisconsin, and community surveys in Philadelphia, Atlanta, Dallas, St. Louis, Los Angeles, Denver, and other cities" as the basis for these statistics (p. 98). An appendix to the NGLTF's written report in the hearings compared four studies of the violence to add credibility to claims that anti-gay and

anti-lesbian violence was commonplace in the United States.

To enhance the credibility of the statistical studies, the NGLTF employed testimonial evidence in the written report in the hearings:

The NGLTF study has been praised by sociologists and criminologists, including Dr. Marvin E. Wolfgang, Director of the University of Pennsylvania Center for Studies in Criminology and Criminal Law. Dr. Wolfgang, who is widely regarded as one of America's most outstanding criminologists, praised the report as 'admirably cautious in the analysis of data and style of writing. There is no hyperbole.' (p. 47)

Such testimony may have assuaged some skeptical audience members' concerns about bias in the source of the statistics. Presumably audience members would have realized that the complete absence of any federal research on anti-gay violence contributed to the situation concerning the available statistics.

In addition to suggesting that one out of every five gay men has been violently assaulted, Herek concentrated on the qualities of these attacks to amplify their significance: "Attacks against gay people often are characterized by an intense rage on the part of the attackers, and so they tend to be more violent than other physical assaults" (p. 12). In written testimony in the hearings, Melissa Mertz, who was the Coordinator of the Victims of Violent Assault Assistance Program of Bellevue Hospital in New York City, remarked, "Attacks against gay men were the most heinous and brutal I encountered. They frequently involved torture, cutting, mutilation, and beating, and showed the absolute intent to rub out the human being because of his [sexual] preference" (p. 50). Christensen testified that, according to the records of CUAV in San Francisco, "35 percent of all incidents involve the use of weapons. 35 percent of all victims require medical attention resulting from anti-gay attacks" (p. 6). More generally, Herek differentiated between homosexual and heterosexual persons explaining that "lesbians and gay men continue to be the targets of hostility, discrimination, persecution, and violence, solely because of their sexual orientation" (p. 12). In the absence of considering what the victims symbolize to their attackers, it is hard, perhaps impossible, to account for these qualities of the attacks.

Why does biased conduct against gay men and lesbians so often end in silence? As rhetorical critics, how do we map such silence? The

magnitude of the social problem of bias crimes against gay and lesbian citizens in the United States is difficult to estimate, in part because of the stigma associated with presenting oneself as a “victim,” and in part because of specific elements of the legal system. Let us turn to map specifically how the legal system actively silences gay men and lesbians who have been the targets of bias crimes.

### **Mapping Criminal Justice Mechanisms Silencing Gay Men and Lesbians**

To judge from the public hearings on anti-gay violence, the legal system actively has silenced gay men and lesbian victims of bias crimes in several specific ways. The hearings mentioned so many specific elements of the legal system that it is possible here only to exemplify the wide range of concerns with single excerpts, however thematic were the concerns during the hearings. Mapping this dense tangle of silencing mechanisms takes us through a treacherous terrain deep into a desolate valley. Let us consider each factor briefly, because the collective force of so many pitfalls systemically silences gay men and lesbian crime victims.

There are numerous reasons for communicative silence in refusing to use language for naming the bias crimes. In general, Berrill commented on re-victimization by government agencies as a factor contributing to silence concerning anti-gay and anti-lesbian violence: “The nightmare for anti-gay violence victims does not end when their assailants have finished with them. Those few who are brave enough to step forward are often re-victimized by the very agencies responsible for protecting and helping them” (p. 3). He went on to explain that “All too often, the police and criminal justice system blame gay victims, and fail to vigorously investigate, prosecute and punish anti-gay crimes” (p. 3). These fears of government re-victimization are well founded both historically and today, as I will amplify in this section, even though there are some encouraging signs of change such as the increasing number of states that forbid employment discrimination. Let us chart this region by considering the roles of existing federal laws, the police, the courts, the Department of Justice, and the Supreme Court.

#### *The Role of Federal Laws*

In his introduction to the hearings, Representative John Conyers, Jr., identified the lack of federal laws concerning anti-gay violence as a

major factor in not reporting such bias crimes: He explained that federal civil rights laws currently do not make any reference to this kind of violence. The lack of Federal statutes specifically prohibiting anti-gay violence has resulted in virtually nonexistent Federal law enforcement efforts. The federal government and most states condone or, in some instances, actively support employment and housing discrimination against homosexuals at national and state levels. At this writing, only sixteen states forbid employment discrimination against gay and lesbian citizens. In 1986, at the time of the hearings, only the state of Wisconsin forbade such discrimination based on sexual orientation.

In fact, Berrill testified that without civil rights laws, "victims of anti-gay violence cannot report attacks against them without risking their jobs, homes, even their lives" (p. 5). By permitting discrimination, he continued, "the Federal Government actually facilitates violence against gay people by inhibiting them from reporting to the police and seeking legal redress" (p. 5). Herek went on to explain that "when their sexual orientation becomes public knowledge as a result of an attack, lesbian and gay survivors may subsequently be fired from their jobs, evicted from their homes, and denied services simply because they are gay" (pp. 12-13). This sort of discrimination is currently legal in most jurisdictions. Gay and lesbian crime victims confront a double bind in which silence concerning bias crimes can be a means to keep one's livelihood, home, and/or social services.

### *The Police*

*Quality of police officers' services to gay and lesbian citizens.* The legal system's role in inhibiting speech by gays and lesbians also transpired in the quality of service provided by police departments, whose salaries were paid, in part, by gay and lesbian citizens. This aspect had several elements: selective enforcement of the laws, indifference and hostility toward gay men and lesbians, lack of adequate police training and accountability, and hiring practices within police departments. Selective enforcement of the laws, on the one extreme, consisted of non-enforcement of some existing laws and, on the other extreme, strenuous, selective enforcement of other laws, which were exemplified especially by sodomy laws.

*Police officers' non-enforcement of existing laws.* Representative John Conyers, Jr., commented in his introduction to the hearings, "Local law enforcement response to anti-gay violence has been terrible" (p. 2). During the hearings, one gay crime victim, Robert Gravel, tes-

tified in detail about police officers' indifference to his protracted ordeal. He remarked, "I went to the police department on 15 occasions and went to the court system, had papers served on these people. Nothing stopped them" (pp. 154-55). After these efforts to secure help from the police, the menacing men surrounded his home and, as he put it, "started to kick the door in. I called the police. Apparently, they were busy" (p. 155). In self-defense, Gravel shot and killed one of the men by using a gun that he had "borrowed" and had no experience using. He added, "I was brought in front of a grand jury, and after hearing my testimony they decided not to indict me because they found me innocent by self-defense" (p. 155). That Gravel ultimately had to fend for himself, despite numerous efforts to secure police officers' enforcement of the laws, suggested that some gay men and lesbian crime victims may not report bias crimes to the police out of the belief that it would be feckless, since the police have not been responsive in past experiences.

*Police officers' non-investigation / shoddy investigation:* Sarris's testimony offered another sustained example of police officers' shoddy investigations concerning a serial killer – that which occurred when Justice, Inc. became involved in the violence issue in 1983 when over a two (2) year period of time at least 14 gay men, from Indianapolis, had been murdered. "The local police chose to look at these murders as separate, un-connected cases – all unsolved" (p. 165). In the end, the group had to utilize public pressure to get the police to investigate these cases. "A suspect was arrested and eventually released because the police had violated his civil rights; that same man was recently convicted of murder in Cook County, Illinois" (p. 165).

In fairness to police officers in general, Wertheimer emphasized that investigations of anti-gay violence can be particularly challenging. He explained that with gay-related homicides the assailant is oftentimes a stranger who leaves little evidence. In general, however, a survey in the hearings' appendices indicated that, to judge from the situation in Wisconsin, 69 percent of gay and lesbian respondents believe "the criminal justice system will not investigate the incident and/or prosecute a straight perpetrator" (p. 188). Gay men and lesbians may not report bias crimes because of a belief that police officers do not view the crime as sufficiently significant to vigorously investigate it, or, if they do investigate, will not do so competently.

*Police officers' strenuous, selective enforcement of laws.* While the police did not enforce some laws and failed to investigate bias

crimes that were anti-gay and anti-lesbian, the police also have vigorously and selectively enforced other laws against gay men and lesbians. Sodomy laws were the most frequently mentioned example of this concern, though there were a couple of references to selective enforcement of public sex laws. Wertheimer mentioned that sodomy laws create a conflicted message for the police and also undermine their relationship to gay communities: "Sodomy statutes are still on the books in many States. That correlates directly to the police relationship with the gay community. In the 25 States and the District of Columbia where sodomy statutes still exist and are occasionally enforced, police may feel a little bit confused about what their relationship to the gay community is supposed to be" (26). In addition, Wertheimer underscored that sodomy laws can become a club for anti-gay and anti-lesbian police officers to use to "persecute" some citizens (10). In addition, sodomy laws "make lesbians and gay men reluctant to seek legal remedies" (p. 203) which ultimately facilitates victimization whereby they become easy targets for homophobic violence. Criminalizing sex between consenting adults contributes to calculating opportunists' beliefs that gay men and lesbians are easy targets, because they cannot turn to the police for help. Gay men and lesbian crime victims may face a double bind in that reporting assaults or vandalism could leave them vulnerable to criminal prosecution for a victimless crime considerably less serious than the assaults or vandalism.

*Police officers' indifference and hostility toward gay men and lesbians.* The NGLTF's written report contended that "while many police officers are responsible and courteous, many others are indifferent, hostile, and even physically abusive to gay people" (p. 49). In fact, the NGLTF and other local community groups in recent years have documented literally hundreds of complaints of police abuse. These have included verbal and physical assaults, entrapment, inequitable enforcement of the law, and blatant mishandling of cases involving gay persons. The NGLTF provided statistics based on an eight-city study: "23% of the gay men and 13% of the lesbians reported that they experienced some type of police abuse because of their sexual orientation" (p. 49). Additional factors contributing to gay men and lesbian's lack of confidence in police officers extended to extortion (known as fairy shaking), police entrapment, and undercover surveillance. The NGLTF report generalized, "Because of police harassment, entrapment, and abuse, many gay and lesbian Americans view the police with fear, mistrust, and even hostility" (p. 57). This was supported by a sur-

vey in an appendix which reported that 75 percent of gay and lesbian “believe the police are unsympathetic or hostile to gay/lesbian people” (p. 187). Gay men and lesbians’ non-reporting of bias crimes to the police may result from wanting to avoid hostility and hatred from the police.

*The lack of adequate police training.* Berrill addressed the lack of adequate training manuals for police officers as a factor in anti-gay and anti-lesbian violence. Since the existing manuals omitted considerations of sexuality, requests have been made to the Office of Victims of Crime to expand two training manuals (e.g., those for the police and those for the prosecutors) to include references to gay and lesbian victims. He reported, “we were told at that time that there simply weren’t the resources to deal with special victim populations” (p. 27). Likewise Wertheimer confirmed that “training with the police, interventions at the precinct level all the way through the command level, are extremely important” (p. 23). Presumably, the lack of adequate training for police officers was evidence that, systemically, the harms were not considered significant. It may also have contributed to non-reporting of anti-gay and anti-lesbian bias crimes because of little confidence in the police.

*Hiring practices within police departments.* Barney Frank addressed hiring practices within police departments as a factor negatively affecting police officers’s relationship to gay communities. Specifically, he said,

I think also we benefit as police departments become more diverse. . . . I think as you begin to get more black and Hispanic and female and gay and Asian police officers, you get a police department that is going to find it easier to respond to people. (p. 25).

A report from GLAD included specific recommendations regarding this issue. In particular, it stated that police departments, courts, and other programs in criminal justice “should actively recruit openly lesbian and gay personnel” (p. 57). It concluded that such initiatives would work to ensure “a heightened level of awareness in the Departments as well as increase the community’s sense that understanding and access were available to gay people” (p. 57). Obviously, without federal laws forbidding employment discrimination against gay men and lesbians, the transformation of police departments to reflect each community’s

diversity would be less likely than with such laws. In this and other respects, the systemic factors contributing to non-reporting were interlocking and mutually reinforcing. Yet additional systemic factors in the courts contributed further to silencing gay men and lesbians by non-reporting of bias crimes. Let us turn next to the courts to survey the rocky terrain, for we have further to descend in charting a map of the conditions enforcing the silences.

### *The Courts*

Gay men and lesbians' concerns about the courts encompass a history of procedures, practices, and verdicts. There has been an absence of trained counselors and liaisons to support gay men and lesbians who endeavor to enter the criminal justice system. Problems exist involving evidence by witnesses who refuse to testify. Patterns of attorneys blaming the victims by treating the bias crimes as victim precipitated (e.g., the homosexual panic defense) are evident. Lenient plea bargains by prosecutors – who have also been known to drop charges altogether after learning that the victim was gay or lesbian – are commonplace. Defense lawyers employ tactics that seek to invoke anti-gay bias from jurors and judges, minimal sentencing by the courts, the results of which are high profile cases with no sentencing at all, even when killers openly brag about their murders. These issues are explored further within this section.

*The absence of trained counselors and liaisons in the criminal justice system.* The entire testimony of Jacqueline Schafer concerned her role as a liaison for the district attorney's office in New York County, a role that she recommended for elsewhere in the country.

The liaison, who is a trained paralegal, can explain the court process, help gather documentation for a case, accompany the victim to an interview with an assistant district attorney or to court, and perhaps most importantly, provide reassurance and support for a lesbian or gay victim of crime. (p. 109)

Wertheimer likewise explained the role of counselors from within a gay and lesbian organization in New York. Specifically, he described how they assisted in making sure that crime victims go to the police, filled out forms properly, tracked the progress of the cases, and offered emotional support for victims throughout the entire process. Schafer explained, "In addition to sensitizing assistants to the concerns of les-

bian and gay crime victims, the liaison, by her presence, also provides implicit reassurance and support for gay and lesbian staff at the office” (p. 110). Both testimonies mentioned how such support is atypical in the U.S. courts and how the absence of it contributed to non-reporting by gay men and lesbians. The importance of the role of the liaison/counselor is crucial given that that 50 percent of the cases which Schafer handled “were not originally reported to the police at all” (p. 111). In this regard, this service played an important role in breaking the silence of witnesses who were reluctant to – or flat out refused to – testify.

Witnesses may refuse to testify for a variety of reasons, including fear of retaliation, concerns about a time-consuming legal process, and unwanted publicity or assumptions about their own sexuality, not to mention distrust of police and the courts. Gay men and lesbian crime victims may not report harms, because of concerns about whether witnesses will confirm their accounts as well as worries about ramifications for the witnesses’ time, safety, and privacy. Having a community liaison or criminal justice counselor helps to negotiate these issues.

*A systemic tendency to blame the victims.* Survivors of violence are often blamed for having had the experience, especially in cases of anti-gay and anti-lesbian bias crimes, which may be depicted as victim precipitated (Vaid, 1995, 141). Specifically, Wertheimer reported that “the system remains hostile to all victims and unsympathetic at times, as there is a general tendency to blame victims for what happens to them” (p. 11). Herek likewise confirmed that in the aftermath of the violence, many lesbian and gay survivors are often blamed by others for their assault. In particular, they are accused of inviting the attack or deserving it based on public perceptions of deviant behaviors.

Christensen endeavored to expose how in court a commonplace “homosexual panic defense” exemplified the idea that victims bring the violence upon themselves.

What has typically happened in those cases is that either the prosecution has not happened or they have put up a homosexual panic defense that suggests – where the defense suggests that the gay victim had come on to or made sexual advances, and the defendant freaked out and killed him as a result. (p. 29)

She went on to explain that “those defenses have worked.” More

recently, however, some convictions have been made. Still, blaming the victim is a familiar rite in the cartography of silence, especially when practiced by police officers and participants in the courts (e.g., Ryan, 1976).

*Prosecution and defense attorney disdain for gay men and lesbians.* The prosecution's tactics may contribute to the silence of gay men and lesbians who have experienced being the target of bias crimes. In particular, the disdain that the prosecution and defense attorneys have for gay men and lesbians results in a failure to vigorously prosecute and punish anti-gay crimes. According to the NGLTF written report, "when victims were known to be lesbian or gay, some prosecutors have dropped charges against defendants or accepted lenient plea bargains" (p. 49). In Robert M. Morgenthau's written report as the district attorney for the county of New York, he described how other problems arise including a revictimization of gay men and lesbians who "face painful and embarrassing cross examination from a defense attorney who wants to play upon the homophobic reactions of judges and jurors" (p. 108).

*Minimal sentencing by the courts.* To Herek, the "pattern" of minimal sentencing "is clearest when the perpetrators of homophobic violence are adolescents, which is often the case" (p. 14). In these cases, the assailants are typically tried as juveniles who receive light sentences, if they are sentenced at all. Herek describes that "the effect of such minimal responses by the State is to give tacit permission for attacking gay people" (p. 14). The assailants' ages often resulted in minimal sentencing in the courts, because of systemic, legal factors concerning punishments in the juvenile court system. In fact, Christensen testified, "Most assailants are white, male, and under 20 years of age" (p. 7).

Perhaps the best known example of minimal sentencing by the courts followed the murder of Harvey Milk, the openly gay Supervisor in San Francisco, which Herek described in his written report.

One of the most dramatic recent examples was that of Dan White, who was convicted of killing San Francisco's openly gay Supervisor, Harvey Milk, by shooting him repeatedly in the head. For his crime, White received only a seven-year jail sentence. (p. 103)

At the time of the murder, Milk was the highest ranking openly gay

political figure in the U.S. As one consequence of the court's minimal sentencing in that high profile case, countless gay men and lesbians across the country lost confidence in the criminal justice system altogether, to judge from days of riots in San Francisco following the court's slight sentencing.

*Failure to sentence:* Worse than minimal sentencing, however, has been the complete failure to sentence at all in cases in which the killers openly admitted their murders. Berrill detailed one sustained example of such failure to sentence from Michigan:

According to the prosecution, the victim was brutally murdered with a sledgehammer by his assailant in Kalamazoo. According to one witness, the defendant was at a party covered in blood bragging about the fact [that] he had kicked in some faggot's head. The long and the short of it, is that the jury recessed, prayed for guidance and 45 minutes later came back with a verdict of not guilty. The judge, in a very rare statement, said that he seldom differed with a jury on a verdict but had this been a trial before the bench, he would "have found the defendant guilty of first degree murder (p. 31)

Herek likewise provided another sustained example involving four young males who freely admitted that they beat a Tucson man to death because he was gay (p. 104). In the end, these men were not punished – the judge dismissed the charges against the four, calling them "model athletes" (p. 104). Members who stand outside of the targeted group may view such examples as merely powerful anecdotes and may rightly question how representative the instances are in considering the criminal justice system as a whole. Yet, it also seems reasonable to infer that gay men and lesbian victims of crime may not report serious harms out of a lack of confidence in the fairness of judges and juries, as evidenced in such dramatic homicide cases. Even if few in number, such public examples can send a powerful message.

#### *Department of Justice Practices*

Experts during the hearings objected to a range of Department of Justice practices regarding gay and lesbian issues. These included the lack of funding for research on anti-gay and anti-lesbian violence, the inadequacy of training manuals produced for preparing police and court officers, specific discriminatory Department of Justice rulings

adversely affecting gay citizens, and even the Department's hiring practices. Berrill also described systemic, institutional factors in organizations ostensibly devoted to engaging problems of anti-gay and anti-lesbian violence. Several of these are explicated within this section.

*Research funding.* Berrill made the assertion that while the Office of Justice programs has not deliberately ignored gay victims of crime, it has "actively discouraged efforts by some of its grant recipients to address the legitimate concerns of lesbians and gay crime victims" (p. 16). He employed an instance of active censorship of research to support his generalization:

For example, last year, Attorney General Meese froze a grant to the National Coalition Against Domestic Violence after some critics charged that NCADV was 'pro-lesbian' and anti-family. The grant was subsequently reduced by \$100,000, and later released on the condition that the work done under the grant be closely monitored. This year NCADV declined to renew funding with the Office of Justice Programs, because the Office of Justice programs would not permit any references to battered lesbians in programs and in publications funded through the grant – even though battered lesbians constitute a significant portion of battered women. (p. 16)

In this case, the organization gave up the funding rather than compromise its mission. But for other women's organizations non-reporting of same sex partner violence may result simply from women's centers and shelters refusing to risk a loss of funding as a consequence of providing services to lesbians.

Turning to the U.S. Commission on Civil Rights, Berrill identified yet another example of excluding anti-gay and anti-lesbian bias crimes from national research on crime. In 1984, the NGLTF learned that the U.S. Commission on Civil Rights was considering a national study of crime motivated by racial, ethnic and religious bigotry. Despite urging by NGLTF, the Commission refused the request that it expand the scope of its study to include violence motivated by anti-gay bigotry and instead the Commission authorized its State advisory committees to examine the issue of anti-gay violence, but only from an administration of justice standpoint. Two years later, not a single State advisory committee had conducted an investigation of anti-gay

violence.<sup>iv</sup>

Herek confirmed that “funding for research in this area has been practically nonexistent” (p. 13). He explained how exclusion of anti-gay bias from federal studies of bias crime contributes to non-reporting of anti-gay and anti-lesbian bias crimes. Given the government’s use of power in the construction of the studies’ designs, the complete exclusion of gay men and lesbians’ concerns from the forums accounts for not speaking within them. A form of silence from positions of power consists of pretending this violence does not exist, or is insignificant, thereby creating institutionalized silences by omissions and erasures from the studies.

*Department of Justice training manuals and publications.* During his testimony, Berrill commented that “NIJ [National Institute of Justice] has funded the development of a police protocol to respond to crime motivated by racial and religious prejudice, but that protocol ignores anti-gay violence” (p. 16). He explained how when gay and lesbian advocates approached the Office for Victims of Crime to request funding to expand victim-related training programs, the request was denied because of scant resources. “That reply is a bit disingenuous,” he reflected since “that office has funded” work concerning “other special populations” (p. 16).

As with the government censorship of the federally funded research mentioned earlier, it appeared from the hearing that the Department of Justice also censored any training manuals that did mention gay men and lesbians. The written report by the NGLTF commented that “The Justice Department also required that all references to gay and lesbian crime victims and other special victim groups be removed from a training curriculum developed by the National Association of State Directors of Law Enforcement Training” (pp. 53-54). To the extent that non-reporting of anti-gay and anti-lesbian bias crimes has resulted from victims’ lack of confidence in the quality of police and court officers’ training, the deliberate actions of the Department of Justice appear to have amplified rather than assuaged such concerns. In fact, they have contributed to the public legitimacy of the concerns as well founded. This Department of Justice censoring of training manuals is especially significant in a mapping of silence, because it demonstrates how institutional erasures, especially when shaped by official censorship, play a paramount role in shaping the terrain of public silence.

*Department of Justice hiring practices.* Referring to discrimina-

tory hiring and research funding practices in the Department of Justice, Berrill asked, "How unfair can they be?" (p. 16). He explained that, first, the Justice Department screens all candidates for U.S. attorney as a way to exclude gay people. Second, it permits employers to discriminate against persons with AIDS, even on irrational grounds. Third, it now attempts to prevent agencies from meeting the very legitimate needs of crime victims who are gay or lesbian. Once again, the systemic problems were interlocking and mutually reinforcing, to judge from the hearings. As long as the federal government officially condones and even encourages employment discrimination against gay men and lesbians, the environment for some citizens is likely to remain hostile, even after experiencing serious physical harms resulting from bias crimes.

We have now descended a great distance into a dark ravine where it is already difficult to discern additional pitfalls. Yet there is still further to descend into a cavernous space, for additional systemic factors can be discerned in religion, politics, education, health care, the family, and the media. But, in the interest of concision, that portion of the map will need to wait for another cartographer.

### **Conclusion**

A cartography of the silencing mechanisms by the government included the absence of bias crimes laws concerning same sexuality in federal legislation, especially the absence of federal civil rights laws concerning same sexuality in employment and housing discrimination, and ambiguity about whether the existing federal disability law covered AIDS. In the quality of the police officers' performances, the map featured selective enforcement of the laws, which included both the non-enforcement of some laws and strenuous, selective enforcement of other laws, especially those concerning sodomy. In addition, the hearings emphasized an adversarial, hostile relationship by police toward gay and lesbian citizens, hostility which took the passive forms of non-investigation or shoddy investigation or the active forms of extortion, known as fairy shaking, entrapment, and undercover surveillance. The testimonials often lamented the lack of adequate police training and accountability. In regard to the court procedures, practices, and verdicts in the small percentage of cases that actually got into court, the hearings highlighted multiple problems generated by the absence of trained liaisons and counselors in criminal justice systems as well as those, posed by plea bargains, and the tendency to blame and to scape-

goat the victims through courtroom tactics such as the homosexual panic defense. Beyond this, when the trial did result in a conviction, the hearings commented on minimal sentencing, which usually resulted from the fact that about half of the offenders were juveniles, and by no sentencing at all, even when killers openly admitted their murders. The hearings emphasized the lack of research though the Justice Department grants on anti-gay and anti-lesbian bias crimes as well as the freezing and reduction of one grant on family violence that did include lesbians. There were concerns expressed about hiring practices in the police force, the courts, and the Department of Justice, a systemic concern reinforced by the federal government condoning employment discrimination throughout the nation.

As extensive as the hearings' commentary concerning non-reporting was, the hearings nonetheless omitted some powerful examples. For instance, Richard D. Mohr reported in *Gays/Justice* that

One of the little-sung heroes of the gay movement is John F. Singer. On June 26, 1972, Singer was fired from the Equal Employment Opportunity Commission – the government agency charged with enforcing federal civil rights legislation in America. He was fired for being gay. (Mohr, 1988, p. 154)

Six years before courts and administration panels vindicated his discrimination suit against the E.E.O.C., whose reason for existence is to ensure fair employment practices. Nor did the hearings concerning *Anti-gay Violence* mention any aspects of the FBI's performances, contributing to non-reporting by gay and lesbian crime victims, presumably because such evidence is so difficult to secure. Since the hearings, documentation has emerged concerning the FBI's discrimination against one gay agent, who was fired from the agency after 20 years of service because he was discovered to be gay (Buttino, 1993).

Despite these limitations of the hearings, as one outcome of the resulting report, the Reagan administration's Department of Justice concluded in 1987 that "homosexuals are probably the most frequent victims" of bias violence (Vaid, 1995, p. 11). That this conclusion was arrived at under the Reagan administration, which was not known for compassion for homosexuals, may make it fair to consider the findings reluctant testimony about the magnitude of anti-gay and anti-lesbian violence (Perez & Dionisopoulos, 1995). As another outcome, four years later in 1990 the U.S. Congress passed the Hate Crimes

Statistics Act, which did little more than require the FBI to gather statistics on bias crimes committed based on sexual orientation and other personal attributes.

But even when gay men and lesbians do report anti-homosexual bias crimes, another layer of communicative silence now results institutionally from how the reported bias crimes are processed by the local police and the FBI. In testimony during August 1999 on *Hate Crimes Violence*, Eric H. Holder, Deputy Attorney General for the United States Department of Justice, acknowledged that "police departments do not always recognize, appropriately categorize or adequately report hate crimes" ("Hate crimes violence," 2000, p. 7). During the same hearings, Frederick M. Lawrence, a Professor of Law from Boston University Law School, emphasized under-reporting by the FBI as another key issue.

[T]he FBI's data also suffer from consistent under-reporting: even with nearly 7,000 agencies participating under the HCSA [Hate Crimes Statistics Act] in 1993 and 1994, over 9,000 agencies throughout the country failed to report altogether, many of them located in major urban centers. ("Hate crimes violence," 2000, p. 43)

The 1999 hearings noted communicative silence resulting institutionally from non-reporting by both the local police and the FBI.

This essay began with an excerpt from Adrienne Rich's poem entitled "Cartographies of Silence" to focus on systemic analysis and the intersections among sexuality, sex, race, class, and religion among other factors in mapping the silences. A map of the mechanisms to silence can be useful for practical, rhetorical interventions at a wide range of sites: police officers' training, law schools' curricula, and other educational settings, for instance. Speech can confer visibility on innovative initiatives mitigating silence, such as the liaison in New York county, to give some hope that systems can become responsive to bias crimes. Further, a cartography of silence at one moment in U.S. history constitutes a reference for indexing changes over time. In addition, if the silencing practices do recur with variations across other subordinated communities, such as women, racial minorities, Jews, and children, then a cartography concerning anti-gay bias crimes provides a basis for examining these analogous and overlapping, intersecting practices, thereby opening up possibilities for coalition politics to

transform the practices, regardless of who experiences them. Beyond this, the cartography may be suggestive for theorizing silence, a process that may entail reconfiguring isolated concepts from a range of rhetorical theories, as demonstrated in this case study.

Perhaps Rich's poem is an appropriate place to conclude, because of her insights concerning the dangers of reproducing harms in an agonistic, reductive conflict between self and other, victims and perpetrators, innocents and terrorists:

How calm, how inoffensive these words  
begin to seem to me

though begun in grief and anger  
Can I break through this film of the abstract

without wounding myself or you  
there is enough pain here. (Rich, 1978, pp. 17-18)

### References

- Anti-Gay Violence: Hearing before the Subcommittee on Criminal Justice of the Committee on the Judiciary, House of Representatives, 99th Cong., Oct. 9, 1986.* (1987). Washington D. C.: G.P.O.
- Austin, J. (1975). *Lecture I: How to do things with words* (2nd ed.). Cambridge, MA.: Harvard UP, 1-11. (Original Work published in 1962).
- Bourdieu, P. (1991). *Language and symbolic power*. Cambridge, MA: Harvard University Press.
- Burke, K. (1969). *A rhetoric of motives*. Berkeley: University of California Press. (Originally published in 1955).
- Buttino, F. (1993). *A special agent: Gay and inside the FBI*. New York: Morrow.
- Campbell, K. K., & Jamieson, K. H. (1978). Introduction, In K. K. Campbell & K. H. Jamieson (Eds.), *Form and genre: Shaping rhetorical action* (pp. 9-11). Falls Church, VA: Speech Communication Association.
- Fineman, M. A., & Mykitiuk, R. (Eds.). (1994). *The public nature of private violence: The discovery of domestic abuse*. New York: Routledge.
- Hate Crimes Violence: Hearing Before the Committee on the Judiciary House of Representatives, Aug. 4, 1999, Serial No. 74. (2000). Washington, D.C.: G.P.O.
- Herek, G. M., & Berrill, K. T. (Eds.). (1992). *Hate crimes: Confronting violence against lesbians and gay men*. Newbury Park, CA: Sage. .
- Langton, R. (1993). Speech acts and unspeakable acts. *Philosophy and Public Affairs*, 22, 293-330.
- Mohr, R. D. (1988). *Gays/Justice: A study of ethics, society, and law*. New York: Columbia University Press.
- Perez, T. L., & Dionisopoulos, G. N. (1995). Presidential silence, C. Everett Koop, and the Surgeon General's Report on AIDS. *Communication Studies*, 46, 18-33.
- Rich, A. (1978). *The dream of a common language: Poems 1974-1977*. New York: Norton.
- Ryan, W. (1976). *Blaming the victim*. New York: Vintage.

- Shalala, D. (1994). Domestic terrorism: An unacknowledged epidemic. *Vital Speeches*, 60, 450-4.
- Vaid, U. (1995). *Virtual equality: The mainstreaming of gay & lesbian liberation*. New York: Doubleday.
- Wang, L. (1999). The complexities of "hate." *Ohio State Law Journal*, 60, 799-900.
- Wang, L. (1997). The transforming power of "hate": Social cognition theory and the harms of bias-related crime. *Southern California Law Review*, 71, 47-135.

### ***Endnotes***

<sup>1</sup> Subsequent references to this publication will be placed within parentheses in the main text with only the page number after the excerpt. I have silently provided hyphens in anti-gay, anti-lesbian, and the like to reflect standard spelling practices.

<sup>2</sup> For a general comment on the types of evidence employed during the hearings, see *Anti-gay Violence*, 1987, pp. 203-209.

<sup>3</sup> Yet the killings of gay men by lone individuals may entail using those men as scapegoats. This was exemplified in the documentary film, *Licensed to Kill*, for instance, by Jay Johnson who acknowledged how his own self loathing figured in his homicides targeting gay men. Arthur Dong, *Licensed to Kill*, USA, 1997, 80 min., 16mm.

<sup>4</sup> I silently corrected this excerpt by changing "it's" to "its," which was presumably the stenographer's and/or proofreader's error rather than the speaker's.