

April 2007

TO: Interested Parties
FROM: Rachel Laser, Director of the Culture Project; Michael Earls, Policy Advisor
RE: The Hate Crimes Bill: Progress For America

Overview

Congress will soon reconsider legislation to expand the federal hate crimes law to include protections for gays and lesbians. We strongly support this policy. To assist those who will be voting for it, this memo contains message guidance that we believe will reach the majority of Americans.

In recent months, Third Way has conducted extensive research on public attitudes towards gay equality issues. We have found that the public's attitudes toward gays and lesbians are both complex and evolving. For example, there is an unmistakable warming trend in America toward gay and lesbian issues, and on the surface a super-majority of Americans express support for expanded hate crimes protections. Americans also believe that the future will bring new rights for gays and lesbians. In Third Way's 2006 post-election national poll, 70% thought civil unions were inevitable within the next 10 years. But only 49% believed this would represent progress for America. *And herein lies the critical challenge—persuading the American people that gay equality legislation, like the Hate Crimes bill, represents progress for America.*

In winning the "progress" argument, proponents must be aware of the difference between support and popularity. While polls show that Americans overwhelmingly believe that discrimination against gays and lesbians is wrong, and they do believe hate crimes should be stopped, our own polls showed voter ambivalence about passing federal anti-discrimination legislation.

As the seemingly contradictory data above demonstrate, a large number of Americans are "gray" on gay issues. These Grays are torn between a desire to be fair and respectful of people's liberties on the one hand, and their lingering discomfort with gays and lesbians and with their "fight" for the rights they seek on the other. All too often the Grays' concerns are written off as narrow-minded. That is counter-productive, because they are, by definition, persuadable.

In the context of the expanded Hate Crimes bill, the Grays can be won over if their underlying concerns are taken seriously and addressed directly. As this memo lays out, proponents of this legislation should: (1) convince the public that the expansion would solve a real, not a made-up, problem; (2) clarify that this legislation is about physical action against gays and lesbians, not personal thoughts or religious beliefs; and (3) demonstrate that expanding the Hate Crimes law means progress for America.

Three Components of an Effective Hate Crimes Message

Part I: Show that the Hate Crimes Bill Solves a Real Problem

Our research shows that many Americans believe that gays and lesbians are seeking “special rights,” as opposed to basic rights and protections. Advocates of expanding hate crimes protections must demonstrate that gays and lesbians are a group actually in need of protection from bodily harm motivated by prejudice.

This is an argument easily bolstered by the facts. FBI data show more than 1,000 reported hate crime incidents directed at gays and lesbians in the year 2005 alone.¹ For example, earlier this year, Andrew Anthos, a 72 year-old man in Michigan, was beaten to death with a metal pipe because he was gay. But, for the purposes of this legislation, the most important point is that every act of violence committed against an individual based on hatred for gays and lesbians is meant to send shockwaves of fear and intimidation throughout the entire gay community. Law enforcement groups, who only endorse legislation they consider to be in the best interest of public safety, also agree there is a problem that merits the passage of an expanded Hate Crimes law.²

The Message: “This isn’t about providing something ‘special’ to gays and lesbians; it’s about protecting them from hate-directed violence. The more than 1,000 hate crimes directed at gays and lesbians every year are meant to intimidate and instill fear in the hearts of the entire gay community. Gay Americans deserve the same basic freedom from fear, intimidation, and hate-directed violence that we all take for granted. It is time to tell the relatively few but dangerous Americans who seek out gay people to torment that their violent actions are unacceptable. Police organizations have asked for this, they say they need it, and we ought to listen to them.”

Part II: Clarify that this is About Physical Action, Not Personal Thoughts or Religious Beliefs

Some opponents have raised fears among the Grays that the Hate Crimes bill will punish thought and religious belief or that the bill will prevent churches, synagogues, mosques and other theological institutions from freely expressing their best understanding of what their religious tradition teaches about homosexuality.

Proponents must make clear that this bill punishes action, not thoughts or beliefs. It protects gays and lesbians from bodily harm motivated by prejudice while protecting religious liberty and the rights of free speech that are foundational to a healthy democratic society.

Different religions preach different lessons about gays and lesbians. But no religion counsels its congregants to commit violence against gays and lesbians. This bill is not about thinking or believing, but doing and harming. In addition, the U.S. Supreme Court has ruled that bias can only be considered when that motivation is directly connected to the perpetrator’s criminal *conduct*.

The Message: "The hate crimes law protects religious liberty and does not punish thought. This bill isn't about what you think or believe. This is not about your religious faith. It's about those who harass and torment gay people and the violence they sow. Their intimidating and violent physical actions must be punished."

Part III: Establish that this Legislation Represents Progress

The Grays believe that America is on an inevitable journey towards greater acceptance of gays and lesbians, but they have concerns about that journey. They worry about going too fast and making this journey disruptive and harmful for America. Their concerns range from the erosion of moral codes to social turmoil to concerns about damaged children. They question whether acceptance is really progress.

Although advocates of expanded hate crimes protections occupy some of the safest terrain possible on this issue (that of protecting the vulnerable from bodily harm), they must still respectfully address the concerns of the Grays. They must situate this legislation within America's two hundred year tradition of expanding liberty, freedom and acceptance. They must reference the fact that every stage of America's journey has involved controversy and raised fears about leaving behind core American traditions, but that, in the end, America has grown to be a stronger and better country. Advocates must explain that this legislation is a logical extension of that principle.

The Message: "America was founded on a very simple principle: that we are all endowed by our creator with certain unalienable rights. These rights begin with Life, Liberty and the Pursuit of Happiness. Since those words were first put to paper over 230 years ago, America has been on a journey to fulfill those lofty ideals. Every time we took a step forward it was controversial and a little scary. But looking back, it was always a step in the right direction. Now we are asked to take another step. This is the right step, this is America's destiny, and we will look back and be glad that we took it."

Overall Message

"I support the Hate Crimes law because it passes three tests. It solves a real problem. A relatively small number of truly violent people seek to use violence to intimidate and instill fear in the hearts of the entire gay community. This legislation does not punish what people think, feel or believe, but what they do physically and criminally to harm others. And it reaffirms America's promise made over 200 years ago to life, liberty, the pursuit of happiness, and justice for all."

Endnotes

¹ Federal Bureau of Investigation, "Hate Crimes Statistics: 2005". Available at: <http://www.fbi.gov/ucr/hc2005/index.html>. According to FBI statistics of reported hate crimes between 1991 and 2000, hate crimes against gay and lesbian Americans constituted 14% of all hate crimes: http://www.hrc.org/Content/NavigationMenu/HRC/Get_Informed/Issues/Hate_Crimes1/Background_Information5/2001_FBI_Hate_Crimes_Statistics.htm.

² The International Association of Chiefs of Police, the Police Foundation, and the National Sheriffs' Association, are among the law enforcement groups that support this legislation.